



which OWCP accepted for right shoulder supraspinatus tear, C6-7 nerve root lesion, right nerve irritation at C7-8 and depression.

In a report dated February 11, 2009, Dr. Masood Z. Rehmani, a Board-certified psychiatrist, advised that appellant was experiencing pain in her right hand, right shoulder and left hip. He stated that she had recently undergone x-ray testing and magnetic resonance imaging (MRI) scans and an electromyogram (EMG) which showed a degenerative cervical disc which was causing pressure on a nerve and radiating the pain.

In an April 8, 2009 report, Dr. Powel A. Crosley, a specialist in pain medicine, stated that appellant had multiple complaints of left shoulder and left hip pain which she had experienced since her May 2004 employment injury. He stated that it was possible that these could have been overuse injuries resulting from her inability to utilize the right side of her body. Dr. Crosley required authorization to evaluate, treat and diagnose appellant's condition. He asserted that it was "within the realm of medical possibility and reason" that these injuries were the result or indirectly related to her original work-related injury, if supported by diagnostic evidence.

By letter to OWCP dated April 17, 2009, appellant's attorney requested that the claim be accepted for consequential left shoulder and left hip conditions.

On April 23, 2009 OWCP requested additional medical evidence in support of appellant's claim. It asked her to provide a diagnosis of her conditions and a comprehensive medical report from a physician, which contained probative medical opinion that her claimed consequential left shoulder and left hip conditions were causally related to her accepted May 11, 2004 right shoulder injury.

An x-ray report dated May 27, 2009, noted that appellant's left shoulder showed a possible degree of supraspinatus outlet impingement, with clinical correlation required. The study found no acute fracture, dislocation, bony abnormality or arthropathy changes.

An MRI scan dated May 28, 2009, stated that appellant's left shoulder showed mild-to-moderate tendinopathy of the distal anterior aspect of the supraspinatus, with minor foci of interstitial enthesal fissuring, mild impingement, mild hypertrophy of the acromioclavicular joint and underlying calcific tendinitis.

By decision dated June 12, 2009, OWCP denied appellant's claim for a consequential condition, finding that the medical evidence failed to establish that she sustained left shoulder or left hip conditions due to the May 11, 2004 work injury.

On July 6, 2009 counsel requested an oral hearing, which was held on October 5, 2009.

In a report dated August 10, 2009, Dr. Crosley reiterated his opinion that appellant required further evaluation and treatment of her left upper and lower extremities. He stated that her original injury to her right shoulder left her unable to perform her usual job as a baggage screener and led to other significant, consequential conditions such as depression, anxiety and left upper extremity overuse injury. Dr. Crosley opined that appellant's consequential injuries had not been shown to be a result of any other independent, intervening cause. He cited to Larsen, *The Law of Workers' Compensation*, that when the primary injury was shown to have

arisen out of hand in the course of employment every natural consequence that flows from injury likewise arises out of the employment and that therefore “the subsequent injury ... is compensable if it is the direct and natural result of a compensable primary injury.”<sup>2</sup> Relying on this standard, Dr. Crosley opined that the overuse injury in appellant’s left upper extremity was a direct consequence of her original work injury.

By decision dated December 16, 2009, OWCP’s hearing representative affirmed the June 16, 2009 decision.<sup>3</sup>

By letter dated December 8, 2010, appellant, through her attorney, requested reconsideration.

In a report dated August 10, 2010, received by OWCP on December 16, 2010, Dr. Gary S. Shapiro, Board-certified in orthopedic surgery, stated that appellant had been experiencing left shoulder pain for approximately one year that had increased during the previous two weeks. He noted her previous history of a right shoulder injury but did not render an opinion as to whether the accepted right shoulder condition caused or aggravated her left shoulder symptoms. Dr. Shapiro advised that appellant had positive impingement and abduction signs in the left shoulder but did not demonstrate any rotator cuff tear. He diagnosed impingement syndrome of the left shoulder and prescribed physical therapy.

