

**United States Department of Labor  
Employees' Compensation Appeals Board**

---

T.C., Appellant )

and )

U.S. POSTAL SERVICE, MAIN POST OFFICE, )  
Jackson, MS, Employer )

---

**Docket No. 13-415  
Issued: June 18, 2013**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On December 18, 2012 appellant filed a timely appeal of a November 9, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has established that his left shoulder and neck conditions were causally related to his employment.

**FACTUAL HISTORY**

On July 8, 2010 appellant, then a 61-year-old automation clerk, filed an occupational disease claim alleging that on June 29, 2010 he first realized that the torn ligaments in his left shoulder were due to his employment.

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

By letter dated July 13, 2010, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised as to the type of medical and factual evidence required to support his occupational disease claim. He was given 30 days to provide the requested information.

Subsequent to the July 13, 2010 letter, OWCP received appellant's August 9, 2010 statement detailing his job duties and medical evidence.

A June 30, 2010 magnetic resonance imaging (MRI) scan of the left shoulder revealed a supraspinatus tendon tear, a partial tear of the infraspinatus tendon with a tiny effusion of the joint and a possible labral tear due to the irregularity of the superior glenoid labrum.

A July 12, 2010 cervical spine MRI scan showed significant C4-5, C5-6 and C6-7 spinal stenosis, due to broad-based disc bulging and posterior osteophytic ridging.

An August 3, 2010 electromyogram revealed very severe C5 and C6 denervation changes suggesting possible cervical radiculopathies, acute brachial neuritis or Parsonage-Turner syndrome.

On August 30, 2010 OWCP received a July 15, 2010 report from Dr. Jimmy Wolfe, a treating Board-certified neurologist, who provided physical findings and medical history. A physical examination revealed left biceps as 2/5, atrophy of the left triceps region and posterior deltoid and deep tendon reflexes were absent for the left biceps. Based on his review of diagnostic tests and physical examination, Dr. Wolfe diagnosed left shoulder region atrophy and sensory sparing and left arm weakness.

In an August 4, 2010 report, Dr. Domenic P. Esposito, an examining Board-certified neurologist, provided findings on examination and reviewed diagnostic testing. He diagnosed multilevel cervical disc disease and recommended surgery.

On August 16, 2010 Dr. William Hanigan, an examining Board-certified neurologist, diagnosed weakness of the C5 and C6 muscles, some shoulder pain, a labial tear and cervical spondylosis, which he attributed to appellant's work.

By decision dated September 10, 2010, OWCP denied appellant's claim. It found that he failed to submit any medical evidence establishing that the diagnosed condition was causally related to his employment.

On October 8, 2010 appellant requested an oral hearing before an OWCP hearing representative, which was held on February 10, 2011.

In an October 25, 2010 report, Dr. Hanigan noted that appellant was doing well following left shoulder surgical repair. He diagnosed cervical radiculitis which he attributed to appellant's employment.

In a November 5, 2010 report, Dr. William B. Geissler, a treating Board-certified orthopedic surgeon, summarized findings from a physical examination and review of objective tests. He concluded that appellant's shoulder surgery was due to his left shoulder neurological condition. Dr. Geissler reported that appellant's shoulder condition was due to lack of innervation to the rotator cuff musculature which resulted in adhesive capsulitis.

On December 21, 2010 OWCP received an August 27, 2010 report from Dr. Hanigan diagnosing C5-6 radiculopathy and possibly shoulder injury or chronic bursitis by history. Dr. Hanigan noted that appellant had a painful left shoulder and had been unable to move his upper left arm for two to three months. He related that appellant has cervical arthritis which he attributed to appellant's work activities. Dr. Hanigan noted that appellant also developed a shoulder problem, which he recommended an orthopedic surgeon address.

By decision dated May 2, 2011, an OWCP hearing representative affirmed the September 10, 2010 denial of appellant's claim. She found the record contained no rationalized medical evidence explaining the relationship between appellant's employment and the diagnosed conditions.

In an April 23, 2012 letter, appellant's representative requested reconsideration and submitted evidence.

In an August 26, 2010 report, Dr. Wolfe diagnosed cervical stenosis and cervical radiculopathy. He provided physical examination findings and reviewed an MRI scan, which revealed severe cervical stenosis. Dr. Wolfe noted that appellant was undergoing neurosurgery with the Dr. Hanigan on August 27, 2010.

In an October 4, 2010 report, Dr. Wolfe stated that he could not answer whether the surgery due to appellant's injury was due to his employment and deferred to Dr. Hanigan on this issue.

In a July 22, 2011 report, Dr. Geissler stated that appellant underwent right shoulder arthroscopic surgery on October 14, 2010. An evaluation on October 18, 2010 revealed rotator cuff dense adhesions with adhesive capsulitis. Dr. Geissler opined that appellant's lack of motion was caused by decrease innervation to his shoulder girdle musculature as shown by the cervical spine MRI scan and nerve conduction studies.

In a February 22, 2012 report, Dr. Alan R. Moore, a Board-certified neurologist, noted appellant's medical history and provided physical findings. He diagnosed left C5 and C6 motor axon injury; chronic reinnervation changes in the left brachioradialis deltoid, biceps and infraspinatus muscles; and very mild left wrist median neuropathy.

In an April 3, 2012 report, Dr. E. Thomas Cullom, II, an examining Board-certified neurological surgeon, indicated that appellant was seen for left thumb numbness complaints. He provided a history of the illness, surgical history and findings from a physical examination. Dr. Cullom noted that appellant had left thumb numbness in August 2010 and that prior to that he had some left arm weakness and neck pain.

