

November 17, 2003. Appellant stopped work November 25, 2003. The employing establishment indicated that appellant first received medical care for his right shoulder condition on November 26, 1999.

In a February 1, 2004 statement, appellant noted that the Office had previously approved other work-related conditions.¹ He started to have problems with his right shoulder in November 1999 and described his employment activities, which he felt contributed to his condition. He also noted that he was a personal trainer.

In a November 23, 2003 report, Dr. Michael S. Taptykoff, an osteopath, noted that appellant complained of severe pain/discomfort when using his right shoulder. Magnetic resonance imaging (MRI) scans of November 1999 and February 2001 showed a right shoulder rotator cuff tear. He stated that appellant's right shoulder injury was progressive and diagnosed a right shoulder rotator cuff tear. With a check mark in the appropriate box, Dr. Taptykoff indicated that appellant's complaints related to a work injury. He indicated that appellant could not work through December 7, 2003. A copy of the November 26, 1999 MRI scan was of record.

In a December 9, 2003 report, Dr. Christopher Aland, a Board-certified orthopedic surgeon, stated that appellant was seen for shoulder pain and was noted to have pain and difficulty raising his arm overhead with intermittent symptoms occurring for the past several years. The most recent flare-up was prompted by a vigorous lifting episode and appellant was out of work for two weeks due to pain. Based on a November 2003 MRI scan and his examination, Dr. Aland provided an impression of bursitis with possible partial thickness versus small full thickness rotator cuff tear. In a December 9, 2003 duty status report, Dr. Aland advised that appellant had tendinitis of the right shoulder and was able to work within specified work restrictions.

The employing establishment controverted the claim and submitted a December 30, 2003 investigative memorandum and exhibits which revealed that appellant had been involved in sports, had suffered a wrist condition due to the use of punching bags, worked as a personal trainer and was involved in a physical assault in September 2003.

By letter dated January 9, 2004, the Office notified appellant that the factual and medical evidence submitted was insufficient to establish his claim. It requested that appellant provide additional factual information along with a comprehensive medical report from his treating physician.

In response, appellant submitted a statement dated February 1, 2004, along with copies of the November 29, 1999, February 5, 2001 and November 30, 2003 MRI scans of his right shoulder. Additional evidence pertaining to medical conditions unrelated to the right shoulder was also submitted.

¹ Appellant advised that the Office had approved carpal tunnel surgery for his hands, the left hand in 1989 and the right hand in 1991 and a left rotator cuff surgery in August 1998. The record before the Board reflects that the Office under file number 030236370 had accepted a left rotator cuff tear for an injury occurring on June 24, 1998.

By decision dated March 1, 2004, the Office denied appellant's claim on the grounds that he failed to establish fact of injury, as the work factors alleged to have caused the injury were not established.

On February 8, 2005 appellant requested reconsideration. A copy of a July 14, 2004 MRI scan was submitted together with reports from Dr. Aland dated April 5, December 6 and 17, 2004. On April 5, 2004 he indicated that appellant developed right shoulder pain while sorting mail and noted that appellant's shoulder pain from 1999 had resolved. Dr. Aland diagnosed a partial tear of the right rotator cuff and opined, with a check mark in the appropriate box, that appellant's condition was caused or aggravated by employment activity as a "repetitive motion injury." He advised that appellant was totally disabled from March 2 through 29, 2004 and was able to resume light work with restrictions on March 29, 2004.

In a December 6, 2004 report, Dr. Aland noted that appellant had increasing symptoms in both shoulders and provided an impression of rule out inflammatory source of arthropathy. On December 17, 2004 he noted that appellant's pain was not primarily in his shoulder and that appellant was told that he had cervical disc disease. Dr. Aland stated that the diagnostic studies failed to find an inflammatory source of his arthritis and he recommended physical therapy, home exercise treatment and a shift in appellant's work activity.

By decision dated March 7, 2005, the Office modified its prior decision to reflect that the employment factors alleged to have caused the injury were established but affirmed the denial of the claim as the medical evidence was not sufficiently rationalized to establish that the claimed right shoulder condition was causally related to the established employment factors.