In a report dated August 31, 2010, received by OWCP on December 16, 2010, Dr. Shapiro stated that appellant continued to have complaints of left shoulder pain. He advised that she received temporary relief from a cortisone injection but that the pain eventually returned. Dr. Shapiro scheduled appellant for another MRI scan and discussed the possibility of surgical intervention.

On September 9, 2010 appellant underwent an MRI scan which showed a small partial supraspinatus tear in the left shoulder.

In a report dated September 15, 2010, received by OWCP on December 16, 2010, Dr. Shapiro reviewed the September 9, 2010 MRI scan and provided a diagnosis of impingement syndrome and partial rotator cuff tear in the left shoulder. He reiterated his previous findings and conclusions.

By decision dated April 25, 2011, OWCP denied modification of the prior decision.

### **LEGAL PRECEDENT**

It is an accepted principle of workers’ compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows

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<sup>2</sup> See A. Larson, *The Law of Workers’ Compensation* § 10.01 (November 2000).

<sup>3</sup> OWCP’s hearing representative noted that appellant had submitted numerous additional medical reports which mentioned complaints of right shoulder and cervical pain, but did not discuss the claimed left shoulder and left hip conditions. He stated that he did not review these reports since they were not pertinent to the conditions for which appellant had filed the instant claim.

from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional conduct.<sup>4</sup> Regarding the range of compensable consequences of an employment-related injury, Larson notes that, when the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury, the rules that come into play are essentially based upon the concepts of direct and natural results and of claimant's own conduct as an independent intervening cause. The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury. Thus, once the work-connected character of any condition is established, the subsequent progression of that condition remains compensable so long as the worsening is not shown to have been produced by an independent nonindustrial cause.<sup>5</sup>

A claimant bears the burden of proof to establish a claim for a consequential injury.<sup>6</sup> As part of this burden, he or she must present rationalized medical opinion evidence, based in a complete factual and medical background, showing causal relationship. Rationalized medical evidence is evidence, which relates a work incident or factors of employment to a claimant's condition, with stated reasons of a physician. The opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.<sup>7</sup>

### ANALYSIS

OWCP accepted that on May 11, 2004 appellant sustained an employment-related right shoulder supraspinatus tear, C6-7 nerve root lesion, right nerve irritation at C7-8 and depression. The issue is whether she sustained left shoulder and left hip conditions as a consequence of her accepted right shoulder injury. The Board finds that appellant has not submitted sufficient medical evidence to establish her claim.

The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.<sup>8</sup> The record supports that appellant has a positive MRI scan and x-ray findings of left shoulder tendinitis, left shoulder impingement syndrome and a partial tear of the left rotator cuff. However, the medical reports appellant submitted do not sufficiently explain how these diagnoses arising in 2009 relate to the accepted May 11, 2004 right shoulder injury. Dr. Crosley stated in a April 8, 2009 report that she had multiple complaints of left shoulder pain which she had experienced since her May 2004 employment injury. He stated that appellant could have

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<sup>4</sup> *Mary Poller*, 55 ECAB 483 (2004).

<sup>5</sup> *Supra* note 2.

<sup>6</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>7</sup> *Charles W. Downey*, 54 ECAB 421 (2003).

<sup>8</sup> *Patricia J. Glenn*, 53 ECAB 159 (2001).

developed an overuse injury due to her inability to utilize the right side of her body. Dr. Crosley noted that it was within the realm of possibility that her left shoulder condition was the result of, or was indirectly related to, her original employment injury. He referred appellant for x-ray tests to confirm this conditional opinion. X-rays of appellant's left shoulder taken on May 27, 2009 showed some supraspinatus outlet impingement with no acute fracture, dislocation, bony abnormality or arthropathy changes. Dr. Crosley reiterated in his August 10, 2009 report that appellant's May 11, 2004 right shoulder injury led directly to her left upper extremity overuse injury and opined that there was a causal relationship between the two conditions as there was no other, intervening cause.

