



elbow to her shoulder due to keyboarding activities at work. On September 20, 2010 she felt something pull in her right shoulder when she reached up to a book.

In a letter dated December 17, 2010, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her to submit details regarding the employment duties she believed caused or contributed to her claimed condition, as well as a comprehensive medical report from a treating physician, which contained symptoms, a diagnosis and an opinion with an explanation as to the cause of her diagnosed condition.

On January 5, 2011 Sylvia Molina, a supervisor, of the employing establishment controverted appellant's claim. She noted that appellant delayed in reporting the alleged September 20, 2010 incident for two months.

The record contains a form dated January 12, 2011 requesting authorization for medical treatment by Dr. Anthony Hicks, a Board-certified internist, for a right shoulder condition.

By decision dated January 18, 2011, OWCP denied appellant's claim on the grounds that she had not established a causal relationship between a diagnosed condition and claimed work-related events. On February 8, 2011 appellant requested reconsideration.

Appellant submitted reports from Dr. Hicks dated January 18 through February 3, 2011. On January 18, 2011 Dr. Hicks indicated that appellant had previously been diagnosed and treated for carpal tunnel syndrome (CTS). He diagnosed CTS, radiculitis, neuropathy and upper extremity dysfunction. Restrictions included lifting, pulling and pushing 35 pounds occasionally, 15 pounds frequently and 5 pounds constantly.

In a January 27, 2011 report, Dr. Hicks related a history of injury as reported by appellant reflecting that on September 20, 2010 she was reaching up in a cabinet to retrieve a notebook when she felt a pull in her right shoulder. At the time, appellant believed the symptoms were related to her CTS condition. Examination revealed tenderness to palpation in the right superior trapezial areas, right lateral superior parascapulars and the right superior thoracic paravertebrals (T1-34) diffusely. Range of motion was normal. Dr. Hicks diagnosed dystonia, spasm disorders, possible ruptured muscles, joint effusion, myositis/fibromyalgia and edema. He stated: "It is my professional opinion that the patient['s] reported trapezial/upper parascapular complaints are more likely than not directly [and] solely related to (*i.e.* caused by) the [September 20, 2010] work incident as reported and have definitely worsened after the [September 20, 2010] work-related incident."

Dr. Hicks concluded that the diagnosed shoulder condition was causally related to the September 20, 2010 incident because the onset of appellant's complaints started on that date while she was performing the duties of her position; her complaints were connected to a specific work incident and were consistent with the medical diagnosis and required work duties; she had no such complaints prior to the September 20, 2010 incident; and the September 20, 2010 injuries were traumatic in nature, as they commenced acutely while she was completing a work task. He provided work restrictions, which precluded overhead lifting and permitted occasional lifting up to 10 pounds. Reports dated February 3 through 14, 2011 contained identical

diagnoses and identical language regarding Dr. Hick's opinion as to the cause of appellant's condition.

By decision dated March 1, 2011, OWCP denied modification of its January 18, 2011 decision on the grounds that the medical evidence was insufficiently rationalized to establish that appellant's claimed shoulder condition was caused by the employment activities. The claims examiner noted that Dr. Hicks failed to identify any specific work activities responsible for the diagnosed shoulder condition.

On March 25, 2011 appellant again requested reconsideration and provided reports from Dr. Hicks for the period February 22 through March 25, 2011. Dr. Hicks repeated his diagnoses and opinion as to the cause of her condition. In a March 21, 2011 report, he summarized prior reports. Dr. Hicks reiterated his opinion that appellant's trapezial upper parascapular complaints were more likely than not directly and solely related to the September 20, 2010 work incident because: the complaints began on September 20, 2010 while she was performing a regular and customary work duty; the complaints were "CLEARLY" connected to a specific September 20, 2010 work incident; the complaints were consistent with medical diagnoses listed in the medical records, the required work-duties being performed and the "clearly established [September 20, 2010] (*i.e.*, SPECIFIC) work-related incident;" appellant had no complaints prior to the claimed work incident; and the injuries were traumatic in nature, as they commenced acutely on September 20, 2010 while completing work-required physical activities included in the medical record narrative. He opined that upon reasonable medical probability and certainty, that her shoulder condition was caused or aggravated by her work duties.

By decision dated May 13, 2011, OWCP denied modification of its prior decisions, finding that Dr. Hicks' opinion was insufficient to establish a causal relationship between appellant's shoulder condition and conditions of employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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>2</sup> and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup>

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

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<sup>2</sup> *Joseph W. Kripp*, 55 ECAB 121 (2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001). "When an employee claims that she sustained injury in the performance of duty she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. Appellant 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>3</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

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>4</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 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>5</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>6</sup>

### ANALYSIS

The medical evidence submitted by appellant is insufficient to establish that her diagnosed medical condition was caused or aggravated by factors of her federal employment. Therefore, appellant has failed to meet her burden of proof.

The medical evidence of record consists of reports from Dr. Hicks, who opined that the trapezial/upper parascapular complaints were more likely than not caused by the claimed September 20, 2010 work incident. Dr. Hicks' reports, which are essentially duplicative, lack probative value on several counts. He did not provide a definitive diagnosis that he attributed to appellant's work activities.<sup>7</sup> Dr. Hicks did not sufficiently describe her job duties or explain the medical process through which such duties were competent to cause the claimed condition. Medical conclusions unsupported by rationale are of little probative value.<sup>8</sup> The only description of the claimed September 20, 2010 incident is contained in Dr. Hicks' original intake information. His subsequent reports do not explain how the reaching incident was responsible for the shoulder condition. Moreover, Dr. Hicks' reports contain no information regarding the nature of appellant's general job duties, which she has alleged to have contributed to her shoulder condition. The Board notes that his opinion that the September 20, 2010 incident was the traumatic event responsible for appellant's shoulder condition, actually undermines her occupational disease claim.

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<sup>4</sup> *Michael R. Shaffer*, 55 ECAB 386 (2004). *See also Solomon Polen*, 51 ECAB 341, 343 (2000).

<sup>5</sup> *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

<sup>6</sup> *Phillip L. Barnes*, 55 ECAB 426 (2004); *see also Dennis M. Mascarenas*, *supra* note 3 at 218.

<sup>7</sup> The Board has consistently held that pain is a symptom, not a compensable medical diagnosis. *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

<sup>8</sup> *Willa M. Frazier*, 55 ECAB 379 (2004).

Appellant expressed her belief that her alleged condition resulted from her duties as a tax technician. However, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>9</sup> Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.<sup>10</sup> Causal relationship must be substantiated by reasoned medical opinion evidence, which it is appellant's responsibility to submit. Therefore, appellant's belief that her condition was caused by the alleged work-related injury is not determinative.

OWCP advised appellant that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of her condition. Appellant failed to do so. As there is no probative, rationalized medical evidence addressing how her claimed conditions were caused or aggravated by her employment, she has not met her burden of proof to establish that she sustained an occupational disease in the performance of duty 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 shoulder injury in the performance of duty.

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<sup>9</sup> See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>10</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 13, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 5, 2012  
Washington, DC

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

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

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