

FACTUAL HISTORY

On July 18, 2013 appellant, then a 42-year-old rural carrier, filed an occupational disease claim alleging that her employment duties of casing and delivering mail caused a complete right shoulder rotator cuff tear. She indicated that she was first aware of the condition and its relationship to employment on October 16, 2012. On an attached statement she described her symptoms and the job duties that she believed contributed to the condition.

In a November 12, 2012 report, Dr. Edwin Keel, a family physician, noted appellant's complaint of pain and decreased range of motion in both shoulders that began six weeks previously. Physical examination demonstrated tenderness of both shoulders and increased pain with range of motion of the left shoulder. Dr. Keel diagnosed sprain/stain of shoulder, unspecified, and pain in shoulder joint. A November 14, 2012 magnetic resonance imaging (MRI) scan of the right shoulder demonstrated degenerative change and a full thickness, virtually complete tear of the supraspinatus tendon with retraction. On November 15, 2012 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 operative report dated December 12, 2012, Dr. Michael M. Tucker, a Board-certified orthopedic surgeon, described a right shoulder rotator cuff repair with debridement of labral tearing and subacromial decompression. In treatment notes dated January 9 to May 31, 2013, he described appellant's follow-up care. On April 19, 2013 Dr. Tucker indicated that appellant could return to modified duty for four hours daily.

The employing establishment controverted the claim, advising that appellant had not reported her condition until she returned to work following surgery. In an undated statement, Kristy White, a coworker, indicated that she investigated whether appellant had injured her shoulder at work and appellant told her that she had just not used it for seven months following surgery.

In letters dated August 13, 2013, OWCP informed appellant of the evidence needed to support her claim and asked the employing establishment to respond. Appellant furnished a statement in which she described her job duties beginning in 2004. Melissa Williams, the postmaster, concurred with appellant's description of her job duties for the most recent four years and attached a description for the rural carrier position.

In an August 29, 2013 report, Dr. Tucker advised that appellant had been under his care since November 20, 2012. He indicated that she was released to return to work without restriction on July 12, 2013 with regard to her right upper extremity, following rotator cuff repair.

By decision dated September 17, 2013, OWCP denied the claim, finding that the medical evidence failed to establish that the claimed condition was causally related to employment factors.

Appellant requested reconsideration on November 21, 2013 and submitted a November 13, 2013 report from Dr. Tucker, who found appellant status post right shoulder

rotator cuff repair. Dr. Tucker stated that he had read the job description and that it was conceivable that an October 2012 injury to shoulder “may have caused or contributed to her shoulder pathology.”

In a merit decision dated December 20, 2013, OWCP denied modification of the prior decision. It found Dr. Tucker’s November 13, 2013 report to be speculative and therefore of diminished probative value.

On April 9, 2014 appellant, through her representative, requested reconsideration. She submitted a duplicate of the statement describing her job duties and a new statement in which she again provided a description of rural carrier duties.² On March 31, 2014 Dr. Tucker reported that appellant had been under his care for her right shoulder since 2012 and for her left shoulder since July 18, 2013. He indicated that she was status post right shoulder rotator cuff repair. Dr. Tucker 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 20, 2014, OWCP denied modification of the prior decisions. It noted that Dr. Tucker had not included medical reasoning in his March 31, 2014 narrative to support how he arrived at his conclusion, especially in light of his previous opinion of November 13, 2013 when he indicated that it was conceivable that work activities could have contributed to appellant’s right shoulder condition. OWCP further noted that Dr. Tucker did not provide a history of injury and the record did not contain an initial visit report from him prior to appellant’s right shoulder surgery.

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 a traumatic injury or an occupational disease, an employee must satisfy this burden of proof.³

² Appellant also described a claimed left shoulder injury, adjudicated by OWCP under file number xxxxxx574. OWCP denied the left shoulder claim, and appellant has an appeal before the Board, Docket No. 14-1769, that will be adjudicated separately.

³ *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.”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 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.⁵

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁶ 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.⁷ 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.⁸

ANALYSIS

The Board finds that appellant had not met her burden of proof to establish a right shoulder rotator cuff tear caused by her rural carrier job duties. The medical evidence of record is insufficient to establish causal relationship.

The November 14, 2012 MRI scan of the right 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.⁹ Likewise, a report dated November 14, 2012 from Dr. Keel and a November 15, 2012 report from Dr. Robinson do not include an opinion as to the cause of the diagnosed condition.

Dr. Tucker, the attending orthopedic surgeon, submitted an operative report dated December 20, 2012 describing the repair of a right torn rotator cuff tear. In follow-up treatment notes dated January 6 to May 31, 2013, he described appellant’s postoperative condition. In these reports, however, Dr. Tucker did not discuss any cause of appellant’s right shoulder

⁴ 20 C.F.R. § 10.5(ee).

⁵ *Roy L. Humphrey*, *supra* note 3.

⁶ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁷ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

⁸ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

⁹ *Willie M. Miller*, 53 ECAB 697 (2002).

condition. On August 29, 2013 he described appellant's treatment, indicating that he first saw her on November 20, 2012. Again, Dr. Tucker provided no discussion regarding causal relationship, and a report from the November 20, 2012 evaluation is not found in the case record. It was not until November 13, 2013 that he indicated that he had read appellant's job description and opined that it was conceivable that an October 2012 injury to the shoulder "may have caused or contributed to her shoulder pathology."

Appellant has not claimed, and the record does not indicate, that appellant suffered an October 2012 work-related right shoulder injury. Moreover, the November 13, 2013 report is couched in uncertain terms. Medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value.¹⁰ Dr. Tucker reported again on March 31, 2014 that he had read appellant's job description that included activities of repetitive lifting while casing mail, loading and unloading a vehicle and pulling down trays of mail, and indicated that these activities contributed to the diagnosed conditions of full thickness rotator cuff tear, degenerative subscapularis and the need for right shoulder surgery on December 20, 2012. However, he did not provide any rationale for this opinion other than to note appellant's work duties. 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.¹¹ As Dr. Tucker did not adequately explain or describe physiologically why appellant's work duties caused or aggravated her right shoulder condition, his opinion is of diminished probative value.¹²

The Board finds that appellant failed to meet her burden of proof to establish that her claimed right shoulder condition is 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 right shoulder rotator cuff tear causally related to factors of her federal employment.

¹⁰ *Frank Luis Rembisz*, 52 ECAB 147 (2000).

¹¹ *A.D.*, 58 ECAB 149 (2006).

¹² *See M.L.*, Docket No. 14-1128 (issued September 17, 2014).

ORDER

IT IS HEREBY ORDERED THAT the June 20, 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