



identified repetitive motions and the casing of mail she performs in the performance of her federal employment as the cause of her injury.

In support of her claim, appellant submitted a collection of medical notes. A September 20, 2007 emergency room medical report, signed by a registered nurse, stated that appellant may return to work in three days with light-duty restrictions due to illness. A September 24, 2007 medical report signed by a Dr. Jonathon Carmouche, stated that she may return to work for only four days until she has surgery. An October 10, 2007 medical note, signed by Dr. Todd H. Dehli, Board-certified in family medicine, excused appellant from work October 16 through 17, 2007. Finally, appellant submitted a November 30, 2007 disability certificate signed by Dr. Raymond V. Harron, a Board-certified radiologist, who reports that appellant will undergo cervical disc surgery on December 7, 2007 and will not be able to return to work for 8 to 10 weeks.

By letter dated March 12, 2008, the Office notified appellant that the evidence submitted was insufficient to determine that she was eligible for benefits under the Federal Employees' Compensation Act. It requested that she submit comprehensive medical documentation.

In response, appellant submitted a December 7, 2007 operative report signed by Dr. Harron who reported performing an anterior discectomy/osteophyectomy with fusion at C5-6 and C6-7 levels. Dr. Harron states a preoperative diagnosis of cervical spondylosis and foraminal stenosis at the C5-6 and C6-7 levels.

Appellant submitted a March 12, 2008 medical note signed by Dr. Harron that provided a brief history of appellant's arm/shoulder condition. Dr. Harron opined that her problem began on January 20, 2006 with a rotator cuff injury that was repaired in June 2006. He states that this repair left appellant with residual right arm pain. Dr. Harron opined that the disc complex findings could be related to aggravation secondary to her job duties.

In a March 13, 2008 medical note, Dr. Harron asserted that appellant could return to work at a capacity of four to five hours a day, three days a week (Tuesday, Wednesday, Thursday) and should remain at this capacity until further notice.

By decision dated May 19, 2008, the Office denied appellant's claim because the evidence of record did not establish that the claimed medical condition was related to the established work-related event(s) as required for coverage under the Act.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of proof to establish the essential elements of her claim by the weight of the evidence,<sup>2</sup> including that she sustained an injury in the performance of duty and that any specific condition

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *J.P.*, 59 ECAB \_\_\_\_ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

or disability for work for which she claims compensation is causally related to that employment injury.<sup>3</sup> To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>4</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.<sup>5</sup>

### ANALYSIS

The issue is whether appellant met her burden of proof in establishing that she sustained an arm/shoulder injury arising out of her work duties, including checking registers in the post office dock. The Board finds that appellant did not submit sufficient medical evidence to establish her claim.

Appellant has alleged that the repetitive motions involved in casing mail, as well as checking registers in the post office dock caused her injury. The medical evidence of record supports a finding of rotator cuff injury and cervical spondylosis with foraminal stenosis at the C5-6 and C6-7 levels, for which appellant has undergone surgical repair. The medical evidence of record however does not establish that the claimed diagnosed conditions are causally related to the identified employment factors.

Although the evidence of record reflects medical reports and notes from several physicians and a registered nurse, these documents are of little probative value.<sup>6</sup> Medical opinions based upon an incomplete history have little probative value.<sup>7</sup> None of the medical reports submitted in support of appellant's claim demonstrate a thorough understanding of

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<sup>3</sup> *G.T.*, 59 ECAB \_\_\_ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>5</sup> *I.J.*, 59 ECAB \_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>6</sup> The September 20, 2007 emergency room medical report is of no weight or probative value because a nurse is not a physician under the Act and thus cannot render a medical opinion. 5 U.S.C. § 8101(2); *G.G.*, 58 ECAB \_\_\_ (Docket No. 06-1564, issued February 27, 2007).

<sup>7</sup> *Vaheh Mokhtarians*, 51 ECAB 190 (1999).

appellant's alleged employment factors. Dr. Carmouche's September 24, 2007 report prescribes work restrictions and does not report findings upon examination or a rationalized medical opinion regarding causal relationship. The Board has consistently held that medical reports lacking a rationale on causal relationship have little probative value. *Mary E. Marshall*, 56 ECAB 420 (2005). As Dr. Carmouche proffered no rationalized medical opinion concerning causal relationship, his September 24, 2007 report is of diminished probative value. Similarly, Dr. Harron's November 30, 2007 disability certificate merely excused appellant from work for a surgical procedure and lacks a medical opinion on causal relationship. As this evidence lacks a rationalized medical opinion, it is of little probative value and is insufficient to meet appellant's burden of proof.

Dr. Harron's December 7, 2007 medical report proffered a diagnosis of cervical spondylosis and foraminal stenosis at the C5-6 and C6-7 levels. However, as the purpose of this report was to establish a surgical diagnosis, it does not address the cause of appellant's condition. As this information is absent, Dr. Harron's December 7, 2005 report is insufficient to establish appellant's condition is causally related to factors of her employment.

Finally, in his March 12, 2008 note, Dr. Harron opined that appellant's disc complex could be related to aggravation secondary to her job duties. But this is a speculative statement. Terms such as "suspected," "could," "may," or "might" indicate that the report is equivocal, speculative or conjectural and, therefore, the report is of limited probative value.<sup>8</sup> Thus, this medical report is insufficient to establish appellant's condition is causally related to factors of her employment.

As there is no rationalized medical evidence of record establishing that appellant's shoulder condition was caused or aggravated by her employment duties as alleged, the Board finds that she has failed to meet her burden of proof.

### **CONCLUSION**

The Board finds that appellant failed to meet her burden of proof to establish that she sustained a right rotator cuff tear causally related to her employment.

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<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.3(g) (April 1993); *D.E.*, 58 ECAB \_\_\_\_ (Docket No. 07-27, issued April 6, 2007) (where the Board held that medical opinions which are speculative or equivocal in character have little probative value ).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 19, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 1, 2009  
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