

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHARLES PFISTER and U.S. POSTAL SERVICE,  
POST OFFICE, New Orleans, LA

*Docket No. 03-866; Submitted on the Record;  
Issued June 6, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a right shoulder impingement syndrome in the performance of duty on or about September 17, 2001.

On November 29, 2001 appellant, then a 63-year-old mail processor, filed an occupational disease claim asserting that he developed right shoulder impingement syndrome and a right rotator cuff tear as a result of the repetitive motion involving his right hand and arm in the performance of duty. Appellant indicated that he first became aware of his disease or illness and realized that it was caused or aggravated by his employment on September 16, 2001. Appellant did not stop work.

In a letter dated December 14, 2001, the Office of Workers' Compensation Programs advised appellant of the additional factual and medical evidence needed to establish his claim and requested that he submit such. Appellant was advised that specifically, the Office needed a detailed statement outlining the employment-related activities, which he believed contributed to his condition or how the claimed condition developed. The Office advised appellant that submitting a rationalized statement from his physician addressing any causal relationship between his diagnosed medical condition and factors of his federal employment was crucial. He was allotted 30 days to submit the requested evidence. The record reflects that the information requested from appellant was not received.

By decision dated January 29, 2002, the Office denied appellant's occupational disease claim.

Following the decision, appellant submitted additional evidence including work restriction and progress slips, medical reports and a narrative statement in support of the claim. Appellant submitted a November 13, 2001 medical report from Dr. Charles Murphy, a Board-certified orthopedic surgeon. Dr. Murphy reported that appellant was seen in the orthopedic office on October 29, 2001 with complaints of right shoulder pain since September 2001, which he related appellant attributed to the repetitive duties performed during his 38 years with the

employing establishment. Dr. Murphy noted that appellant works as a postal clerk, sorting mail on a daily basis and also performs repetitive duties including reaching and throwing flats and parcels of mail with his right arm. Dr. Murphy further noted that appellant was first seen on August 24, 1999 with right shoulder pain. He stated that appellant was experiencing right shoulder impingement syndrome with rotator cuff tendinopathy and probable partial thickness tears within the rotator cuff tendon. Dr. Murphy opined that the right shoulder condition had been made worse by the repetitive reaching activities associated with his work as a postal worker.

Appellant also submitted a November 15, 2001 magnetic resonance imaging (MRI) scan report from Dr. Edward Brown, attending radiologist, who noted that appellant had mild degenerative changes involving the acromioclavicular joint, but had an otherwise normal examination and no evidence of a rotator cuff tear.

Appellant further submitted a handwritten note from Dr. Murphy dated January 15, 2002, in which he stated: "It is my medical opinion that [appellant's] condition is directly work related and should be covered by workers' compensation. See my report November 13, 2001."

Appellant then submitted a narrative statement dated January 27, 2002, in which he indicated that, during his 38 years with the employing establishment, his duties of distributing letters, flats and parcels, lifting buckets and pulling large containers of mail primarily required use of his right hand and arm. He noted that the parcels and sacks, which had to be lifted and placed in overhead containers, caused him current shoulder pain.

In a letter dated February 28, 2002, appellant requested an oral hearing, which was held on September 25, 2002. During the hearing, appellant testified that on September 17, 2001 he began experiencing the shoulder pain described in the claim, which he attributed to lifting heavy mail sacks overhead and that he sought medical treatment for the injury on October 29, 2001. Appellant testified that Dr. Murphy first treated a preexisting right shoulder condition in August 1999 at work. The hearing representative held the record open for 30 days to provide appellant the opportunity to submit further medical evidence with regard to causation and records documenting the preexisting shoulder condition.

By decision dated November 20, 2002, the Office hearing representative affirmed the prior decision finding that the medical evidence failed to support a causal relationship between appellant's federal employment and his right shoulder condition.

The Board finds that appellant has not met his burden of proof in establishing that he sustained a right shoulder condition on September 16, 2001 in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition, for which compensation is claimed are causally related to the employment injury.<sup>1</sup>

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<sup>1</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition, for which compensation is claimed; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>2</sup> The medical evidence required to establish a causal relationship is rationalized medical opinion evidence.

Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>3</sup>

Appellant has failed to submit sufficient rationalized medical opinion evidence to establish that the diagnosed condition was causally related to the employment factors identified by appellant. He alleged that he sustained a right rotator cuff tear and shoulder impingement syndrome as a result of his repetitive duties of reaching and lifting heavy mail as part of his federal employment. The MRI scan report by Dr. Brown does not address the issue of causation. Similarly, the work restriction slips and progress notes submitted from Dr. Murphy do not address causation. Dr. Murphy in his report dated November 13, 2001, stated that he first saw appellant in August 1999, for complaints of right shoulder pain and diagnosed right shoulder impingement syndrome with rotator cuff tendinopathy and probable partial thickness tear. Dr. Murphy stated that he saw appellant again on October 29, 2001 for right shoulder pain, which appellant related began while sorting mail at the employing establishment. Dr. Murphy indicated that appellant's right shoulder condition had been made worse by the repetitive reaching activities associated with his work with the employing establishment. The Board notes that this opinion tends to support an employment-related right shoulder condition in September 2001, but as the Office hearing representative correctly pointed out, Dr. Murphy failed to sufficiently explain whether appellant's condition was due to the preexisting injury or the presently claimed condition. Moreover, there is no medical report, which details the preexisting shoulder condition of record. Although Dr. Murphy did indicate in the report his belief that appellant's condition had worsened due to the repetitive duties of his position, he failed to provide any rationale for his opinion. In his note dated January 15, 2002, Dr. Murphy opined that appellant's condition was directly work related, again without providing medical rationale to support the opinion. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and

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<sup>2</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

<sup>3</sup> *Id.*

must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>4</sup>

Without a well-reasoned medical opinion explaining how, medically speaking, the implicated factors of appellant's federal employment caused or contributed to a firmly diagnosed medical condition, appellant has not met his burden of proof to establish that he sustained an injury in the performance of duty.

The November 20, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
June 6, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>4</sup> *Gary L. Fowler*, 45 ECAB 365 (1994).