By decision dated November 9, 2012, OWCP denied modification.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> 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

---

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

States within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while 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.<sup>3</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup>

OWCP regulations define the term occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift.<sup>5</sup> To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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 diagnosed condition is causally related to the employment factors identified by the claimant.<sup>6</sup>

If a claimant does establish an employment factor, he must submit medical evidence showing that a medical condition was caused by such a factor.<sup>7</sup> The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence from a physician. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.<sup>8</sup>

### ANALYSIS

Appellant filed an occupational disease claim alleging that his left arm condition and limited mobility was due to his employment. OWCP denied his claim on the basis that he failed to submit any medical evidence explaining the causal relationship between his left arm condition and the employment factors he identified. The issue to be resolved is whether the medical evidence submitted by appellant is sufficient to support his claim. The Board finds that he failed to meet his burden of proof.

In support of his claim, appellant submitted medical evidence from a number of physicians. However, none of the physicians provided an opinion supported by medical rationale explaining how the diagnosed conditions were causally related to appellant's employment.

---

<sup>3</sup> C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>4</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> 20 C.F.R. § 10.5(ee). See *S.M.*, Docket No. 09-2290 (issued July 12, 2010); *Donald W. Wenzel*, 56 ECAB 390 (2005).

<sup>6</sup> *D.U.*, Docket No. 10-144 (issued July 27, 2010); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Frankie A. Farinacci*, 56 ECAB 723 (2005).

<sup>7</sup> *C.D.*, Docket No. 09-1881 (issued April 20, 2010); *Effie Morris*, 44 ECAB 470 (1993).

<sup>8</sup> *D.S.*, Docket No. 09-860 (issued November 2, 2009); *I.J.*, 59 ECAB 408 (2008); *B.B.*, 59 ECAB 234 (2007); *Solomon Polen*, 51 ECAB 341 (2000); *Victor J. Woodhams*, 41 ECAB 345 (1989).

The record contains several reports from Dr. Hanigan. On August 16, 2010 Dr. Hanigan diagnosed a labial tear, cervical spondylosis, some shoulder pain and C5 and C6 muscle weakness, which he attributed to appellant's employment. He diagnosed cervical radiculitis in an October 25, 2010 report which he opined was employment related. In an August 27, 2010 report, Dr. Hanigan diagnosed C5-6 radiculopathy, a possible shoulder injury or chronic bursitis and cervical arthritis. He attributed appellant's cervical arthritis to his employment duties. None of Dr. Hanigan's reports, however, contain an explanation as to how appellant's shoulder and cervical conditions were caused by his accepted employment factors. He failed to describe any specific work duties or explain how the accepted employment factors would cause or aggravate appellant's shoulder condition. Rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition with stated reasons from a physician.<sup>9</sup> As none of Dr. Hanigan's reports contain a rationalized medical opinion addressing the cause of appellant's cervical and shoulder condition, they are of diminished probative value.<sup>10</sup>

The record also contains reports from Drs. Esposito, Geissler and Wolf. Dr. Wolf diagnosed left shoulder atrophy, left arm weakness, cervical stenosis and diagnostic testing. Dr. Esposito diagnosed multilevel cervical disc disease. Dr. Geissler diagnosed adhesive capsulitis. While these physicians provided a diagnosis of appellant's conditions, they did not provide any opinion regarding the cause of the diagnosed shoulder and cervical conditions. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>11</sup> Thus, these medical reports also fail to establish causal relationship and are insufficient to meet appellant's burden of proof.

The MRI scans and electromyography submitted by appellant are diagnostic in nature and therefore do not address causal relationship. As such, the Board finds that appellant did not meet his burden of proof with these submissions.

As previously stated, causal relationship is a medical issue and must be resolved by probative medical evidence.<sup>12</sup> Appellant was advised in OWCP's July 13, 2010 letter that a comprehensive medical report explaining how his shoulder and cervical condition were caused or aggravated by his specific employment factors was needed to support his claim. He failed to provide such probative medical evidence. Thus, appellant has not met his burden of proof to establish that he sustained his shoulder and cervical conditions in the performance of duty.

An award of compensation may not be based on surmise, conjecture or speculation.<sup>13</sup> Neither the fact that appellant's condition became apparent during a period of employment nor his belief that his condition was caused, precipitated or aggravated by his employment is

---

<sup>9</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *D.G.*, 59 ECAB 734 (2008); *Sedi L. Graham*, 57 ECAB 494 (2006); *Charles W. Downey*, 54 ECAB 421 (2003).

<sup>10</sup> *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

<sup>11</sup> *K.W.*, 59 ECAB 271 (2007); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>12</sup> *D.I.*, 59 ECAB 158 (2007); *Margaret Carvello*, 54 ECAB 498 (2003).

<sup>13</sup> *D.I.*, *supra* note 12; *D.E.*, 58 ECAB 448 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

sufficient to establish causal relationship.<sup>14</sup> Causal relationship must be established by rationalized medical opinion evidence.<sup>15</sup> As appellant failed to submit such evidence, he has failed to meet his burden of proof.

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 Boar finds that appellant failed to establish that his left shoulder and neck conditions were causally related to his employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 9, 2012 is affirmed.

Issued: June 18, 2013  
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

---

<sup>14</sup> *G.T.*, 59 ECAB 447 (2008); *V.W.*, 58 ECAB 425 (2007); *Ronald K. Jablanski*, 56 ECAB 616 (2005).

<sup>15</sup> *Roy L. Humphrey*, *supra* note 6; *Dennis M. Mascarenas*, 49 ECAB 215 (1997).