

FACTUAL HISTORY

On March 8, 2012 appellant, then a 50-year-old distribution clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained cervical and bilateral shoulder conditions due to factors of her federal employment, including repetitive lifting, carrying, sorting, reaching, pushing, pulling, bending and twisting at work. In a narrative statement, she indicated that she worked two to five hours per day, six days a week and was unable to push and pull heavy loads due to previous employment-related injuries.² In early July 2011, appellant noticed pain in both shoulders, left more than right, which increased while performing her duties, especially sorting flats and letters. She stated that, although she worked within her medical restrictions, including lifting no more than 5 pounds constantly and 15 pounds intermittently, her symptoms were aggravated by her duties and it had become increasingly difficult to lift, carry and hold mail.

Appellant submitted reports dated February 13 through March 23, 2012 from Dr. Filippone. On February 13, 2012 Dr. Filippone reviewed her medical history and documented his findings upon physical examination. He diagnosed cervical radiculitis and internal derangement of both shoulders. Dr. Filippone identified appellant's work duties and opined that her conditions were directly and solely the result of her federal employment.

On March 2, 2012 Dr. David C. Bauman, a Board-certified family practitioner, indicated that he had treated appellant for thoracic disc disease and chronic strain since November 2008. He stated that she had been working with restrictions for over five years and opined that there was a high probability that the restrictions were permanent.

By letter dated April 10 2012, OWCP requested additional factual and medical information from appellant. It allotted her 30 days to submit additional evidence and respond to its inquiries.

Subsequently, appellant submitted narrative statements dated February 13 and May 5, 2012 and an October 17, 2011 magnetic resonance imaging (MRI) scan report which revealed periarticular bone marrow edema and tendinopathy, but no rotator cuff tear. She also submitted a May 23, 2012 duty status report with medical restrictions from Dr. Bauman.

On August 17, 2011 Dr. Michael J. Axe, a Board-certified orthopedic surgeon, indicated that appellant's left shoulder discomfort was referred from her neck and was positional in nature in that there were no localizing sites of tenderness, but opined that she did have trigger points.

In reports dated December 7, 2011 and January 25, 2012, Dr. David T. Sowa, a Board-certified orthopedic surgeon, diagnosed left shoulder and bilateral cervical radicular pain and indicated that he administered steroid injections as treatment.

In progress reports dated April 23 through May 21, 2012, Dr. Filippone reiterated his diagnoses and opined that appellant was totally disabled for work.

² OWCP previously accepted appellant's claims for thoracic sprain under File No. xxxxxx273 and xxxxxx398.

By decision dated June 18, 2012, OWCP denied the claim on the basis that the medical evidence failed to establish a causal relationship between the diagnosed conditions and the implicated employment factors.

On July 5, 2012 appellant, through her attorney, requested an oral hearing before an OWCP hearing representative and submitted reports dated July 2 through September 26, 2012 from Dr. Filippone who reiterated his medical diagnoses and opinions.

On October 23, 2012 a hearing was held before an OWCP hearing representative. Appellant provided testimony and the hearing representative held the case record open for 30 days for the submission of additional evidence.

Subsequently, appellant submitted a December 14, 2012 report from Dr. Filippone who reiterated his diagnoses and opinions and indicated that appellant needed MRI scan studies of both shoulders and electromyogram and nerve conduction studies (EMG/NCS) of the bilateral upper extremities to establish the nature, extent and level of any spinal nerve root entrapment to exclude more peripheral nerve entrapment of the upper extremities.

By decision dated January 11, 2013, an OWCP hearing representative affirmed the June 18, 2012 decision.

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 FECA, and that an injury⁴ was sustained in the performance of duty. These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

³ 5 U.S.C. §§ 8101-8193.

⁴ OWCP regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

⁵ See *O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

⁶ See *D.R.*, Docket No. 09-1723 (issued May 20, 2010). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. 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.⁷

ANALYSIS

The Board finds that appellant did not meet her burden of proof to establish a claim that federal employment factors caused or aggravated her cervical and bilateral shoulder conditions. While appellant submitted a statement in which she identified the factors of employment that she believed caused the condition, in order to establish a claim that she sustained an employment-related injury, she must also submit rationalized medical evidence which explains how her medical conditions were caused or aggravated by the implicated employment factors.⁸

In his reports, Dr. Filippone diagnosed cervical radiculitis and internal derangement of both shoulders and opined that the conditions were directly and solely the result of appellant's federal employment. He further opined that she was totally disabled for work. On December 14, 2012 Dr. Filippone indicated that appellant needed MRI scan studies of both shoulders and an EMG/NCS of the bilateral upper extremities to establish the nature, extent and level of any spinal nerve root entrapment to exclude more peripheral nerve entrapment of the upper extremities. Dr. Filippone provided firm diagnoses and identified her work duties. However, he failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as repetitive lifting, carrying, sorting, reaching, pushing, pulling, bending and twisting, caused or aggravated her cervical and bilateral shoulder conditions. Dr. Filippone noted that her condition occurred while she was at work, but such generalized statements do not establish causal relationship because they merely repeat her allegations and are unsupported by adequate medical rationale explaining how her physical activity at work actually caused or aggravated the diagnosed conditions.⁹ Thus, the Board finds that the reports from Dr. Filippone are insufficient to establish that appellant sustained an employment-related injury.

On August 17, 2011 Dr. Axe indicated that appellant's left shoulder discomfort was referred from her neck and was positional in nature. In reports dated December 7, 2011 and January 25, 2012 Dr. Sowa diagnosed left shoulder and bilateral cervical radicular pain. On March 2, 2012 Dr. Bauman indicated that he had treated appellant for thoracic disc disease and chronic strain since November 2008 and opined that there was a high probability that her medical restrictions were permanent. 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

⁷ See *O.W.*, *supra* note 5.

⁸ See *A.C.*, Docket No. 08-1453 (issued November 18, 2008); *Donald W. Wenzel*, 56 ECAB 390 (2005); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁹ See *K.W.*, Docket No. 10-98 (issued September 10, 2010).

the issue of causal relationship.¹⁰ As such, the Board finds that appellant did not meet her burden of proof with the submission of these reports.

The October 17, 2011 MRI scan report is diagnostic in nature and therefore does not address causal relationship. As such, the Board finds that it is insufficient to establish appellant's claim.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to the indicated employment factors, she failed to meet her burden of proof to establish a claim.

On appeal, counsel contends that the medical evidence of record, particularly the reports from Dr. Filippone, is sufficient to establish appellant's claim. For the reasons stated above, the Board finds that the attorney's arguments are not substantiated.

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 her burden of proof to establish that she sustained cervical and bilateral shoulder conditions in the performance of duty causally related to factors of her federal employment.

¹⁰ See *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

ORDER

IT IS HEREBY ORDERED THAT the January 11, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 6, 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