

the medical evidence did not sufficiently explain how appellant's August 13, 2008, slip on a ladder caused or aggravated a left shoulder injury. The facts of the claim as contained in the prior appeal are incorporated by reference.

In a letter dated October 4, 2011, appellant's attorney requested reconsideration.

In an August 23, 2011 report, Dr. Samer S. Hasan, a Board-certified orthopedic surgeon, noted appellant's history of injury and treatment. He referred to his examination of appellant from September 8, 2008 and diagnosed end stage glenohumeral arthritis of the left shoulder. Dr. Hasan noted that appellant had preexisting arthritis of the left shoulder and arthroscopic surgeries all occurring previous to the fall off the ladder in August 2008. He opined that the fall caused substantial aggravation of the preexisting arthritis in appellant's left shoulder. Dr. Hasan explained that appellant had osteoarthritis, but it was "far more modest at the time of the second surgery in September 2007. Within a span of 15 months, he went from having focal chondral loss and degenerative changes including mild osteoarthritis on previous examinations to end stage glenohumeral arthritis requiring total shoulder replacement." Dr. Hasan opined that it "was only then that shoulder replacement surgery was ever entertained. Clearly, something happened resulting in sustained worsening of symptoms, loss of motion, increased pain levels and the need to consider surgery in a much more accelerated fashion." Dr. Hasan provided a 10 percent impairment for the left arm. He advised that 50 percent of the impairment was due to preexisting osteoarthritis.

By decision dated May 30, 2013, OWCP denied modification of its prior decisions. It found that the report from Dr. Hasan did not provide medical rationale to explain how the August 13, 2008 work incident aggravated his preexisting shoulder condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 FECA⁴ and that an injury was sustained in the performance of duty.⁵ These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁷ Second, the

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *John J. Carlone*, 41 ECAB 354 (1989).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.⁹

ANALYSIS

In the prior decision, the Board found that the medical evidence was insufficient to establish that appellant sustained a work injury on August 13, 2008. There is no dispute that appellant was climbing down a ladder on August 13, 2008, when he slipped and grabbed hold of the gutter and regained his footing.

However, the medical evidence remains insufficient to establish the second component of fact of injury, that the employment incident caused an injury. The medical reports of record do not establish that the fall from a ladder on August 13, 2008 caused a personal injury. The medical evidence contains no reasoned nor explanation of how the specific employment incident on August 13, 2008 caused or aggravated an injury.¹⁰ This is particularly important in light of the fact appellant had a preexisting condition of left glenohumeral arthritis.

Appellant submitted an August 23, 2011 report from Dr. Hasan, who opined that there was substantial aggravation of the preexisting arthritis in appellant's left shoulder. Dr. Hasan indicated that appellant had osteoarthritis which was "far more modest at the time of the second surgery in September 2007" and progressed "within a span of 15 months, from having focal chondral loss and degenerative changes to end stage glenohumeral arthritis requiring total shoulder replacement." He also advised that it "was only then that shoulder replacement surgery was ever entertained. Clearly, something happened resulting in sustained worsening of symptoms, loss of motion, increased pain levels and the need to consider surgery in a much more accelerated fashion." While Dr. Hasan provides some support for causal relationship, he does not provide any detailed medical reasoning explaining the basis of his conclusion on causal relationship. He did not explain how "something happened" in the August 13, 2008 incident that aggravated appellant's left shoulder condition.¹¹ The Board finds that this report is insufficiently rationalized and of limited probative value.

Because the medical reports submitted by appellant do not address sufficiently explain how the August 13, 2008 incident at work caused or aggravated his preexisting left glenohumeral

⁸ *Id.*

⁹ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹⁰ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

¹¹ See *D.S.*, Docket No. 10-161 (issued October 5, 2010) (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).

arthritis, they are of limited probative value¹² and are insufficient to establish that the August 13, 2008 employment incident caused or aggravated a specific injury.¹³

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 his burden of proof in establishing that he sustained an injury in the performance of duty on August 13, 2008.

ORDER

IT IS HEREBY ORDERED THAT the May 30, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 19, 2013
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

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

¹² See *Linda I Sprague*, 48 ECAB 386, 389-90 (1997).

¹³ Dr. Hasan's August 23, 2011 report also provided an impairment rating. However, a schedule award can be paid only for a condition related to an employment injury. *Veronica Williams*, 56 ECAB 367 (2005). As no condition has been accepted as being employment related, it is premature to consider a schedule award.