



## **FACTUAL HISTORY**

On April 22, 2013 appellant, then a 58-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained a right shoulder condition due to factors of her federal employment, including casing, pulling, loading, marking and sorting mail and opening and closing mailbox doors. She indicated that she first became aware of her condition and attributed it to her employment on January 2, 2013.

In an April 17, 2013 report, Dr. Stephen J. Pomeranz, a Board-certified neuroradiologist, indicated that appellant had shoulder pain and tenderness for three to four months and diagnosed supraspinatus tendinopathy, anterior rotator interval inflammation and subscapularis tendinosis based upon his review of a magnetic resonance imaging (MRI) scan of the right shoulder that same day.

In a May 22, 2013 letter, OWCP notified appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries.

Appellant submitted a narrative statement dated June 4, 2013 indicating that outside of her federal employment she engaged in the following activities: yard work, laundry, house cleaning, computer work, walking and no sports.

In a June 4, 2013 report, Dr. Marc C. Schneider, a Board-certified orthopedic surgeon, indicated that appellant worked as a mail carrier and had right shoulder anterior pain since January 2, 2013. He indicated that her pain bothered her with casing and delivering mail and increased with repetitive motion. Dr. Schneider diagnosed disorders of bursae and tendons in the shoulder region and bicipital tenosynovitis. He reviewed an MRI scan of the right shoulder and found rotator cuff tendinopathy and bicipital tendinitis with possible subluxation long head biceps. On June 28, 2013 Dr. Schneider diagnosed right shoulder and upper arm sprain and strain and indicated that appellant continued to have right anterolateral shoulder pain radiating to biceps.

By decision dated July 11, 2013, OWCP denied the claim on the basis that the medical evidence failed to establish a causal relationship between appellant's condition and factors of her federal employment.

On August 13, 2013 appellant, through counsel, requested reconsideration and submitted a narrative statement indicating that she was in rehabilitation with a center in Milford, Ohio. She also submitted a July 13, 2013 report from Dr. Mina C. Kalfas, a Board-certified family practitioner, who conducted a preoperation examination for a right shoulder arthroscopy.

In a June 4, 2013 report, Dr. Schneider took appellant off work until July 1, 2013 and estimated her return effective July 2, 2013. On June 28, 2013 he took her off work until August 5, 2013.

On July 16, 2013 appellant underwent a right shoulder arthroscopy performed by Dr. Schneider.

In an August 8, 2013 report, Dr. Schneider stated that appellant had been under his care since June 3, 2013 for right shoulder pain which she developed while working on January 2, 2013. He indicated that at the time of surgery she had a high-grade partial thickness tear of the biceps tendon. Dr. Schneider opined that this was directly and causally related to the work appellant had done and the injury which occurred on January 2, 2013 in her role as a rural carrier.

On August 9, 2013 Dr. Schneider diagnosed right shoulder partial tear of longhead of biceps and labral tear. He checked a box “yes” indicating that appellant’s condition was caused or aggravated by an employment activity and opined that she was totally disabled for work as of June 3, 2013, with an estimated date of return effective September 3, 2013.

By decision dated November 6, 2013, OWCP denied modification of the July 11, 2013 decision.

### **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 States” within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA and that an injury<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup>

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

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<sup>2</sup> *Id.*

<sup>3</sup> 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).

<sup>4</sup> *See O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>5</sup> *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).

the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>6</sup>

### 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 right shoulder condition. Appellant submitted a statement in which she identified the factors of employment that she believed caused the condition, including casing, pulling, loading, marking and sorting mail and opening and closing mailbox doors. OWCP accepted her description as factual. However, in order to establish a claim that appellant 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.<sup>7</sup>

In his reports, Dr. Schneider diagnosed right shoulder and upper arm sprain and strain, disorders of bursae and tendons in the shoulder region and bicipital tenosynovitis and performed a right shoulder arthroscopy on July 16, 2013. He indicated that appellant's pain bothered her with casing and delivering mail and increased with repetitive motion. On August 8, 2013 Dr. Schneider indicated that at the time of surgery she had a high-grade partial thickness tear of the biceps tendon and opined that this was directly and causally related to the work she had done in her role as a rural carrier. On August 9, 2013 he diagnosed right shoulder partial tear of longhead of biceps and labral tear. Dr. Schneider checked a box "yes" indicating that appellant's condition was caused or aggravated by an employment activity. Although the "yes" check mark indicates support for causal relationship, his report is insufficient to establish a causal relationship.<sup>8</sup> The Board has held that when a physician's opinion on causal relationship consists only of a check mark on a form, without more by way of medical rationale, the opinion is of diminished probative value.<sup>9</sup> Although, Dr. Schneider indicated with a check mark "yes" that appellant's condition was caused or aggravated by her employment, he failed to provide a sufficient medical rationale explaining the relationship between her right shoulder condition and the implicated employment factors.<sup>10</sup> The Board has held that the mere fact that her symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between her condition and her employment factors.<sup>11</sup> Dr. Schneider failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as casing, pulling, loading, marking and sorting mail and opening and

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<sup>6</sup> See *supra* note 4.

<sup>7</sup> 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).

<sup>8</sup> See *Lucrecia Nielsen*, 42 ECAB 583 (1991); *Lillian Jones*, 34 ECAB 379 (1982) (an opinion on causal relationship which consists only of a physician checking yes to a medical form report question on whether the claimant's disability was related to the history given is of little probative value).

<sup>9</sup> See *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>10</sup> See *Thomas L. Hogan*, 47 ECAB 323, 328-29 (1996).

<sup>11</sup> See *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

closing mailbox doors, caused or aggravated her right shoulder condition. He 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.<sup>12</sup> Lacking thorough medical rationale on the issue of causal relationship, the Board finds that Dr. Schneider's reports are insufficient to establish that appellant sustained an employment-related injury.

On April 17, 2013 Dr. Pomeranz indicated that appellant had shoulder pain and tenderness for three to four months and diagnosed supraspinatus tendinopathy, anterior rotator interval inflammation and subscapularis tendinosis based upon his review of an MRI scan of the right shoulder that same day. On July 13, 2013 Dr. Kalfas conducted a preoperation examination for a right shoulder arthroscopy. 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>13</sup> As such, the Board finds that appellant did not meet her burden of proof with the submission of these reports.

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 OWCP improperly weighed the evidence of record and argues that appellant submitted strong medical evidence showing causation. Based on the findings and reasons stated above, the Board finds his 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 a right shoulder condition in the performance of duty causally related to factors of her federal employment.

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<sup>12</sup> See *K.W.*, Docket No. 10-98 (issued September 10, 2010).

<sup>13</sup> 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 November 6, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 15, 2014  
Washington, DC

Patricia Howard Fitzgerald, Acting Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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