

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

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**R.B., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Burnett, TX, Employer**

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**Docket No. 14-789  
Issued: August 11, 2014**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On February 25, 2014 appellant filed a timely appeal of an October 1, 2013 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 merit decision of the case.

**ISSUE**

The issue is whether appellant met his burden of proof to establish that he sustained a traumatic injury claim in the performance of duty.

**FACTUAL HISTORY**

On July 29, 2013 appellant then a 58-year-old rural letter carrier, filed a CA-1, traumatic injury claim, alleging that on July 5, 2013, while delivering mail in his mail truck, his finger became caught in a mailbox and he injured his right shoulder. He did not stop work.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

Appellant submitted an August 8, 2013 right shoulder magnetic resonance imaging (MRI) scan obtained by Dr. Christopher Swanson, a Board-certified diagnostic radiologist. It revealed active degenerative changes with edema involving the acromioclavicular joint. Dr. Swanson stated that appellant had a history of right shoulder pain and decreased mobility since July 4, 2013. Also submitted was a duty status report dated August 15, 2013 prepared by a health care provider, with an illegible signature. It noted clinical findings of edema of the acromioclavicular joint and diagnosed shoulder sprain. The health care provider noted that appellant could resume work full-time regular duty.

By letter dated August 27, 2013, OWCP advised appellant of the factual and medical evidence needed to establish his claim. It requested that he submit a physician's reasoned opinion addressing the relationship of his right shoulder claimed condition and July 5, 2013 incident. No additional information was received.

In an October 1, 2013 decision, OWCP denied appellant's claim. It found that the medical evidence was insufficient to establish a right shoulder condition causally related to work-related events.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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 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 is causally related to the employment injury. 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.<sup>2</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>3</sup>

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.<sup>4</sup>

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<sup>2</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>3</sup> *T.H.*, 59 ECAB 388 (2008).

<sup>4</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

## ANALYSIS

The record establishes that appellant delivered mail on July 5, 2013; however, he has not submitted sufficient medical evidence to establish that his right shoulder condition is causally related to his work on that day.

On August 27, 2013 OWCP advised appellant of the medical evidence needed to establish his claim. Appellant did not submit a rationalized medical report from an attending physician addressing how specific employment factors may have caused or aggravated his claimed condition.

In an August 8, 2013 right shoulder MRI scan report, Dr. Swanson noted active degenerative changes with edema of the right acromioclavicular joint. He stated that appellant had a history of right shoulder pain and decreased mobility since July 4, 2013. The Board notes that Dr. Swanson did not provide any opinion on the causal relationship between appellant's job duties and his diagnosed right shoulder conditions and stated a different date of injury. For this reason, this evidence is not sufficient to meet appellant's burden of proof.<sup>5</sup>

The only other medical document submitted by appellant was a duty status report dated August 15, 2013 prepared by a health care provider, with an illegible signature. The report listed a date of injury of July 5, 2013 with findings of edema of the acromioclavicular joint and diagnosed shoulder sprain. The health care provider noted that appellant could resume work full-time regular duty. Because the provider's signature is illegible, it cannot be determined that the report is from a physician. Medical documents not signed by a physician are of no probative medical value and cannot establish appellant's claim.<sup>6</sup> Consequently this report is of no probative value and does not establish appellant's traumatic injury claim.

Appellant's burden of proof includes the submission of rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship between the employment and the diagnosed condition. As he has not submitted medical evidence from a physician explaining how a diagnosed right shoulder condition is causally related to specific work activities on July 5, 2013, the evidence is insufficient to meet his burden of proof.

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 his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship. Causal relationship must be established by

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<sup>5</sup> *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

<sup>6</sup> *See R.M.*, 59 ECAB 690 (2008); *Bradford L. Sullivan*, 33 ECAB 1568 (1982) (where the Board held that a medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a "physician" as defined in FECA). *See also* 5 U.S.C. § 8101(2).

rationalized medical opinion evidence.<sup>7</sup> Appellant failed to submit such evidence and OWCP properly denied his claim.

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 did not meet his burden of proof to establish that his claimed conditions were causally related to his employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 1, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 11, 2014  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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

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<sup>7</sup> See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).