



## **FACTUAL HISTORY**

On February 28, 2008 appellant, then a 47-year-old clerk, filed an occupational disease claim alleging that she sustained right shoulder tightness and right arm tingling while lifting mail on January 15, 2008. She was placed on modified duty and did not lose time from work.

A January 22, 2008 x-ray report from Dr. Caroline M. Greenberg, a Board-certified diagnostic radiologist, revealed degenerative disc disease with bilateral foraminal narrowing at C5-C6. In a February 11, 2008 medical note, Dr. Lu Han, a Board-certified physiatrist, diagnosed cervical degenerative joint disease and neck pain. She placed appellant off duty effective February 11 to 13, 2008.

OWCP informed appellant in a March 21, 2008 letter that the evidence submitted was insufficient and advised her about the evidence needed to establish her claim. It later notified her in an April 24, 2008 letter that her occupational disease claim would be developed as a traumatic injury claim based on her lifting on February 15, 2008.

In an April 4, 2008 letter of controversion, the employing establishment detailed that appellant's chief duties since 2004 involved keying and sweeping mail at the small parcel bundle sorter. It asserted that appellant's injury was likely age related since coworkers who served longer tenures and performed the same tasks did not develop a similar condition.

Appellant responded in an April 20, 2008 statement that she routinely keyed, swept and lifted trays of mail while on the small parcel bundle sorter and delivery point sequencing machine as well as sorted, recorded and cased over 1,000 pieces of registered mail. She added that these activities entailed prolonged and continuous use of her hands, particularly her right hand, bending and standing. Appellant related that she underwent physical therapy in 2007 for a prior arm and back injury.

A February 4, 2008 electromyogram (EMG) and nerve conduction velocity study conducted by Dr. Han showed evidence of right C6 radiculopathy and a mild left sensorimotor and right sensory demyelinating median nerve neuropathy at the wrist that was consistent with carpal tunnel syndrome. February 21, 2008 magnetic resonance imaging (MRI) scan reports from Dr. Irwin A. Keller, a Board-certified diagnostic radiologist, revealed a left-sided L4-L5 disc herniation with possible compression of the left L5 nerve root and a left-sided C5-C6 osteophyte complex with possible compression of the left C6 nerve root.

In a May 22, 2008 report, Dr. Tianshu Zhang, a Board-certified neurologist, appellant presented recurring arm, shoulder, neck, back and foot pain and other symptoms for the last three years.<sup>2</sup>

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<sup>2</sup> OWCP also received a position description for a parcel post distributor and a May 21, 2008 letter from appellant's union representative contesting the employing establishment's controversion on the grounds of age discrimination.

By decision dated May 28, 2008, OWCP denied appellant's claim, finding the medical evidence insufficient to establish that the accepted January 15, 2008 work event caused or contributed to an injury.

Appellant requested reconsideration on May 20, 2009 and submitted additional evidence. A March 27, 2009 MRI scan report from Dr. Yaron Lebovitz, a Board-certified diagnostic radiologist, found multilevel degenerative changes, especially at the C5-C6 level.

In April 16, 2009 report, Dr. Zhang reiterated appellant's arm, shoulder, neck and back symptoms, specifying that her right arm was most affected. He noted the results of the February 21, 2009 MRI scan report and opined that appellant's condition was "related to and probably caused by her repetitive arms and hands use in the workplace."

OWCP asked Dr. Zhang in a June 25, 2009 letter to submit a report explaining how appellant's condition was caused or aggravated by her particular employment duties. In a July 9, 2009 response, Dr. Zhang stated that appellant worked for the employing establishment since 2004 and that she related that her duties required hours of right-handed typing, left-handed sweeping, heavy lifting, standing and downward flexing of the neck. He noted the results of the diagnostic testing including that August 20, 2008 and January 29, 2009 MRI scan reports showed supraspinatus and infraspinatus tears of the right shoulder and distal supraspinatus tendinopathy of the left shoulder, respectively. Dr. Zhan concluded that appellant's arm, shoulder, neck and back symptoms were "related to and probably caused by her repetitive arms and hands use in the workplace."

