



aware of her condition on February 10, 2010 and realized it was caused by her employment on May 25, 2010. The employing establishment noted that appellant worked limited duty three days a week without restrictions.

In a June 16, 2010 letter, the employing establishment controverted appellant's claim alleging that because she has worked intermittently since 2008 she ran out of sick and annual leave. It stated that she worked 39 days in 2008, about one-half of the year beginning in February 2009 and only 35 days in 2010. The employing establishment disputed appellant's claim that she lifted approximately 600 trays a day because she had hardly worked over the past few years. It included leave analysis reports and payroll printouts regarding her work shifts.

On June 28, 2010 OWCP advised appellant that the evidence submitted was insufficient to establish her claim and requested additional evidence. It asked her to respond to the employing establishment's contention that she had hardly worked since 2007 and could not have lifted 600 trays a day. OWCP also asked for a comprehensive medical report from a treating physician, which included a description of symptoms, results of examinations and tests, a firm medical diagnosis, treatment provided and a doctor's opinion with stated rationale explaining how her employment activities caused or contributed to her claimed condition.

In a July 15, 2010 statement, appellant explained that she was unable to work full time due to an August 23, 2007 injury and a nonemployment-related May 3, 2010 injury. She stated that it was possible to have lifted approximately 600 trays of mail in a 7.5-hour shift depending on the sort plan and mail volume. Appellant explained that each automation machine had 200 or more bins of mail and that sweeping, dispatching or rerunning two machines added up to 400 trays. She also described additional employment duties she performed which included feeding and sweeping mail.

In a February 10, 2010 report, Dr. Andrew D. Brown, Board-certified in physical medicine and rehabilitation, stated that appellant was a postal employee who worked with automated machines. He noted that she had lifted approximately 600 trays a day weighing between 20 and 30 pounds each for six hours a day, five days a week and forty-eight weeks a year for approximately sixteen years. Dr. Brown initially evaluated appellant on April 11, 2008 for complaints of cervical pain which radiated to her left upper extremity. The examination of her cervical spine revealed a range of motion of flexion 30 degrees, extension 5 degrees, rotation to the right 30 degrees and to the left 10 degrees. Dr. Brown observed spasm and tenderness in her paracervical musculature, left upper trapezius muscle and left rhomboid muscles. Appellant's compression sign was positive on the left side, but muscle testing for the upper extremity was normal. Dr. Brown diagnosed cervical pain syndrome and recommended a magnetic resonance imaging (MRI) scan test.

Dr. Brown noted that appellant was reevaluated by Dr. Adam Carter, a Board-certified physiatrist, on May 9 and August 8, 2008. An MRI scan revealed reversal of the normal cervical lordosis with a bulging disc at C6-7 and tenderness to palpation and hypertonicity over appellant's left paracervical musculature and rhomboid muscles. Appellant was also reevaluated

by Dr. Douglas Schottenstein, a Board-certified neurologist, on May 28 and June 25, 2008. Dr. Schottenstein diagnosed cervical C7 radiculitis and administered steroid injections.<sup>2</sup>

Dr. Brown reevaluated appellant on July 11 and September 12, 2008 and noted weakness in and about her left shoulder girdle with diffuse tenderness. Appellant's impingement signs were also positive. Dr. Brown diagnosed left shoulder strain/impingement and opined that her conditions were causally related to her employment activities. He stated that "[appellant's] cervical pain, pathology, dysfunction, and diagnoses described above [were] causally related to the work responsibilities that I described in the beginning of this report" and also concluded that her "left shoulder pathology [was] consequential causally related."

In a letter dated August 4, 2010, the employing establishment provided OWCP with appellant's work history and previous accidents and claim numbers. It reiterated that appellant hardly worked since 2008 and questioned whether she lifted approximately 600 trays a day.

In a decision dated August 24, 2010, OWCP denied appellant's claim finding insufficient medical evidence to establish that her back and shoulder conditions were causally related to her employment activities.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of her claim by the weight of the reliable, probative and substantial evidence.<sup>3</sup> In an occupational disease claim, appellant's burden requires submission of the following: (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.<sup>5</sup> 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 specified employment factors or incident.<sup>6</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical

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<sup>2</sup> While Dr. Brown recommended referring to Dr. Schottenstein's full report for more extensive details, no other medical reports are contained in the record.

<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>4</sup> *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000); *D.U.*, Docket No. 10-144 (issued July 27, 2010).

<sup>5</sup> *D.I.*, 59 ECAB 158 (2007); *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *W.D.*, Docket No. 09-658 (issued October 22, 2009).

<sup>6</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

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>7</sup> The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation. Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.<sup>8</sup>

### ANALYSIS

Appellant filed an occupational disease claim alleging that a cervical condition with a bulging disc and a left shoulder condition as a result of her employment. OWCP accepted that her employment duties included repetitive lifting, but denied her claim finding insufficient medical evidence to establish that her conditions were causally related to the accepted employment factors. The Board finds insufficient medical evidence that establishes appellant sustained a cervical and shoulder condition as a result of her employment activities.

The only medical evidence of record is Dr. Brown's February 10, 2010 medical report, who diagnosed cervical pain syndrome with a bulging disc at C6-7 based on a 2008 MRI scan report and left shoulder strain/impingement syndrome with possible internal derangement due to positive impingement signs. Dr. Brown obtained a history that appellant was a postal employee who lifted approximately 600 trays a day weighing between 20 to 30 pounds for 6 hours a day, 5 days a week or 48 weeks a year for approximately 16 years. He concluded that appellant's "cervical pain, pathology, dysfunction and diagnoses described above [were] causally related to the work responsibilities that I described" above and that her "left shoulder pathology [was] consequentially causally related." This opinion, however, is of limited probative value because it is based on an inaccurate employment history.<sup>9</sup> Dr. Brown related appellant's condition to working full-time for approximately 16 years. In its controversion letter, the employing establishment stated that she has worked only intermittently since 2008 and provided payroll sheets to support its contention. In a July 15, 2010 statement, appellant confirmed that she was unable to work full-time because of a 2007 injury. In addition Dr. Brown did not provide adequate medical rationale to support his conclusion on causal relationship. He provided a conclusory opinion that appellant's work caused her cervical and shoulder conditions, but offered no medical explanation of the physiological process by which her accepted work activities would cause or contribute to the diagnosed conditions. As medical reports not containing rationale on causal relation are of diminished probative value, Dr. Brown's report is insufficient to meet her burden of proof.<sup>10</sup>

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<sup>7</sup> *B.B.*, 59 ECAB 234 (2007); *D.S.*, Docket No. 09-860 (issued November 2, 2009).

<sup>8</sup> *Patricia J. Bolleter*, 40 ECAB 373 (1988).

<sup>9</sup> *M.W.*, 57 ECAB 710 (2006); *John W. Montoya*, 54 ECAB 306 (2003); *B.H.*, Docket No. 10-907 (issued November 9, 2010).

<sup>10</sup> *Elizabeth H. Kramm*, 57 ECAB 117, 124 (2005); *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *Jimmie H. Duckett*, 52 ECAB 332, 336 (2001).

On appeal, appellant's counsel contends that the file contains sufficient factual and medical evidence to establish her claim. The record, however, is devoid of rationalized medical opinion evidence which is based upon a proper factual background or which explains with medical rationale how her accepted work duties caused her cervical or shoulder conditions. Thus, she did not meet her burden of proof to support her claim.

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 did not meet her burden of proof to establish that she sustained a cervical and shoulder condition in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 24, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 7, 2011  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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