

while delivering mail on December 28, 2010, which resulted in injuries to her shoulders, head, neck and right ankle.

In a report dated May 24, 2011, Dr. Jacob Salomon, a specialist in general surgery, stated that appellant had sustained a traumatic injury on December 28, 2010, for which she had filed a separate, unrelated claim. He stated that this claim had apparently been accepted for a right ankle condition, although she also sustained injuries to her neck, back and both shoulders. Dr. Salomon advised that due to persistent pain and symptoms he had obtained several diagnostic studies for appellant which showed bilateral tendinitis in both shoulders, lumbar disc disease and radiculopathy; he also stated that she had a cervical muscle sprain. He stated that the shoulder, neck and back injuries were chronic in nature and related to her work as a mail carrier, which caused inflammation of the shoulders due to her carrying and lifting heavy mailbags. Since these were chronic conditions Dr. Salomon considered them to be occupational conditions which were aggravated by the December 28, 2010 work incident. He stated that he would be submitting the results of x-ray tests, electromyogram (EMG) tests and magnetic resonance imaging (MRI) scans which document her lumbar disc disease and lumbar, which was related to lifting and walking attendant to her job duties.

On June 28, 2011 OWCP advised appellant that it required factual and medical evidence to determine whether she was eligible for compensation benefits. It asked her to submit a comprehensive report from her treating physician describing her symptoms and the medical reasons for her condition, an opinion as to whether her claimed condition was causally related to her federal employment. OWCP requested that appellant submit this evidence within 30 days.

In a July 13, 2011 report, Dr. Salomon reiterated that he had been treating appellant for multiple symptoms, including the right ankle, both shoulders, back and neck, which he opined were related to the December 28, 2010 work incident. He advised that she had low back pain with numbness in both legs, which was confirmed by an EMG study showing radiculopathy for her back and radiculopathy of her lumbar disc disease. Dr. Salomon asserted that appellant's neck disease was confirmed with an MRI scan showing straightening of the cervical spine with cervical spasm. He opined that these conditions were aggravated by her fall at work on December 28, 2010.

Appellant underwent an MRI scan on March 19, 2011, which indicated that she had normal lordosis with no disc bulges and no significant abnormalities.

By decision dated August 16, 2011, OWCP denied the claim, finding that appellant failed to submit medical evidence sufficient to establish that her claimed conditions were related to factors of employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing that 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

² *Id.*

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 related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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 employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed, or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is usually rationalized medical evidence. 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

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between his claimed right shoulder condition and his federal employment. This burden includes providing medical evidence from a physician who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.⁶

ANALYSIS

In the instant case, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates her claimed right ankle, back, neck and bilateral shoulder conditions to factors of her employment. For this reason, she has not discharged her burden of proof to establish her claim that this condition was sustained in the performance of duty.

Appellant submitted reports from Dr. Salomon, who related findings of chronic neck, back and bilateral shoulder pain on examination. Dr. Salomon stated that she underwent diagnostic studies which showed bilateral tendinitis in both shoulders, lumbar disc disease and

³ *Joe D. Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *Id.*

⁶ *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

radiculopathy. He opined that these conditions were chronic in nature and causally related to appellant's duties as a mail carrier.⁷ Neither of Dr. Salomon reports, however, provided a probative, rationalized medical opinion that the claimed conditions or disability were causally related to employment factors. His opinion is of limited probative value as it does not contain any medical rationale how or why appellant's claimed conditions were currently affected by or related to factors of employment.⁸ The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁹ Dr. Salomon did not sufficiently describe appellant's job duties or explain the medical process through which such duties would have been competent to cause the claimed condition.

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.¹⁰ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

OWCP advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Consequently, appellant has not met her burden of proof in establishing that her claimed sustained right ankle, back, neck and bilateral shoulder conditions were causally related to her employment.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof in establishing that her claimed right ankle, back, neck and bilateral shoulder conditions were sustained in the performance of duty.

⁷ Dr. Salomon indicated several times that appellant's right ankle, back, neck and bilateral shoulder conditions were aggravated by the December 28, 2010 fall at work. This incident is not relevant to the instant issue of whether these conditions were causally related to employment factors. Appellant has apparently filed a separate traumatic injury claim pertaining to this incident which is being separately adjudicated by OWCP.

⁸ *William C. Thomas*, 45 ECAB 591 (1994).

⁹ *See Anna C. Leanza*, 48 ECAB 115 (1996).

¹⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the August 16, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 26, 2012
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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