

to his federal employment on April 20, 2007 and stated that surgery was needed. He did not stop work.

In a letter dated August 23, 2007, the Office advised appellant of the factual and medical evidence needed to establish his claim. It requested that he submit a physician's reasoned opinion addressing the relationship of his left shoulder condition to specific employment factors.

In an August 21, 2007 statement, appellant noted that he sustained a left shoulder dislocation in October 1990 while in the United States Navy, for which surgery was performed on October 17, 1994. He was employed at the employing establishment in 1997 as a disabled veteran with a 20 percent disability to his left shoulder. Appellant stated that the repetition of placing and carrying the mailbag over his left shoulder for the prior 10 years aggravated his shoulder and caused dislocations. In an October 11, 2007 statement, he indicated that he had experienced several shoulder dislocations a month while working at the employing establishment, which had progressed to several dislocations a week. Appellant had back surgery on July 12, 2007 and was not able to provide any stability for himself due to his arm not staying in its socket. He indicated that additional shoulder surgery was scheduled for November 21, 2007.

Appellant submitted medical reports pertaining to his left shoulder condition from 1990 to 1995; a July 9, 2007 magnetic resonance imaging (MRI) arthrogram of the left shoulder; and a July 9, 2007 left shoulder arthrogram.

In a September 17, 2007 note, Dr. Michael Bruno, a Board-certified internist at Veterans Administration Medical Center (VAMC), advised that appellant was unable to work and would be reassessed by orthopedic surgeons in the next month.

In an October 11, 2007 medical note, Dr. Philip T. Browne, a Board-certified orthopedic surgeon, advised that appellant was seen for recurrent anterior dislocation/subluxation of the left shoulder. Appellant underwent a "Bankart Repair" fifteen years prior while in the Navy and two spinal operations during the past year. Dr. Browne noted that appellant started having subluxation episodes to his left shoulder in April 2007 and that repeat surgery was planned. He recommended that appellant undergo physical therapy and remain off work until the planned shoulder arthroscopy.

In an October 11, 2007 note, Rebecca M. Glasser, a registered nurse, indicated that shoulder surgery was planned for November 21, 2007. The record contains an October 11, 2007 copy of appointment dates and an October 11, 2007 consultation sheet from the Louisville, Kentucky VAMC.

By decision dated October 19, 2007, the Office denied appellant's claim, finding that the medical evidence was not sufficient to establish that his left shoulder condition was causally related to his employment duties.

On November 5, 2007 appellant requested reconsideration. He indicated that he submitted medical documentation to the Office to show that he had a back and leg condition in addition to his left shoulder condition. Appellant further advised he would be undergoing left shoulder surgery on November 21, 2007. In a November 13, 2007 letter, he advised that he

would not be undergoing the shoulder surgery as planned due to his recent back surgery. Appellant advised he would be returning to work on November 10, 2007 without restrictions. He resubmitted copies of evidence previously of record.

By decision dated January 23, 2008, the Office denied modification of its October 19, 2007 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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.² 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.³

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) 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 is generally 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.⁴

ANALYSIS

It is not disputed that appellant's duties as a city letter carrier included carrying a mailbag while performing his work duties. However, appellant has not submitted sufficient medical evidence to support that his left shoulder condition by specific employment factors or conditions.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Solomon Polen*, 51 ECAB 341 (2000).

On August 23, 2007 the Office advised appellant of the medical evidence needed to establish his left shoulder claim. Appellant did not submit a rationalized medical report from an attending physician addressing how his duties as a letter carrier caused or aggravated his claimed left shoulder condition.

On October 11, 2007 Dr. Browne examined appellant for a recurrent anterior dislocation/subluxation of the left shoulder. He noted that appellant had prior left shoulder surgery 15 years prior while he was in the Navy. Dr. Browne obtained a history of left shoulder subluxation episodes in April 2007. However, he did not identify a mechanism of injury or provide a diagnosis supported by objective evidence. Dr. Browne did not explain how any dislocation or subluxation of the left shoulder was caused or contributed to by appellant's duties as a letter carrier. He did not address how appellant's preexisting left shoulder condition progressed to the point that appellant's duties on or about April 2007 caused or contributed to any dislocation.⁵ Therefore, Dr. Browne's report is insufficient to establish appellant's claim.

An October 11, 2007 nursing note advised that appellant should remain off work until the planned shoulder surgery. The Board has held that notes signed by a nurse are not medical evidence as a nurse is not a physician under the Act.⁶

The remainder of the medical evidence, including the July 9, 2007 diagnostic studies and the September 17, 2007 note from Dr. Bruno, does not address the cause of appellant's left shoulder condition or pertain to a back or leg condition, which is not relevant to this claim. This evidence is not sufficient to establish appellant's claim.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁷ Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence, and the Office therefore properly denied his claim for compensation.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he developed an employment-related injury in the performance of duty.

⁵ *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

⁶ *See Roy L. Humphrey*, 57 ECAB 238 (2005); 5 U.S.C. § 8101(2).

⁷ *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 23, 2008 is affirmed.

Issued: October 3, 2008
Washington, DC

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

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

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