

Office's August 21, 2003 decision denying her claim for compensation. The facts of this case as set forth in the Board's prior decision are hereby incorporated by reference.

On February 11, 2005 appellant requested reconsideration by the Office. In support thereof, she submitted a December 14, 2004 report from her attending osteopath, Dr. Robert S. Vandrak, who related appellant's current clinical status, stating:

"Persistent complaints of cervical pain, bilateral shoulder pain. The patient states that on January 7, 2003 she was casing manual letters weighing one ounce while sitting at Oklahoma case. Upon review of dimensions of the Oklahoma case and sitting posture, when she reached up to put the top letter in the case at the shoulder level, she had increased cervical pain and right shoulder pain. The patient did complete MR [magnetic resonance] arthrogram of the left shoulder, December 2, 2004 as directed. The patient continues to remain off work."

Dr. Vandrak noted that an MR arthrogram of the left shoulder on December 2, 2004 revealed tendinosis in the supraspinatus myotendon region as well as a small amount of subacromial bursa fusion. He related his findings on physical examination and addressed the mechanism of injury:

"Although was only asked to lift letters weighing one ounce, but asked to do that at a frequent, repetitive rate in a position to cause increased stress to the cervical spine. At that point due to the repetitive nature of the activity that she was asked to do, I think the disc finally gave out with herniation at that level causing her constellation of symptoms with persistent cervical pain and right shoulder pain. The patient is prone to right shoulder impingement syndrome due to cumulative trauma. At this point, no gross rotator cuff pathology, but anticipate worsening if she would return to work. Exam[ination] reveals some range of motion dysfunction. I do feel that, on January 17, 2003, she did herniate her disc at C4-C5 with residual right C4-C5 radiculopathy. She did injure her right shoulder with rotator cuff tend[i]nitis. This seems to have stabilized with concerns about advancing activity."

* * *

"I should also mention the fact that my opinion regarding injuries at the time of the work injury, January 17, 2003, are due to comparison of the MRI of January 14, 2002 with the MRI of March 15, 2003. It should be noted at that time the MRI of January 14, 2002 did show a disc bulge at the C4-C5 level, right-sided orientation, this was the start of the process, but I feel that the incident whereby the disc herniated was on the date of January 17, 2003."

In a decision dated May 10, 2005, the Office reviewed the merits of appellant's claim and denied modification of its prior decision. The Office found that Dr. Vandrak's opinion was speculative and not sufficiently rationalized to establish the injury alleged.

LEGAL PRECEDENT

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

ANALYSIS

To be clear, there is no dispute that appellant was casing mail in the course of her employment as a mail processing clerk on January 17, 2003. She has met her burden to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question for determination is whether these duties caused an injury.

On the prior appeal of this case, the Board noted the deficiencies in Dr. Vandrak's opinion. With his December 14, 2003 report, he has addressed those deficiencies. He provided a sufficient description of the duties appellant performed on January 17, 2003. He noted the weight of the letters appellant was casing, identified the type of case she was using and indicated that he had reviewed both the dimensions of the case and appellant's sitting posture. He also provided a sufficient description of the mechanism of injury, namely, performing a frequent and repetitive task in a position to cause increased stress to the cervical spine. Because appellant had increased cervical pain and right shoulder pain when she reached up to put the top letter in the case at shoulder level, Dr. Vandrak reasoned that this was when the C4-5 disc finally gave out and herniated, causing her constellation of symptoms with persistent cervical pain and right

² 5 U.S.C. §§ 8101-8193.

³ See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15)-.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

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

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).

shoulder pain. He buttressed his argument by noting that previous diagnostic studies showed a disc bulge at the C4-5 level with a right-sided orientation. He explained that this was the start of the process and that it was the incident on January 17, 2003 that caused the herniation.

The Office found that Dr. Vandrak's opinion is speculative. While he did not fully explain the mechanics of how casing letters in a sitting posture caused increased stress to the cervical spine, he did indicate that he understood what appellant was doing and that this kind of repetitive activity was competent to produce a herniation in an already weakened disc. The Board finds that Dr. Vandrak has offered medical rationale supporting that appellant sustained a herniated disc at the C4-5 level in the course of her employment on January 17, 2003 to warrant further development of the record. Additionally, since there is no medical opinion evidence to the contrary, the Board will therefore reverse the Office's May 10, 2005 decision on this issue.⁸

The Board also finds, however, that Dr. Vandrak did not sufficiently explain how appellant injured her right shoulder with rotator cuff tendinitis on January 17, 2003. On the one hand, he indicated that her persistent cervical pain and right shoulder pain were a result of the herniated disc and residual right C4-5 radiculopathy. On the other hand, he noted that she was prone to right shoulder impingement syndrome due to cumulative trauma and that she did injure her right shoulder on January 17, 2003 with rotator cuff tendinitis. He reported no gross rotator cuff pathology, however, and only some range of motion dysfunction on examination. The Board finds that Dr. Vandrak has not provided sufficient rationale to support that appellant sustained a right rotator cuff tendinitis while in the course of her employment on January 17, 2003. The Board will therefore affirm the Office's May 10, 2005 decision on this issue.

CONCLUSION

The Board finds that there is sufficient medical evidence to warrant further development on whether the alleged cervical disc condition is causally related to factors of employment. The Board also finds that appellant has not met her burden of proof to establish that she sustained a right rotator cuff tendinitis that day.

⁸ See *Robert A. Redmond*, 40 ECAB 796 (1989).

ORDER

IT IS HEREBY ORDERED THAT the May 10, 2005 decision of the Office of Workers' Compensation Programs is remanded on the issue of herniated disc and is affirmed on the issue of right rotator cuff tendinitis and remanded for further action consistent with this decision.

Issued: September 23, 2005
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board