

condition to his employment on August 30, 1993. He stopped work on January 15, 2002¹ and returned to work for one day, on January 3, 2003, before retiring from federal employment.

By decision dated September 30, 2002, the Office denied appellant's claim on the grounds that it was untimely filed. Appellant requested an oral hearing on October 10, 2002.

In support of his hearing request, appellant submitted various medical reports. In an August 30, 1993 report, Dr. Daniel J. Ragone, a Board-certified physiatrist, stated that an electromyogram (EMG) revealed results consistent with carpal tunnel syndrome and "chronic irritation of the right median and radial nerves at the wrist and forearm." A March 30, 1992 report from Dr. Mark T. DiMarcangelo, an osteopath, stated that left shoulder x-rays yielded findings "consistent with calcific tendinitis and/or bursitis." Appellant also submitted an April 15, 1993 x-ray report from Dr. James J. Jacoby, a Board-certified radiologist, diagnosing severe calcific bursitis of the right shoulder.

Also submitted were numerous reports from Dr. Robert M. Dalsey, a Board-certified orthopedic surgeon, whose reports, from July 11 to August 22, 2001, generally discussed appellant's injuries, not related to the present appeal, including a severe hand contusion appellant sustained on June 29, 2001 and a second-degree burn appellant sustained on his hand. Also submitted were several reports from him concerning appellant's lateral epicondylitis. Dr. Dalsey issued a May 3, 1993 report noting his findings upon conducting an x-ray examination of appellant's shoulders. He diagnosed a small calcific density, hooked acromion and acromioclavicular (AC) joint arthritis in appellant's left shoulder. Upon examination of appellant's right shoulder, Dr. Dalsey diagnosed tendinitis, hooked acromion and AC joint arthritis. In a May 3, 1993 report, following x-ray testing of appellant's elbow, he diagnosed lateral epicondylitis and mild arthritic changes. In a December 13, 1993 report, Dr. Dalsey stated that appellant's calcific tendinitis had resolved but that he had persistent lateral epicondylitis and problems with his right elbow, which appellant related "directly to his job responsibilities with heavy labor and repetitive tasks consistent with his physical findings." On January 10, 1994 he noted that appellant was being treated for lateral epicondylitis and calcific tendinitis in his shoulder and recommended light duty.

By decision dated June 18, 2003, the hearing representative reversed the Office's prior decision finding that appellant's claim was timely filed. The hearing representative directed the Office to address whether appellant had established causal relationship between employment factors and his claimed condition.

By letter dated July 14, 2003, the Office requested that appellant submit medical evidence addressing causal relationship between his diagnosed conditions and employment factors.

By decision dated September 15, 2003, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish a causal relationship between appellant's diagnosed condition and employment factors.

¹ The employing establishment stated that appellant stopped work after sustaining a back injury, which was the subject of a different claim, File No. 032005101.

On September 17, 2003 appellant requested an oral hearing. On March 22, 2004 he changed his hearing request to a request for review of the written record.

By decision dated July 7, 2004, the hearing representative affirmed the denial of appellant's claim on the grounds that the medical evidence was insufficient to establish causal relationship.

On November 17, 2004 appellant requested reconsideration. In support of his reconsideration request, he submitted a May 20, 2004 report from Dr. Thomas P. McMahon, a Board-certified internist, who indicated that there were multiple causes of appellant's "musculoskeletal problems," stating that "it was clearly on my mind that this problem was somewhat work related since I have a comment in my history that his job is physical at times and that he is obligated to swing a sledgehammer." Dr. McMahon noted:

"There were numerous comments about him having difficulty coping with the physical demands of his work. In my notes of August 8, 2001, I also commented that he is beginning to develop degenerative joint disease. I recall having some conversations with him that he had the combination of degenerative osteoarthritis and a job that could be hard and physical."

Dr. McMahon opined that repetitive motion stress caused wear and tear on appellant's tendons. As evidence of this, he advised that a "right shoulder x-ray done on April 15, 1993 was read as severe calcific bursitis of the right shoulder. This is best regarded as a condition caused by repetitive motion rather than any specific injury." Dr. McMahon also noted that appellant had since taken a private-sector job as a security guard, where he had sustained a "severe injury." He concluded:

"It is my opinion within a reasonable degree of medical certainty that [appellant] at the end of his career at the [employing establishment] was disabled for all but rather sedentary employment such as he acquired when he obtained a job as a security guard. This disability was caused by the combination of degenerative osteoarthritis and years of hard labor in addition to several specific injuries."

By decision dated January 24, 2005, the Office denied modification of its prior decision.

On February 25, 2005 appellant requested reconsideration. He submitted a February 16, 2005 report from Dr. McMahon, reiterating his opinion that appellant's conditions, including degenerative joint disease of the hands, carpal tunnel syndrome, calcific bursitis of the right shoulder and degenerative disc disease of the lumbar spine, were aggravated by his employment. Dr. McMahon opined "within a reasonable degree of medical certainty that several of [appellant's] important medical problems have been aggravated by his employment at the shipyard."

