



pulled the parking brake on her postal vehicle up and down numerous times while delivering mail.<sup>2</sup> Regarding the nature of the claimed injury, she stated, “Right shoulder between bone and spine on back.” In an accompanying statement, appellant asserted that she hurt her left shoulder by lifting and releasing the brake and claimed that she also aggravated her left shoulder condition when she shut the vehicle door with her right arm.

In a September 22, 2010 report, Richard Brown, an attending physician’s assistant, stated that appellant reported having pain in her left shoulder/scapula region after pulling on the hand brake of her mail truck with her left arm on September 21, 2010. He diagnosed left rhomboid muscular strain and recommended work restrictions.

In an October 5, 2010 letter, OWCP requested that appellant submit additional evidence in support of her claim.

Appellant submitted an October 12, 2010 report, in which Dr. Marcus Hodges, an attending Board-certified family practitioner, indicated that she reported that the pain in her left upper arm had worsened. Dr. Hodges stated that physical examination showed no neurologic deficit in her arms and that her left upper arm was tender to palpation without palpable spasm. Appellant’s left upper parathoracic area was tender to palpation without spasms. Dr. Hodges diagnosed left upper back and left arm strains and indicated that she was able to return to modified duty on October 12, 2010 with no use of her left arm. In an October 12, 2010 work restriction form, he listed the date of injury as September 21, 2010 and the mechanism of the injury as “pulling hand brake up and down all day.” Dr. Hodges listed “left upper back strain/left upper arm strain” as the “diagnosis due to injury.” He delineated recommended restrictions including no lifting with the left arm.

On October 19, 2010 Dr. Hodges noted that appellant reported no improvement in her medical condition and indicated that she could return to modified duty on October 19, 2010. In an accompanying work restriction form, he again listed left upper back and left upper arm strains as being the diagnoses due to the reported September 21, 2010 injury. Appellant also submitted additional reports from early October 2010 of Mr. Brown and an attending nurse practitioner.

In a November 8, 2010 decision, OWCP denied appellant’s claim that she sustained a work injury on September 21, 2010 finding that she did not establish the fact of injury. It indicated that the evidence was not sufficient to establish that the work events occurred as alleged because her CA-1 form referenced a claimed right shoulder injury but all the medical evidence submitted related to her left shoulder.

Appellant requested reconsideration of her claim and submitted additional medical evidence. In a November 3, 2010 report, Dr. Hodges noted that she reported she had not improved despite participating in physical therapy. He indicated that appellant could return to modified duty on November 3, 2010 with no use of her left arm. In an accompanying restrictions form, Dr. Hodges listed left upper back and left upper arm strains as being the diagnoses due to the reported September 21, 2010 injury.

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<sup>2</sup> Appellant claimed that the injury occurred between about 2:00 p.m. and 3:00 p.m. on that date.

In a November 10, 2010 report, Dr. Brian J. Battersby, Jr., an attending Board-certified orthopedic surgeon, stated that appellant reported symptoms localized in her left shoulder, which she indicated were sustained on September 21, 2010 by “constantly pulling hand brake up and down on her mail truck all day.” He reported the findings of physical examination of her left shoulder, including mildly restricted movement in all directions and mild tenderness in several muscle groups of the shoulder. Dr. Battersby diagnosed rotator cuff syndrome of the left shoulder and allied disorders. In a November 10, 2010 work restrictions form, he listed the date of injury as September 21, 2010 and the mechanism of the injury as “pulling hand brake up and down all day.” Dr. Battersby indicated that the clinical findings included left shoulder pain and stated that appellant could not perform any work with her left arm. In a November 11, 2010 form report, he listed the date of injury as September 21, 2010 and the history of injury as being “injured while pulling hand brake in mail truck.” Dr. Battersby diagnosed rotator cuff syndrome and checked a “yes” box indicating that the condition found was caused or aggravated by the reported work activity.<sup>3</sup>

In a November 17, 2010 report, Dr. Battersby indicated that appellant reported symptoms localized in her left shoulder and stated, “[Appellant] states the injury was sustained while working, while lifting.” He diagnosed rotator cuff syndrome of the left shoulder and allied disorders. In a November 17, 2010 work restrictions form, Dr. Battersby listed the same history of injury as he did on November 10, 2010 and indicated that appellant could not work for 10 days.<sup>4</sup> On November 24, 2010 he produced a narrative report, which was similar to his November 17, 2010 report. In a November 24, 2010 work restrictions form, Dr. Battersby indicated that appellant could not work for three weeks.

