United States Department of Labor
Employees' Compensation Appeals Board

L.B., Appellant	)	
and	)	**Docket No. 12-336**
	)	**Issued: July 3, 2012**
U.S. POSTAL SERVICE, POST OFFICE, Baxley, GA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 5, 2011 appellant filed a timely appeal from the Office of Workers' Compensation Programs' (OWCP) merit decision dated November 22, 2011 which affirmed the denial of his claim. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a back and shoulder condition in the performance of duty.

FACTUAL HISTORY

On August 24, 2011 appellant, then a 43-year-old rural carrier, filed a notice of traumatic injury, alleging that on August 22, 2011 he placed mail in a mailbox and pulled a muscle in his right shoulder and back. The employing establishment advised that the claimed injury occurred on August 24, 2011. Appellant stopped work on August 24, 2011.

[1] 5 U.S.C. §§ 8101-8193.

In an August 24, 2011 attending physician's report, a registered nurse noted that appellant reported performing his normal job duties and experienced right shoulder pain. She noted findings of limited range of motion and pain to palpation and noted with a checkmark "yes" that appellant's condition was caused by a work activity. The nurse returned appellant to light-duty work with restrictions. On August 24, 2011 appellant was treated by Dr. Eugene Jackson, a Board-certified family practitioner, for neck pain radiating into the right arm. He was performing his normal work duties and, while reaching for a mailbox, experienced pain in his shoulder and the top of his arm. Dr. Jackson noted findings of tenderness of the subclavicular and humeral joint line, limited range of motion, with a normal neurological examination. He diagnosed shoulder pain and returned appellant to work with restrictions.

By letter dated September 2, 2011, OWCP advised appellant of the factual and medical evidence needed to establish his claim. It requested that he submit a comprehensive medical report from a treating physician which included a reasoned explanation as to how the specific incident identified by appellant contributed to his claimed injury.

Appellant submitted an August 24, 2011 x-ray of the right shoulder which revealed no abnormalities. He was treated by Dr. Jackson on August 31, 2011 in follow up for neck pain with numbness in the right arm radiating into the right shoulder. Dr. Jackson noted no change from the previous examination. He diagnosed right shoulder pain and continued his work restrictions. Appellant submitted an unsigned work status form dated August 31, 2011, which diagnosed shoulder impingement syndrome and returned him to work with restrictions. In an occupational injury questionnaire dated September 14, 2011, he noted that he sustained a shoulder injury while he was delivering his mail route and placing mail in the mailbox.

In a decision dated October 5, 2011, OWCP denied appellant's claim finding the claimed work event did not occur as alleged.

On October 13, 2011 appellant requested reconsideration. He submitted a magnetic resonance imaging (MRI) scan of the cervical spine dated September 30, 2011. It revealed C6-7 broad-based right paracentral posterior lateral disc protrusion and osteophyte complex and C3-4 mild posterior disc bulging. A September 30, 2011 MRI scan of the right shoulder revealed severe distal supraspinatus tendinopathy and partial thickness tear. Appellant was treated by Dr. James Graham, a Board-certified family practitioner, on October 13, 2011, in follow up for right shoulder pain. Appellant reported injuring his right shoulder on August 22, 2011 while putting mail in a mailbox when he heard a "pop" in the right upper posterior shoulder. Dr. Graham noted findings upon physical examination of tenderness with palpation at the right shoulder, pain with internal rotation and intact motor and sensory examination. He diagnosed intervertebral disc disorder with myelopathy of the cervical region, disorders of the bursae and tendons of the shoulder region and rotator cuff sprain. Dr. Graham noted that the MRI scan revealed a partial rotator cuff tear with tendinitis in the supraspinatus and C7 disc bulge with herniation and impingement and opined that this injury was directly related to appellant's job duties on August 22, 2011 as he was leaning out of a truck to place mail in a box when he heard a pop and pain commenced.