On May 30, 2005 appellant requested reconsideration. He resubmitted copies of Dr. Aland's December 6 and 17, 2004 reports and two new reports dated March 4 and April 4, 2005. On March 4, 2005 Dr. Aland noted that appellant had been his patient since 1999 and provided a comprehensive summary of appellant's medical care, indicating that appellant underwent an arthroscopic right rotator cuff repair in March 2004. He diagnosed status post rotator cuff repair left shoulder, status post rotator cuff repair right shoulder and chronic cervical spine dysfunction. Dr. Aland noted that appellant could work with restrictions for his neck and shoulders. In the April 4, 2005 report, he noted that appellant was doing well and offered no further treatment. Dr. Aland advised that appellant was released to nonoverhead and nonrepetitive motion-type work only.

By decision dated August 23, 2005, the Office denied modification of the March 7 2005 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in

² 5 U.S.C. §§ 8101-8193.

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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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 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. The medical evidence required to establish causal relationship, generally, 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 reasonable 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.⁵

ANALYSIS

Appellant claimed that his work duties of sorting and delivering mail caused or aggravated his right shoulder condition. The evidence establishes that appellant sorts and delivers mail in his job. The record also establishes that appellant had other medical conditions accepted by the Office.

The medical evidence of record, however, does not establish that appellant's right shoulder condition and subsequent March 2004 arthroscopic rotator cuff repair are causally related to his employment. On November 23, 2003 Dr. Tapykoff diagnosed a right shoulder cuff tear and advised that appellant was disabled from work through December 7, 2003. Although Dr. Tapykoff opined with a check mark in the appropriate box that appellant's complaints related to a work injury, he did not address or provide any medical rationale as to how appellant's disability was caused or aggravated by his work duties. A report which only addresses causal relationship with a check mark without more by way of medical rationale explaining how the incident caused the injury, is of diminished probative value and insufficient

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

to establish causal relationship.⁶ Dr. Taptykoff's report is insufficient to establish appellant's claim.

Dr. Aland provided diagnoses on appellant's right shoulder condition and advised as to periods of total disability and restrictions within which he could work. In a December 9, 2003 report, he advised that appellant's recent flare-up of shoulder pain was prompted by a vigorous lifting episode; however, Dr. Aland did not indicate whether such lifting episode occurred as a result of appellant's work duties or otherwise related appellant's work duties to his flare-up of shoulder pain. The record indicates that appellant is actively engaged in sports and as a personal trainer. On April 5, 2004 Dr. Aland noted that appellant developed right shoulder pain while sorting mail and opined that appellant's partial tear of the right rotator cuff was a "repetitive motion injury." However, he did not address how appellant's disability or work restrictions was caused or aggravated by the work activity of sorting mail or provide any medical rationale for his opinion that appellant's right shoulder condition was a "repetitive motion injury." The Board has held that an opinion on causal relationship based solely on continuing symptoms after a work incident, without supporting rationale and explanation, is of diminished probative value.⁷ The reports of December 5 and 17, 2004, did not address how either appellant's symptoms or appellant's disability was caused or aggravated by his work duties. Thus, Dr. Aland's reports are insufficient to establish appellant's claim. Dr. Aland did not fully record appellant's history of activities outside of work or explain why he attributed appellant's condition to work activities rather than sporting or personal exercise.

While appellant contends that his work contributed to his right shoulder condition, the record contains insufficient medical opinion explaining how his claimed work factors caused or aggravated his claimed conditions. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁸ Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.⁹ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

There is insufficient probative, rationalized medical evidence explaining why appellant's claimed right shoulder condition was caused or aggravated by his employment activities. Appellant has not met his burden of proof in establishing that he sustained a medical condition in the performance of duty causally related to factors of employment.

CONCLUSION

The Board finds that appellant failed to establish that his right shoulder condition is causally related to factors of his federal employment.

⁶ See *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Lillian M. Jones*, 34 ECAB 379 (1982).

⁷ See *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

⁸ *Nicollette R. Kelstrom*, 54 ECAB 570 (2003).

⁹ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

ORDER

IT IS HEREBY ORDERED THAT the August 23 and March 7, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 14, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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