

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

B.F., Appellant

and

**U.S. POSTAL SERVICE, MINUET STATION,
Charlotte, NC, Employer**

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**Docket No. 13-739
Issued: June 17, 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
PATRICIA HOWARD FITZGERALD, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 11, 2013 appellant filed a timely appeal of the December 28, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his occupational disease claim. Pursuant to the Federal Employees' Compensation Act¹ (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 sustained a right shoulder injury causally related to the accepted factors of his federal employment.

On appeal, appellant contends that OWCP failed to consider his physician's December 7, 2012 clinical notes prior to issuing its December 28, 2012 decision.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On August 20, 2010 appellant, then a 54-year-old letter carrier, filed an occupational disease claim alleging that on March 28, 2010 he first became aware of his right shoulder injury. He further alleged that on August 10, 2012 he first realized that his condition was caused by his repetitive work duties which included casing mail, removing parcels and trays from a hamper, reaching and placing mail in customers' mailboxes and opening and closing a lift gate on his postal vehicle.

In a July 31, 2012 medical report, Dr. Monica A. Zaucha, a Board-certified radiologist, advised that a magnetic resonance imaging (MRI) scan of the right shoulder revealed full thickness near a complete tear of the supraspinatus with approximately 2.5 centimeters of tendon retraction, a full-thickness tear of the infraspinatus on a background of tendinopathy, mild undersurface fraying of the subscapularis with no definite tear and contour irregularity with increased signal in the superior and posterior labrum which may represent labral degeneration or degenerative tearing.

In an October 11, 2012 letter, the employing establishment controverted the claim, contending that there was no evidence to support that it was work related.

By letter dated October 17, 2012, OWCP advised appellant that the evidence submitted was insufficient to establish his claim. It requested that he submit factual and medical evidence, including a rationalized medical opinion from an attending physician explaining whether and how specific work factors caused his diagnosed condition. OWCP also requested that the employing establishment submit any medical evidence regarding treatment appellant received at its medical facility.

In an October 1, 2010 progress note, Dr. James E. Chapman, a Board-certified orthopedic surgeon, obtained a history of appellant's repetitive work duties at the employing establishment which included casing mail, lifting a heavy van gate on the back of his vehicle and lifting packages that weighed 15 to 20 pounds. He also provided a history of medical treatment for his right shoulder condition. Dr. Chapman listed findings on physical examination and reviewed x-ray and MRI scan results related to the right shoulder and left knee. He diagnosed a full thickness rotator cuff tear of the right shoulder and chondromalacia patella and an inferior tear posterior horn medial meniscus of the right knee. Dr. Chapman recommended that appellant undergo repeat arthroscopic evaluation with rotator cuff repair, possible biceps tenodesis, subacromial decompression and excision distal clavicle.

An undated and unsigned notice contained the typed name of Dr. John B. Mason, a Board-certified orthopedic surgeon, and indicated that appellant was scheduled to undergo surgery on October 19, 2012.

In a December 7, 2012 report, Dr. Patrick M. Connor, a Board-certified orthopedic surgeon, obtained a history of appellant's right shoulder problems and medical treatment. He noted his complaint of a vague pain in the posterior, superior aspect of the right shoulder which worsened with repetitive overhead work activities. Dr. Connor listed findings on physical and x-ray examination and reviewed the July 31, 2012 right shoulder MRI scan. He diagnosed right

shoulder full-thickness rotator cuff tear primarily involving the supraspinatus and leading edge of the infraspinatus with Type 2 acromial morphology. Dr. Connor recommended right shoulder arthroscopic subacromial decompression with rotator cuff repair.

In a December 27, 2012 statement, appellant again attributed his claimed condition to his repetitive work duties which included lifting flat tubs from the floor to a case ledge, placing flats from a tub to a case ledge, overhead and right to left reaching to case flats and letter mail and reaching down and back to retrieve mail and packages from his mailbag. He performed these duties eight to nine hours a day, five days a week. Appellant stated that, while on active duty in the United States Marine Corps in February 1998 he underwent arthroscopic subacromial decompression to repair a rotator cuff tear and an open distal clavicle resection to remove a small piece of bone from the end of his collarbone.

In a December 28, 2012 decision, OWCP denied appellant's occupational disease claim. It found that the medical evidence was insufficient to establish that he sustained a medical condition causally related to the established work duties.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 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.³ 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.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 a causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable 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.⁵ Neither the fact that appellant's

² *Id.* at §§ 8101-8193.

³ C.S., Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *I. J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 4 at 351-52.

condition became apparent during a period of employment nor, his belief that the condition was caused by his employment is sufficient to establish a causal relationship.⁶

ANALYSIS

OWCP accepted that appellant performed the work duties of a letter carrier, as alleged. The Board finds, however, that the medical evidence submitted is insufficient to establish that his right shoulder condition was caused or aggravated by his work-related duties.

Dr. Chapman's progress note and Dr. Connor's report referenced the established work duties and diagnosed several right shoulder conditions. However, neither physician provided an opinion addressing the causal relationship between the diagnosed conditions and the accepted employment duties. 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.⁷ The Board finds, therefore, that the reports of Drs. Chapman and Connor are insufficient to establish appellant's claim.

Similarly, Dr. Zaucha's diagnostic test results regarding appellant's right shoulder conditions are insufficient to establish his claim. This evidence does not contain any opinion addressing the cause of the diagnosed shoulder conditions.⁸

The undated and unsigned notice which contained the typed name of Dr. Mason has no probative value in establishing that appellant sustained a right shoulder condition causally related to the established work duties. It is well established that medical evidence lacking proper identification is of no probative medical value.⁹

The Board finds that there is no rationalized medical evidence of record to establish that appellant sustained a right shoulder condition causally related to the accepted employment factors. Appellant did not meet his burden of proof.

On appeal, appellant contended that OWCP failed to consider Dr. Connor's December 7, 2012 clinical notes prior to issuing its December 28, 2012 decision. A review of the record reveals that this evidence was in the case record at the time of OWCP's decision denying his occupational disease claim. There is no evidence that it failed to properly review the case record. As stated, Dr. Connor's report is of diminished probative value because he failed to provide an opinion on the causal relationship between appellant's diagnosed right shoulder conditions and the established work duties. Accordingly, appellant has not submitted sufficient medical evidence to establish that he sustained a right shoulder injury causally related to the accepted employment factors.

⁶ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

⁷ *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

⁸ *Id.*

⁹ *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004); *Merton J. Sills*, 39 ECAB 572 (1988).

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 failed to establish that he sustained a right shoulder injury causally related to the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 28, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 17, 2013
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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