In a decision dated November 22, 2011, OWCP denied the claim finding that, while the evidence established that the claimed incident occurred, the medical evidence was insufficient to establish that the incident caused a right shoulder injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was filed within the applicable time limitation of FECA, 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[2]

To determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[3] The second component of fact of injury is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.[4]

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] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.[6]

---

[2] *Gary J. Watling*, 52 ECAB 357 (2001).

[3] *Michael E. Smith*, 50 ECAB 313 (1999).

[4] *Allen C. Hundley*, 53 ECAB 551 (2002); *Earl David Seal*, 49 ECAB 152 (1997).

[5] *Leslie C. Moore*, 52 ECAB 132 (2000).

[6] *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

ANALYSIS

It is not disputed that appellant put mail in a mailbox as alleged. The Board found that he has not submitted sufficient medical evidence to establish that his rotator cuff tear with tendinitis in the supraspinatus or C7 disc bulge with herniation and impingement was causally related to this incident. On September 2, 2011 OWCP advised appellant of the medical evidence needed to establish his claim. Appellant did not submit a rationalized narrative medical report from a physician addressing how the incident caused or aggravated his claimed conditions.

Appellant was treated by Dr. Graham on October 13, 2011 in follow up for right shoulder pain. He obtained a history that on August 22, 2011 while putting mail in a mailbox, appellant heard a "pop" in the right upper posterior shoulder. Dr. Graham diagnosed intervertebral disc disorder with myelopathy of the cervical region, disorders of the bursae and tendons of the shoulder region and rotator cuff sprain. He noted that an MRI scan revealed a partial rotator cuff tear with tendinitis in the supraspinatus and C7 disc bulge with herniation and impingement. Dr. Graham opined that this injury was directly related to appellant's job duties on August 22, 2011 as he was leaning out of a truck to place mail in a box when he heard a pop and pain commenced. Although he generally supported causal relationship, he did not provide adequate medical rationale explaining for his stated conclusion regarding the causal relationship between appellant's partial rotator cuff tear with tendinitis in the supraspinatus and C7 disc bulge with herniation and impingement.[7] For example, Dr. Graham did not explain the process by which placing mail into a box would cause the diagnosed partial rotator cuff tear or C7 disc herniation factors. Therefore, these reports are insufficient to meet appellant's burden of proof.

Appellant also submitted reports from Dr. Jackson; but the physician did not specifically address whether appellant's employment activities caused or aggravated the claimed conditions.[8] Other medical reports submitted by appellant, such as reports of diagnostic testing are insufficient to establish the claim as such report did not provide an opinion on the causal relationship between appellant's job and his diagnosed rotator cuff tear.

Appellant submitted an unsigned work status form dated August 31, 2011, which diagnosed shoulder impingement syndrome and returned appellant to work with restrictions. There is no evidence that the document from the nonspecific health care provider is from a physician. Medical documents not signed by a physician are not probative medical evidence and do not establish appellant's claim.[9] Also submitted was an August 24, 2011 attending physician's report signed by a registered nurse. The Board has held that treatment notes signed

[7] *Id.*

[8] *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

[9] *See C.B.*, Docket No. 09-2027 (issued May 12, 2010) (a medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8101(2) and reports lacking proper identification do not constitute probative medical evidence).

by a nurse are not considered medical evidence as these providers are not physicians under FECA.[10]

On appeal, appellant asserts that the claimed injury occurred on August 24, 2011 and that he mistakenly listed the date as August 22, 2011. Although OWCP found that Dr. Graham did not have an accurate factual history because he listed the date of injury as August 22, 2011, the Board notes that, even viewing this in the nature of transcription error, Dr. Graham did not otherwise provide sufficient reasoning to explain why appellant's employment activities of putting mail in a mailbox caused or aggravated a diagnosed medical condition.

For these reasons, OWCP properly found that appellant did not meet his burden of proof in establishing his 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 his burden of proof to establish that his claimed conditions were causally related to his employment.

[10] *See David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a "physician" as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

ORDER

IT IS HEREBY ORDERED THAT the November 22, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 3, 2012
Washington, DC

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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

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