

FACTUAL HISTORY

On November 25, 2013 appellant, then a 43-year-old rural carrier, filed an occupational disease claim alleging that employment duties caused a tear in her left biceps and supraspinatus tendon. She indicated that she was first aware of the condition and its relationship to her employment on July 18, 2013. The employing establishment advised that appellant had not stopped work. On an attached statement, appellant described her symptoms and the job duties that she believed contributed to the condition. She indicated that on July 18, 2013, three days after returning to work from a right shoulder injury,² she began experiencing pain, swelling, and muscle soreness that radiated down her left upper extremity. Appellant described the subsequent medical care and indicated that surgery had been recommended.

An August 28, 2013 magnetic resonance imaging (MRI) scan of the left shoulder demonstrated moderate to severe tendinosis of the supraspinatus with suspected tear, a ganglion cyst developing anterior to the subscapularis, early subluxation of the biceps tendon, and hypertrophic changes of the acromioclavicular joint. On September 13, 2013 Dr. Michael M. Tucker, an attending Board-certified orthopedic surgeon, noted that appellant was seen for left shoulder pain. Physical examination demonstrated pain with liftoff testing and a positive speed test. Dr. Tucker diagnosed pain in left shoulder joint. On November 14, 2013 he advised that appellant had been under his care since July 18, 2013 for a high grade partial thickness tear of the subscapularis and biceps tendon of the left shoulder. Dr. Tucker indicated that he had read appellant's job description and that, due to an injury of July 2012, it was conceivable that this could have caused or contributed to her shoulder pathology.

The employing establishment controverted the claim, advising that appellant reported the left shoulder condition three days after returning to work after an absence of six months for a right shoulder condition. On November 25, 2013 Melissa Williams, the postmaster, concurred with appellant's description of job duties for the most recent four years and attached a rural carrier position description.

In letters dated December 10, 2013, OWCP informed appellant of the evidence needed to support her claim and asked the employing establishment to respond.

In a November 12, 2012 report, Dr. Edwin Keel, a family physician, noted a complaint of pain and decreased range of motion in both shoulders that occurred six weeks previously. Physical examination findings included tenderness of both shoulders and increased pain with range of motion of the left shoulder. Dr. Keel diagnosed sprain/strain of shoulder, unspecified, and pain in shoulder joint. In a November 15, 2012 report, Dr. Michael T. Robinson, an osteopath and associate of Dr. Keel, noted a history of right shoulder pain with weak shoulders typical of chronic tear. He diagnosed pain and disorder of shoulder joint and referred appellant to an orthopedic surgeon. In an August 29, 2013 report, Dr. Tucker advised that appellant had been under his care since November 20, 2012. He noted that she had been released to return to

² Appellant has a separate claim for a right shoulder rotator cuff tear, adjudicated by OWCP under file number xxxxxx390. OWCP has denied the claim and appellant has an appeal before the Board, Docket No. 14-1770, that will be adjudicated separately.

work without restriction on July 12, 2013 with regard to her right upper extremity, following rotator cuff repair.³

By decision dated January 14, 2014, OWCP denied the claim, finding that the medical evidence did not sufficiently describe the work activity that caused or aggravated the claimed condition.

On April 8, 2014 appellant, through her representative, requested reconsideration. The record includes a December 23, 2013 Family and Medical Leave Act (FMLA) certification in which Dr. Tucker indicated that appellant was unable to use her left upper extremity because she required surgery and requested intermittent time off for recovery for the period December 26, 2013 to February 28, 2014. On December 26, 2013 Dr. Tucker performed a left shoulder rotator cuff repair, biceps tenodesis, and arthroscopic subacromial decompression. Appellant also submitted a duplicate of the statement describing her job duties and left shoulder condition. In treatment notes dated January 6 and February 5, 2014, Dr. Tucker described appellant's follow-up care. On March 31, 2014 he reported that she had been under his care for her right shoulder since 2012 and for her left shoulder since July 18, 2013. Dr. Tucker indicated that appellant was status post right shoulder rotator cuff repair and stated:

“I have read the required job descriptions for the workplace which include repetitive lifting during the activities of casing mail, loading and unloading her vehicle and pulling down trays of mail. These activities contributed to the diagnosed conditions of full thickness rotator cuff tear, degenerative subscapularis and the need for surgery on [December 20, 2012] to the right shoulder and to the diagnosed conditions of a high grad[e] partial thickness tear of the subscapularis and biceps tendon to the left shoulder.”

In a merit decision dated June 13, 2014, OWCP denied modification of the prior decision. It noted that Dr. Tucker did not include a complete medical and factual history to support his conclusion.

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 timely filed within the applicable time limitation period 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 asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.⁴

³ Appellant also submitted evidence relevant to her right shoulder claim. *Id.*

⁴ *Roy L. Humphrey*, 57 ECAB 238 (2005).

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.”⁵ 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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.⁶

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁷ The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.⁸ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left shoulder condition caused by her rural carrier federal job duties as the medical evidence is insufficient to establish causal relationship.

The August 28, 2013 MRI scan of the left shoulder did not provide a cause of any diagnosed conditions, and 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.¹⁰ Likewise, the reports dated November 14, 2012 from Dr. Keel and dated November 15, 2012 from Dr. Robinson do not include an opinion as to the cause of any diagnosed condition.

Dr. Tucker, the attending orthopedic surgeon, noted in his September 13, 2013 report appellant’s complaint of left shoulder pain beginning in July 2013. In an FMLA certification and an operative report dated December 26, 2013, he described the left shoulder surgery, and in follow-up treatment notes dated January 6 and February 5, 2014, he reported appellant’s

⁵ 20 C.F.R. § 10.5(ee).

⁶ *Roy L. Humphrey*, *supra* note 4.

⁷ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁸ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

⁹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹⁰ *Willie M. Miller*, 53 ECAB 697 (2002).

postoperative care and condition. In these reports, however, Dr. Tucker did not discuss any cause of the diagnosed left shoulder condition. On November 24, 2013 he advised that that appellant had been under his care since July 18, 2013 for a high grade partial thickness tear of the left shoulder. Dr. Tucker indicated that he had read appellant's job description and that, due to an injury of July 2012, it was conceivable that this could have caused or contributed to her shoulder pathology. He, however, did not describe a specific July 2012 employment injury or address describe the mechanics of how any job duty or injury caused the diagnosed left shoulder condition. Moreover, Dr. Tucker couched this opinion in speculative terms. Medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value.¹¹ Dr. Tucker also reported on March 31, 2014 that he had read appellant's job description of repetitive lifting while casing mail, loading and unloading a vehicle and pulling down trays of mail, and found that these activities contributed to the diagnosed conditions of high grade partial thickness tear of the subscapularis and biceps tendon of the left shoulder. He did not, however, provide any rationale for his opinion other than to note appellant's work duties.¹²

The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to his federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.¹³ Dr. Tucker failed to adequately explain how appellant's work duties caused or aggravated her left shoulder condition. Therefore, his opinion is of diminished probative value.

The Board finds that appellant failed to meet her burden of proof to establish that her claimed left shoulder condition was causally related to factors of her federal employment.

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 establish a left upper extremity condition causally related to factors of her federal employment.

¹¹ *Frank Luis Rembisz*, 52 ECAB 147 (2000).

¹² *See D.D.*, 57 ECAB 734 (2006).

¹³ *A.D.*, 58 ECAB 149 (2006).

ORDER

IT IS HEREBY ORDERED THAT the June 13, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 19, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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