In a September 7, 2011 decision, OWCP determined that appellant did not meet her burden of proof to establish that she sustained an injury in the performance of duty on September 21, 2010. It modified its prior decision to accept that a work incident occurred on September 21, 2010 when she pulled the hand brake up and down numerous times, but it found that she did not submit sufficient medical evidence to establish that she sustained a specific medical condition due to this work factor.

### **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 timely filed within the applicable time limitation period 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

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<sup>3</sup> Dr. Battersby indicated that appellant could return to modified work on November 10, 2010 with no use of the left arm.

<sup>4</sup> The record also contains an unsigned November 17, 2010 work restriction form which contains various recommended restrictions including no use of the left arm.

related to the employment injury.<sup>5</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the 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.<sup>7</sup> Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>8</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the compensable 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.<sup>9</sup>

### ANALYSIS

OWCP initially denied appellant's claim for a September 21, 2010 left shoulder injury on the grounds that she did not establish the fact of incident. In its September 7, 2011 decision, it accepted that a work incident occurred on September 21, 2010 when she pulled the hand brake of her postal vehicle up and down numerous times, but it found that appellant did not submit sufficient medical evidence to establish that she sustained a specific medical condition due to this work factor.

The Board finds that appellant did not submit sufficient medical evidence to meet her burden of proof to establish that she sustained an injury in the performance of duty on September 21, 2010.<sup>10</sup>

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

<sup>6</sup> *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990). A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. §§ 10.5(q), (ee); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

<sup>7</sup> *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

<sup>8</sup> *John J. Carlone*, 41 ECAB 354, 356-57 (1989); see *id.*

<sup>9</sup> See *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

<sup>10</sup> On appeal, appellant argued that her claim should not be denied because she made a mistake on her CA-1 form about which arm she injured on September 21, 2010. However, her claim was not denied on this basis because it has been accepted that she claimed that she injured her left arm on that date.

In an October 12, 2010 work restriction form, Dr. Hodges, an attending Board-certified family practitioner, listed the date of injury as September 21, 2010 and the mechanism of the injury as “pulling hand brake up and down all day.” He listed “left upper back strain/left upper arm strain” as the “diagnosis due to injury.” Dr. Hodges delineated recommended restrictions including no lifting with the left arm. In October 19 and November 3, 2010 work restrictions forms, he again listed left upper back and left upper arm strains as being the diagnoses due to the reported September 21, 2010 injury.

These reports, however, are of limited probative value on the relevant issue of the present case in that Dr. Hodges did not provide adequate medical rationale in support of his apparent conclusion on causal relationship.<sup>11</sup> Dr. Hodges did not describe the September 21, 2010 work incident in any detail or explain how it could have been competent to cause the diagnosed medical condition. For example, he did not detail how frequently appellant operated the hand brake on September 21, 2010 or describe the medical mechanics of how such actions could have caused injury to her left upper back and left upper arm. Dr. Hodges’ brief opinion on causal relationship appears to be mostly based on her own reporting of the cause of her medical condition. He did not provide a detailed, rationalized medical opinion regarding the cause of appellant’s claimed condition.

In a November 11, 2010 form report, Dr. Battersby, an attending Board-certified orthopedic surgeon, listed the date of injury as September 21, 2010 and the history of injury as being “injured while pulling hand brake in mail truck.” He diagnosed rotator cuff syndrome and checked a “yes” box indicating that the condition found was caused or aggravated by the reported work activity. Dr. Battersby indicated that appellant could return to modified work on November 10, 2010 with no use of the left arm. In later reports, he found that she was totally disabled.

The Board has held, however, that when a physician’s opinion on causal relationship consists only of checking “yes” to a form question, that opinion has little probative value and is insufficient to establish causal relationship.<sup>12</sup> Appellant’s burden includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning. As Dr. Battersby did no more than check “yes” to a form question, his opinion on causal relationship is of little probative value and is insufficient to discharge her burden of proof. Appellant submitted other medical reports regarding her left arm condition but these reports did not contain an opinion on causal relationship. She also submitted reports of a physician’s assistant and a nurse practitioner but these reports do not constitute probative medical evidence because they were not produced by physicians within the meaning of FECA.<sup>13</sup>

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<sup>11</sup> See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>12</sup> *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

<sup>13</sup> See *Arnold A. Alley*, 44 ECAB 912, 920-21 (1993) (finding that causal relationship is a medical question that can only be resolved by medical opinion evidence and that the reports of a nonphysician cannot be considered by the Board in adjudicating that issue).

For these reasons, appellant has not established that she sustained an injury in the performance of duty on September 21, 2010.

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 an injury in the performance of duty on September 21, 2010.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 7, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 20, 2012  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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