

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

A.F., Appellant

and

**DEPARTMENT OF AGRICULTURE, FOOD
SAFETY INSPECTION SERVICE,
Noel, MO, Employer**

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**Docket No. 08-1288
Issued: October 14, 2008**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On March 31, 2008 appellant filed a timely appeal from the September 17, 2007 merit decision of the Office of Workers' Compensation Programs, which denied her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case. The Board also has jurisdiction to review the Office hearing representative's February 27, 2008 merit decision affirming the denial.

ISSUE

The issue is whether appellant injured her left upper extremity in the performance of duty after she returned to work in 2003.

FACTUAL HISTORY

On June 5, 2007 appellant, then a 41-year-old poultry inspector, filed an occupational disease claim alleging that the chronic myofascial pain syndrome in her left upper extremity was a result of her federal employment: "Left shoulder/arm pain, stiffness, and sensitivity, caused by

the chronic repetitive activities that is required in my position as a poultry inspector. The significant amount of repetitive activity required in my position has caused and aggravated my condition.”¹

To support her claim, appellant submitted treatment notes from Dr. Horace R. Petersen, her orthopedic surgeon. On August 22, 2006 Dr. Petersen noted that appellant had quite a bit of pain in her left shoulder with a burning sensation over the shoulder blade and across the arm. He stated that she had “reinjured it somehow a few weeks ago” and had increased pain. Dr. Petersen stated that appellant had been resting intermittently at work, shaking and massaging her arm. Appellant informed him that she really had not been pain free since she went back to work in 2003 and had intermittent episodes when the pain got more severe. Recently, she reported, the pain had become more intolerable. Dr. Petersen diagnosed causalgia and neurogenic-type pain. On a form report that same date, he indicated with an affirmative mark that appellant’s causalgia was caused or aggravated by employment activity. Dr. Petersen reported a history of “injury to left shoulder 2000 recent increase in pain due to repetitive activity.”

In a supplement report also dated August 22, 2006, Dr. Petersen clarified his remark that appellant had reinjured her shoulder: “It was n[ot] so much of a reinjury as it was a re-exacerbation of her previous problem. The same work that she has been doing had gotten to the point where it was causing her severe pain and making it difficult to perform her duties.”

On September 20, 2006 appellant informed Dr. Petersen that her pain increased with repetitive activities. She stated that she was having a lot of difficulty at work with overhead activities or repetitive pulling or pushing with her left arm. On November 6, 2006 Dr. Petersen diagnosed persistent chronic myofascial pain with causalgia of the left upper extremity. On April 4, 2007 he reported that appellant’s diagnosis was chronic myofascial pain secondary to injury she sustained at work and aggravated by chronic repetitive activities.

In a decision dated September 17, 2007, the Office denied appellant’s claim for compensation. It found that the evidence supported the work activities appellant described, but there was no medical evidence providing an unequivocal diagnosis of myofascial pain syndrome supported with unequivocal findings that could be connected to the work activities described.

Following a telephonic hearing on January 9, 2008, an Office hearing representative affirmed the denial of appellant’s claim in a decision dated February 27, 2008. The hearing representative stated that appellant’s description of her work duties was accepted as factual; however, she submitted insufficient medical evidence to establish that her work duties caused a material worsening of her left upper extremity condition.

¹ OWCP File No. xxxxxx148. In a prior claim, OWCP File No. xxxxxx105 (master), the Office accepted that appellant’s duties as a poultry inspector caused an aggravation of left shoulder subluxation and left carpal tunnel syndrome. Appellant underwent surgeries for left shoulder reconstruction and left carpal tunnel release and received a schedule award for a 14 percent permanent impairment of the left upper extremity. She returned to full duty on April 7, 2003. Appellant now claims that the duties she performed after she returned to work caused further injury to her left upper extremity.

LEGAL PRECEDENT

The United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty,² but an employee seeking benefits under the Act 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 issue⁴ 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 certainty,⁶ 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

The Office accepts as factually established the duties appellant performed after she returned to work in 2003. The question that remains is whether these duties caused an injury to her left upper extremity.

Treatment notes from Dr. Petersen, appellant's orthopedic surgeon, generally support the claim of an employment injury, but are insufficient to discharge appellant's burden of proof. Dr. Petersen did not demonstrate that he understood the physical demands of appellant's employment. In none of his reports did he acknowledge her job title or discuss her position description. Dr. Petersen noted repetitive activities, but this is too vague to convey a recognition of what appellant did at work. His reference to "the same work that she has been doing" is no clearer, as it leaves open the question of what she was doing.

Further, Dr. Petersen did not support his opinion with sound medical reasoning. He indicated with an affirmative mark that appellant's causalgia was caused or aggravated by employment activity, but he did not explain the nature of causalgia, and he did not explain, from

² 5 U.S.C. § 8102(a).

³ See generally *John J. Carbone*, 41 ECAB 354 (1989).

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).

an orthopedic or biomechanical point of view, how specific work activities caused or aggravated that diagnosed condition. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.⁸ Appellant's burden requires that she submit an affirmative opinion from a physician who supports his conclusion with sound medical reasoning. Noting that appellant's work "had gotten to the point" where it was causing her severe pain hardly explains the mechanism of injury. Such an observation amounts to little more than a repetition of appellant's complaint.

Medical conclusions based on inaccurate or incomplete histories are of little probative value.⁹ Medical conclusions unsupported by rationale are also of little probative value.¹⁰ While Dr. Petersen's reports generally support appellant's claim, they are not sufficient to establish the critical element of causal relationship. The Board will therefore affirm the Office decisions denying compensation benefits.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she injured her left upper extremity in the performance of duty after she returned to work in 2003. The duties she performed are factually established, but the medical opinion evidence fails to show how those particular duties caused or aggravated her diagnosed medical condition.

⁸ E.g., *Lillian M. Jones*, 34 ECAB 379 (1982).

⁹ E.g., *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

¹⁰ E.g., *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

ORDER

IT IS HEREBY ORDERED THAT the February 27, 2008 and September 17, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 14, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board