



and affirmed the denial of her request for merit review.<sup>2</sup> By decision dated October 15, 2009, the Board affirmed OWCP's January 5, 2009 merit decision denying her claim, finding that she had failed to establish a causal relationship between her claimed condition and her activities as a postal clerk.<sup>3</sup> The facts of the case contained in the prior decisions are incorporated herein by reference.

On July 23, 2010 appellant, through her attorney, submitted a request for reconsideration. Counsel argued that newly submitted medical evidence was sufficient to establish that her right shoulder condition was caused by her activities as a postal clerk.

In a June 3, 2010 report, Dr. Benjamin A. Goldberg, a Board-certified orthopedic surgeon, reviewed appellant's medical history, which revealed a diagnosis of right rotator cuff tear. He referred reports from appellant's treating physician, Dr. Lafayette Singleton, a Board-certified neurologist, who "opined that appellant's right shoulder rotator cuff tear was caused by her work duties at the employing establishment." Dr. Goldberg indicated that he performed rotator cuff repair and biceps tenodesis on April 20, 2010.

Dr. Goldberg opined that appellant's right rotator cuff tear was work related based on her age, history and intraoperative findings. He stated that it was extremely rare for a person under the age of 50 to experience such a severe degree of degeneration without tendon overload and that the more likely explanation of this condition (rotator cuff tear at the age of 49) was "a traumatic etiology from a load at work in excess of the tensile properties of her tendon."

In a decision dated October 25, 2010, OWCP denied modification of its October 15, 2009 decision. It found that Dr. Goldberg's June 3, 2010 report was insufficient to establish a causal relationship between the diagnosed torn rotator cuff and conditions of her federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Act<sup>4</sup> has the burden of establishing the essential elements of her claim, including the fact that an injury was sustained in the performance of duty as alleged<sup>5</sup> and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>6</sup>

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<sup>2</sup> Docket No. 07-1968 (issued December 28, 2007). Appellant alleged a right shoulder injury due to factors of her federal employment.

<sup>3</sup> Docket No. 09-801 (issued October 15, 2009).

<sup>4</sup> 5 U.S.C. §§ 8101-8193.

<sup>5</sup> *Joseph W Kripp*, 55 ECAB 121 (2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001). "When an employee claims that he sustained injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and manner alleged. He must also establish that such event, incident or exposure caused an injury." *See also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(q) and (ee) (2002) ("Occupational disease or Illness" and "Traumatic injury" defined).

<sup>6</sup> *Dennis M. Mascarenas*, 49 ECAB 215 and 217 (1997).

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 the 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 diagnosed condition is causally related to the employment factors identified by the claimant.<sup>7</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to the claimant's diagnosed condition. To be of probative value, 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.<sup>8</sup> An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>9</sup>

### ANALYSIS

In the most recent appeal, the Board found that the medical evidence of record failed to establish a causal relationship between established work activities and appellant's claimed right shoulder condition. The Board finds that the medical evidence submitted on reconsideration is insufficient to establish that her right shoulder condition was caused or aggravated by factors of her federal employment.

Dr. Goldberg's June 3, 2010 report is of limited probative value. He opined that appellant's right rotator cuff tear was work related based on her age, history and intraoperative findings. Dr. Goldberg did not, however, explain the medical process by which her work activities caused or contributed to the diagnosed torn rotator cuff. The Board has held that medical conclusions unsupported by rationale are of little probative value.<sup>10</sup> Stating that it was extremely rare for a person under the age of 50 to experience such a severe degree of degeneration without tendon overload, Dr. Goldberg opined that "the more likely explanation" for a rotator cuff tear at age 49 was a traumatic etiology from a load at work in excess of the tensile properties of her tendon. Dr. Goldberg's opinion is vague and speculative in nature. Further, he did not explain why it would be extremely rare for a 49-year-old, as opposed to a 50-year-old, to sustain a rotator cuff tear without tendon overload. For these reasons, Dr. Goldberg's report is of diminished probative value and is insufficient to establish appellant's claim.

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<sup>7</sup> *Michael R. Shaffer*, 55 ECAB 386 (2004). *See also Solomon Polen*, 51 ECAB 341, 343 (2000).

<sup>8</sup> *Leslie C. Moore*, 52 ECAB 132, 132 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

<sup>9</sup> *Phillip L. Barnes*, 55 ECAB 426 (2004); *see also Dennis M. Mascarenas*, *supra* note 6 at 218.

<sup>10</sup> *Cecilia M. Corley*, 56 ECAB 662 (2005).

OWCP advised appellant that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and physician's opinion, with medical reasons, on the cause of her condition. Appellant failed to do so. There is no probative, rationalized medical evidence addressing how her work duties caused or aggravated her right shoulder condition. Appellant has not met her burden of proof in establishing that she sustained an occupational disease causally related to factors of employment.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

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

### **ORDER**

**IT IS HEREBY ORDERED THAT** the October 25, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 10, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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