

caused or aggravated her right shoulder condition. The facts and history as contained in the prior decision are incorporated by reference.

On October 31, 2008 appellant requested reconsideration before the Office. In a February 21, 2008 report, Dr. Robert Leb, a Board-certified orthopedic surgeon, advised that he was providing an addendum to a prior report. He diagnosed right shoulder impingement syndrome, which was an overuse injury with a continuum of pathology that started with subacromial bursitis and ultimately proceeded to rotator cuff tears and rotator cuff arthropathy. Dr. Leb explained that repetitive motion of the shoulder especially in an overhead position would lead to such a condition. He stated that “within a reasonable degree of medical certainty that [appellant]’s impingement syndrome was caused by being on right hand duty given the type of work she described to me. [Appellant] stated that she was doing repetitive duty and that it required placing her shoulder in at risk (overhead) positions.”

In a letter dated May 5, 2008, appellant contended that her right shoulder condition was a consequence of consistently using the right side of her body to compensate for the loss of use of her left side. On November 19, 2008 her representative submitted additional evidence. He provided copies of previously evidence from Dr. Leb. Appellant’s representative also enclosed an April 5, 2005 treatment note from Dr. Leb, pertaining to her left shoulder and wrist conditions. Dr. Leb noted that appellant was also complaining of right shoulder discomfort.

By decision dated January 15, 2009, the Office denied modification of its previous decisions.

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 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

² 5 U.S.C. §§ 8101-8193.

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

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

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

The Board finds that appellant has submitted insufficient medical evidence to establish that her right shoulder condition was caused or aggravated by the activities of her light-duty position at work or any other specific factors of her federal employment.

In support of her claim for a right shoulder condition, appellant submitted a February 21, 2008 report from Dr. Leb, who advised that she had right shoulder impingement syndrome and opined that it was an overuse injury. Dr. Leb explained that repetitive motion of the shoulder especially in an overhead position would lead to such a condition. He opined that he believed that "within a reasonable degree of medical certainty that [appellant]'s impingement syndrome was caused by being on right hand duty given the type of work she described to me. [Appellant] stated that she was doing repetitive duty and that it required placing her shoulder in at risk (overhead) positions." The Board notes that, while he opined that appellant's condition was work related, he did not explain how he arrived at this conclusion or identify the employment factors of appellant's limited-duty position caused her condition.

As noted in the prior appeal, appellant's position consisted of performing the mail count, writing, carrying mail under 10 pounds, and counting mail every two hours. Furthermore, the record reveals that appellant was not working from May 18 to July 31, 2006. The Board notes that the physician did not explain how her condition became symptomatic on August 15, 2006 as appellant has alleged. While Dr. Leb advised that repetitive motion of the shoulder in an overhead position would cause impingement syndrome and advised that it was caused by being on right hand duty, the record does not reflect that appellant's duties involved repetitive motion of the shoulder with overhead arm movements. He did not identify the specifics of any overhead duty or indicate the time period in which any such duty was performed. Dr. Leb did not appear to be aware of appellant's actual duties nor did he explain how her light duties of counting mail and carrying bundles under 10 pounds caused a right shoulder condition. He also did not explain the reasons why any established job duties would cause or aggravate the diagnosed impingement syndrome. The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his or her current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an

⁵ *Id.*

accurate history of the claimant's employment injury, and must explain from a medical perspective how the current condition is related to the injury.⁶

As there is no reasoned medical evidence based on an accurate factual background explaining how appellant's employment duties caused or aggravated a right shoulder condition, appellant has not met her burden of proof in establishing that she sustained a right shoulder condition causally related to factors of her employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 15, 2009 is affirmed.

Issued: May 20, 2010
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

⁶ *K.E.*, 60 ECAB ____ (Docket No. 08-1461, issued December 17, 2008).