

**United States Department of Labor
Employees' Compensation Appeals Board**

NATHANIEL CARTER, JR., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Chattanooga, TN, Employer**

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**Docket No. 04-1697
Issued: December 9, 2004**

Appearances:
Nathaniel Carter, Jr., pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On June 23, 2004 appellant filed a timely appeal from the January 13 and June 14, 2004 merit decisions of the Office of Workers' Compensation Programs, which denied that he sustained an occupational right shoulder injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the denial.

ISSUE

The issue is whether appellant injured his right shoulder on or about February 13, 2003 by casing mail for more than three hours a day.

FACTUAL HISTORY

On October 24, 2003 appellant, then a 44-year-old flat sorter machine operator/clerk, filed a claim alleging that his right shoulder pain, muscle spasms and scapulothoracic dysfunction were a result of his federal employment: "The doctor wanted me to case mail 3 hours a day. I was required to case mail 7 to 7½ hours a day before the FCE [functional capacity evaluation] [on April 21, 2003]. After the FCE the doctor wanted me to case mail 3 hours a day.

I was required to case mail 8 hours a day, 5 days a week.” Appellant indicated that he first became aware of his right shoulder condition on February 13, 2003.¹

The employing establishment advised that all limited-duty offers to appellant clearly stated that he was to work within his medical restrictions and that no supervisor at any time instructed him to do otherwise. Appellant’s supervisor stated that appellant was given a limited-duty offer on January 18, 2003 for four hours a day: As his hours increased he was assigned to the manual cases to case letters. Appellant was instructed to case with his left hand and to pick up only handfuls of mail at a time. Appellant’s supervisor reported that appellant worked four hours a night from December 20, 2002 through January 29, 2003, five hours a night on January 30, 2003, six hours a night from January 31 through February 27, 2003 and eight hours a night thereafter. He advised that he was gathering evidence to show that there was no violation of appellant’s physical restrictions that appellant performed duties within his restrictions and that no reinjury occurred.

In a March 10, 2003 treatment note, Dr. William E. Matthews reacted to appellant’s complaint about casing mail:

“He is 165 days, 5 months and 15 days postop. He came in today complaining that his shoulder is bothering him. I have done all I can do. He is being made to sort mail and flip his arm seven and one-half hours when I instructed the post office to do only two hours. I think it is time to state that I cannot continue to be in the middle of this situation. If they feel like he can do it seven and one-half hours they are going to have to find a doctor that will state that. I did the second operation. I have done the best I can. Apparently he is not happy and they are not happy, so this is all I can do at this point. He came in today without a social worker here, and I am not going to give him any kind of painkillers or injection. We will just [give] him another note saying that he can case for three hours to three and one-half, but not seven. On examination today, he still has a little stiffness and difficulties when he externally and internally rotates.”

On March 18, 2003 Dr. Matthews reported: “They were making him case mail. I said he was supposed to case three hours. They are making him case six or seven hours.” Following an examination on May 6, 2003, a duty status report limited casing mail to three hours and prohibited repetitive motion of the right arm.

In a decision dated January 13, 2004, the Office denied appellant’s claim for compensation on the grounds that “it is not established that the claimed medical condition is related to the established work-related event(s).” The Office advised that appellant’s physician must explain how the events caused or affected his condition, based upon an accurate factual and medical history, citing objective findings in support of the physician’s opinion.

¹ The record indicates that appellant injured his right shoulder in 2000 and 2001 and underwent surgery. He currently seeks compensation on the grounds that the right shoulder pain he experienced beginning February 13, 2003 was the result of casing mail for more than three hours a day.

In a decision dated June 14, 2004, the Office reviewed the merits of appellant's claim and denied modification of its prior decision on the grounds that appellant had not provided sufficient medical documentation to support his claim of a new, separate injury causally related to the claimed work factors on or around February 13, 2003:

“The problem with all of your medical reports to date is that they all refer only to your prior accepted work injuries as the cause of your present condition that currently disables you from working. We still have no rationalized opinion on any specific worsening or worsened diagnosis specifically related to, by cause-and-effect, the casing duties you performed between December 2002 and September 2003. We only have received medical conclusions that your shoulder condition already present from your prior injuries, disabled you from casing more than 2 to 3 hours per day. This does not show that the casing itself caused any new occupational injury, only that your prior injuries prevent you from being able to case mail for most of the workday.”

* * *

“So far, your physicians have never provided any medical rationale to explain how any specific, distinct part of your present condition and disability would be due to any new work injury, or specifically any new injury created from your casing duties between December 2002 and September 2003. Their reports only support a continuing condition due to the older injuries and surgery, and the fact that those prior injuries now prevent you from casing mail for more than 2 to 3 hours per day. They do not support any new injury causally related to your claimed work factors of casing for those particular months.”

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.³

Causal relationship is a medical issue,⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete

² 5 U.S.C. §§ 8101-8193.

³ See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

A person claiming compensation must show sufficient cause for the Office to proceed with processing and adjudicating a claim by submitting the essentials of a *prima facie* case, including medical opinion evidence supporting the element of causal relationship.⁸

ANALYSIS

Appellant attributes the condition of his right shoulder beginning February 13, 2003 to casing mail for more than three hours a day, presumably with his right hand. When the Office denied his claim on January 13, 2004, it referred to “established work-related event(s)” and “the accepted event(s)” without listing what, specifically, was established or accepted. The employing establishment acknowledged that appellant was assigned to the manual cases sometime after January 18, 2003 to case letters but stated that he was instructed to case mail with his left hand and to pick up only handfuls of mail at a time. The employing establishment also acknowledged that appellant worked six hours a night from January 31 through February 27, 2003 and eight hours a night thereafter. What is not clear from the evidence of record is whether appellant cased mail for more than three hours a day, as alleged, or whether he did so with his right hand, notwithstanding job offers or instructions from his supervisors. In the June 14, 2004 decision, the Office made no reference to “established” or “accepted” work factors and instead denied modification on the grounds that appellant had not provided sufficient medical documentation to support his claim of a new, separate injury causally related to “the claimed work factors.”

Ordinarily the Office’s failure to make specific findings of fact would be grounds for the Board to remand the case to the Office for further development of the factual evidence to determine whether appellant experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. But the Office is under no obligation to proceed with processing and adjudicating a claim when the claimant fails to submit medical opinion evidence supporting the essential element of causal relationship. The Board has reviewed all the medical documentation submitted in this case and can find no physician who states, much less explains, that appellant’s diagnosed right shoulder condition on or after February 13, 2003 was caused or aggravated by casing mail for more than three hours a day. Because no medical opinion evidence

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *See Federal (FECA) Procedure Manual, Part 2 -- Claims, Development of Claims, Chapter 2.0800.2.g., .3.a.* (April 1993).

supports that he injured his right shoulder as alleged, the Board finds that appellant has failed to establish a *prima facie* case for compensation.⁹

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he injured his right shoulder on or about February 13, 2003 by casing mail for more than three hours a day. No medical opinion evidence supports that such an injury occurred.

ORDER

IT IS HEREBY ORDERED THAT the June 14 and January 13, 2004 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 9, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁹ See *Herman E. Harris* (Docket No. 91-1754, issued April 29, 1992) (finding that the claimant failed to establish a *prima facie* case for compensation where he submitted no medical opinion relating his occupational disease or condition to factors of his federal employment).