By decision dated November 7, 2005, the Office denied modification of its prior decision. On January 31, 2006 appellant requested reconsideration and submitted a statement in support of his claim.²

By decision dated May 3, 2006, the Office denied modification of its prior decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ 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 the performance of duty as alleged, and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.⁴ 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.⁵

An occupational disease or injury is one caused by specified employment factors occurring over a longer period than a single shift or workday.⁶ The test for determining whether appellant sustained a compensable occupational disease or injury is three-pronged. To establish the factual elements of the claim, appellant must submit: "(1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the 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 factors identified by the claimant."⁷

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.⁸ The opinion of the physician must be based on a complete factual and medical background of the

² Appellant also indicated that he was submitting a November 9, 2005 EMG report. This report is not of record.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *D.D.*, 57 ECAB ___ (Docket No. 06-1315, issued September 14, 2006).

⁷ *Michael R. Shaffer*, 55 ECAB 386, 389 (2004), citing *Lourdes Harris*, 45 ECAB 545 (1994); *Victor J. Woodhams*, *supra* note 5.

⁸ *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

claimant⁹ and must be one of reasonable medical certainty¹⁰ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹¹

ANALYSIS

The Board finds that appellant did not meet his burden of proof in establishing that he developed an occupational disease in the performance of duty. The record reflects that appellant has certain shoulder and elbow conditions and that his job at the employing establishment involved lifting and moving heavy objects and machinery and operating forklifts. However, the medical evidence is insufficient to establish that appellant's diagnosed conditions are causally related to his employment factors.

In his May 20, 2004 report, Dr. McMahon addressed causal relationship. Specifically, he stated that appellant was required to swing a sledgehammer and perform other hard and physical duties. Dr. McMahon also noted that, at least one of appellant's diagnosed conditions, calcific bursitis, was generally regarded as a repetitive stress condition. However, he did not provide specific job activities, other than swinging a sledgehammer, and did not explain the medical reasons by which specific employment factors would have caused or aggravated the diagnosed conditions. Thus, although Dr. McMahon opined that appellant's condition was related to repetitive stress, he did not provide sufficient explanation or rationale to support his position. His statement that calcific bursitis is a repetitive stress condition was a statement of general application, rather than specific to appellant's particular situation, and thus is of limited probative value.¹² Moreover, the Board has held that a physician's opinion carries little probative value when it is not supported by detailed medical rationale.¹³ Likewise, Dr. McMahon's February 16, 2005 report is also insufficient to establish causal relationship. Although Dr. McMahon states that it is his opinion "within a reasonable degree of medical certainty" that appellant's conditions are job related, he provides no explanation or rationale to support his position. For example, he did not identify any specific employment factors and present sound medical rationale for his conclusion that appellant's condition was causally related to his employment. As such, Dr. McMahon's February 16, 2005 opinion is conclusory in nature

⁹ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

¹⁰ *John W. Montoya*, 54 ECAB 306 (2003).

¹¹ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹² The Board has held that a medical opinion is of limited probative value when it relies upon statements of general application and is not addressed to the particular circumstances of the case at hand. *Melvina Jackson*, 38 ECAB 443 (1988); see also *Herbert Finhandler*, 16 ECAB 180 (1964); *Eloise L. Berry*, 25 ECAB 61 (1973); *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

¹³ See, e.g., *Victor J. Woodhams*, supra note 5; *Steven S. Saleh*, 55 ECAB 169, 172 (2003). The Board has held that a medical opinion not fortified by medical rationale is of little probative value. *Caroline Thomas*, 51 ECAB 451, 456 n.10 (2000); *Brenda L. Dubuque*, 55 ECAB 212, 217 (2004).

and thus is of diminished probative value.¹⁴ Accordingly, the Board finds that Dr. McMahon's February 16, 2005 report is insufficient to meet appellant's burden of proof.

The only other medical evidence submitted by appellant was diagnostic test results from the 1990s and reports from Dr. Dalsey. However, these reports did not contain a physician's specific opinion regarding whether any diagnosed condition was caused or aggravated by specific employment conditions. Dr. Dalsey's December 13, 1993 report advised that appellant felt that his lateral epicondylitis was work related. However, this is of limited probative value as he did not provide his own opinion on causal relationship.¹⁵

For these reasons, the medical evidence is insufficient to establish that appellant's medical condition was caused or aggravated by conditions of his federal employment.

CONCLUSION

The Board finds that appellant did not meet his burden of proof in establishing that he developed an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated May 3, 2006 and November 7, 2005 are affirmed.

Issued: April 11, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

¹⁴ See *Melvina Jackson*, *supra* note 12.

¹⁵ Cf. *Laurie S. Swanson* 53 ECAB 517 (2002) (a physician's report is insufficient to establish a basis for the payment of compensation where the physician's statements regarding a claimant's ability to work consist primarily of a repetition of the claimant's complaints).