On September 3, 2009 OWCP denied modification of the May 28, 2008 decision.

Appellant requested reconsideration on August 31, 2010 and submitted additional evidence. In an August 16, 2010 statement, she remarked that she primarily keyed in zip codes with her right hand and swept mail with her left hand while on small parcel bundle sorter duty since November 27, 2004. Appellant added that she performed these tasks for up to two hours nonstop with her head lowered. She also recorded, collected and dispatched items in the registry room and loaded trays onto the delivery point sequencing machine.

An August 31, 2010 medical form from Dr. Zhang noted that appellant's right hand, arm and neck pain and left foot pain resulted from heavy lifting and repetitive maneuvering of the hand and arm. After conducting a physical examination, Dr. Zhang diagnosed cervical radiculopathy, carpal tunnel syndrome and lumbar spondylosis.

On October 14, 2010 OWCP denied modification of the September 3, 2009 decision.

### **LEGAL PRECEDENT**

An employee seeking compensation under FECA has the burden of establishing the essential elements of her claim by the weight of reliable, probative and substantial evidence,<sup>3</sup> including that she is an "employee" within the meaning of FECA and that she filed her claim

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<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

within the applicable time limitation.<sup>4</sup> The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>6</sup>

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's 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, 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>7</sup>

### ANALYSIS

The evidence supports that appellant keyed in zip codes with her right hand and swept mail with her left hand and her head down while on small parcel bundle sorter duty. The record also reflects diagnoses of cervical radiculopathy, cervical degenerative disc disease, lumbar disc herniation, lumbar spondylosis, right shoulder supraspinatus and infraspinatus tears, left shoulder supraspinatus tendinopathy and carpal tunnel syndrome. The Board finds that the medical evidence is insufficient to establish that these work factors caused or contributed to the diagnosed conditions.

In May 22, 2008 and April 16, 2009 reports, Dr. Zhang related that appellant sustained arm, shoulder, neck and back symptoms for more than three years and that they probably resulted from repetitive arm and hand motions in the workplace. In response to OWCP's June 25, 2009 request, he clarified in a July 9, 2009 report that appellant's duties required prolonged right-handed typing, left-handed sweeping, heavy lifting, standing and downward flexing of the neck. Dr. Zhang restated his opinion that appellant's conditions were "probably" caused by repetitive activity at work. In an August 31, 2010 medical form, he noted that diagnoses and advised that appellant's condition resulted from having lifting and repetitive hand and arm movements but did not specifically indicate if the diagnosed conditions were work related. At best, Dr. Zhang provided speculative support for causal relation in finding that

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<sup>4</sup> *R.C.*, 59 ECAB 427 (2008).

<sup>5</sup> *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *T.H.*, 59 ECAB 388 (2008).

<sup>7</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

appellant's conditions are probably due to repetitive movements at work.<sup>8</sup> He did not provide detailed medical rationale explaining the pathophysiological process by which the described job activities caused appellant's condition.<sup>9</sup> Dr. Zhang did not explain the reasons why particular work activities would cause or aggravate any of the diagnosed conditions.

Other medical reports of record, including reports from Drs. Greenberg, Han, Keller and Lebovitz, are insufficient to establish appellant's claim as they do not specifically address how employment factors caused or aggravated a diagnosed medical condition.<sup>10</sup>

Appellant contends on appeal that the October 14, 2010 decision is contrary to fact and law. As noted, the medical evidence failed to explain how her employment duties resulted in an arm, shoulder, neck, back or foot condition. In the absence of well-reasoned medical opinion explaining this relationship, appellant failed to meet her burden.

Appellant may submit new evidence or argument as part of a formal 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 establish that she sustained a traumatic injury in the performance of duty on January 15, 2008.

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<sup>8</sup> See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinions speculative or equivocal in character have little probative value).

<sup>9</sup> *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

<sup>10</sup> *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 14, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 9, 2011  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board