The reports from Dr. Crosley did not explain how appellant's left shoulder conditions were a consequence of her May 11, 2004 employment injury. Dr. Crosley's opinion on causal relationship is speculative and of limited probative value in that he did not provide adequate medical rationale in support of his conclusion.<sup>9</sup> He did not describe appellant's left shoulder condition in any detail or explain how the May 11, 2004 work injury would have been competent to cause the claimed consequential condition, first noted in 2009. Dr. Crosley's opinion is of limited probative value for the further reason that it was generalized in nature and equivocal on the issue of causal relation.

Appellant also submitted several reports from Dr. Shapiro, who noted that she had sustained a right shoulder injury on May 11, 2004 but did not render any opinion as to whether her left shoulder conditions were a consequence of this injury. In his August 10 and 31, 2010 reports, Dr. Shapiro noted a history that she had been experiencing pain in her left shoulder for approximately one year which had worsened in the prior two weeks. He diagnosed impingement syndrome of the left shoulder and referred her for an MRI scan on September 9, 2010, which demonstrated a small partial supraspinatus tear in the left shoulder. Dr. Shapiro diagnosed impingement syndrome and partial rotator cuff tear in the left shoulder in his September 15, 2010 report. He did not provide medical rationale explaining how these diagnoses were the result of appellant's accepted right shoulder injury. Dr. Shapiro did not attribute the development of her left shoulder condition to the accepted May 11, 2004 right shoulder injury. His reports are therefore insufficient to establish appellant's claim for a consequential left shoulder condition.

Appellant did not submit sufficient medical evidence to establish that her claimed left hip condition was causally related to the May 11, 2004 work injury. Dr. Rehmani stated in his February 11, 2009 report that she was experiencing a lot of pain in her left hip but did not indicate whether these complaints were attributable to her accepted right shoulder injury. Dr. Crosley related in his April 8, 2009 report that appellant had complained of left hip pain since her May 2004 employment injury and stated that it was possible she could have sustained overuse injuries from her inability to utilize her right side. He opined that it was possible she could have developed this injury, perhaps indirectly, as a result of to her original work-related injury. Dr. Crosley stated in his August 10, 2009 report that appellant required further evaluation and treatment of her left lower extremity injury. He opined that she had developed consequential injuries causally related to the May 11, 2004 work injury because they had not been shown to be a result of any other independent, intervening cause attributable to her own intentional conduct.

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<sup>9</sup> *William C. Thomas*, 45 ECAB 591 (1994).

The reports from Drs. Rehmani and Crosley did not provide any rationalized, probative medical opinion sufficient to establish that appellant's claimed left hip condition was causally related to her accepted May 11, 2004 right shoulder injury. They did not explain how physiologically the left hip condition would be caused by appellant's right shoulder injury. The opinion of these physicians on causal relationship is of limited probative value in that they did not provide adequate medical rationale in support of their conclusions.<sup>10</sup> Moreover, their opinions are of limited probative value for the further reason that they are generalized in nature and equivocal in that they only noted summarily that appellant's claimed left hip condition was causally related to the accepted May 11, 2004 right shoulder injury. Appellant has not submitted sufficient medical evidence to establish that her left hip condition is a consequence of her accepted right shoulder injury.<sup>11</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.<sup>12</sup> Causal relationship must be established by rationalized medical opinion evidence and she failed to submit such evidence.

OWCP advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Appellant did not provide a medical opinion which describes or explains the medical process through which she would have developed left shoulder and left hip conditions as a consequence of the May 11, 2004 employment injury. OWCP properly denied her claim for compensation.

### **CONCLUSION**

The Board finds that appellant has not met her burden to establish that her left shoulder and left hip conditions are a consequence of the accepted right shoulder injury.

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

<sup>11</sup> *See Conard Hightower*, 54 ECAB 796 (2003).

<sup>12</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 25, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 11, 2012  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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

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