



## **FACTUAL HISTORY**

On April 16, 2013 appellant, then a 52-year-old mail handler, filed a traumatic injury claim alleging that on that day she sustained bilateral shoulder pain due to lifting.

In support of her claim, appellant submitted treatment notes and form reports dated April 16, 2013 from Dr. Stephen Dawkins, an examining Board-certified occupational medicine physician. In a treatment note, Dr. Dawkins related that appellant complained of shoulder pain while performing repetitive work. Diagnoses included shoulder pain, tendinitis, shoulder sprain/strain and upper arm/shoulder injury. Dr. Dawkins provided work restrictions and diagnosis of tendinitis in a duty status report. He described the injury as bilateral shoulder pain which occurred due to lifting. Dr. Dawkins, in an attending physician's form report, stated that appellant was seen on April 16, 2013 for onset of shoulder pain. He diagnosed tendinitis and reported physical findings of tenderness and decreased range of motion. Dr. Dawkins checked "yes" to the question of whether injury had been caused or aggravated by the identified employment activity.

On May 23 and 29, June 4 and 11, 2013 appellant was seen by Dr. Dawkins for follow-up examinations for an injury sustained on April 16, 2013. Diagnoses included shoulder pain, tendinitis, shoulder sprain/strain and upper arm/shoulder injury. On May 23, 2013 a physical examination of the left shoulder revealed mild diffuse tenderness and no crepitus or decreased range of motion. The examination on May 29, June 4 and 11, 2013 revealed no discoloration, swelling, deformity or asymmetry, no muscle atrophy, mild deltoid muscle lateral tenderness and no crepitus or decreased range.

In a letter dated June 20, 2013, OWCP informed appellant that the evidence of record was insufficient to support her claim. She was advised as to the type of medical and factual evidence required to support her claim and given 30 days to provide this information.

Subsequent to OWCP's June 20, 2013 letter requesting information, it received a June 19, 2013 treatment note from Dr. Dawkins, who noted an injury date of April 16, 2013, reported diagnoses shoulder pain, tendinitis, shoulder sprain/strain and upper arm/shoulder injury and that appellant was discharged from care.

By decision dated July 23, 2013, OWCP denied appellant's claim on the grounds that she failed to establish a causal relationship between the identified work factor and the diagnosed medical condition.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>6</sup>

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.<sup>7</sup> An award of compensation may not be based on appellant's belief of causal relationship. 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 a causal relationship.<sup>8</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>9</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.<sup>10</sup> 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.<sup>11</sup>

### ANALYSIS

OWCP accepted that the April 16, 2013 employment incident occurred as alleged. The issue to be resolved is whether appellant established that the incident caused a bilateral shoulder

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<sup>4</sup> C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>5</sup> S.P., 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> See *Elaine Pendleton*, 40 ECAB 1143 (1989); *K.K.*, Docket No. 13-1205 (issued December 13, 2013).

<sup>7</sup> *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *Katherine J. Friday*, 47 ECAB 591 (1996).

<sup>8</sup> P.K., Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>9</sup> Y.J., Docket No. 08-1167 (issued October 7, 2008); A.D., 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

<sup>10</sup> J.J., Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>11</sup> I.J., 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

condition. The Board finds that she failed to submit sufficient medical evidence supporting that she sustained a bilateral condition causally related to the April 16, 2013 incident.<sup>12</sup>

In support of her claim, appellant submitted treatment notes, duty status reports and attending physician's reports from Dr. Dawkins. In treatment notes for the period April 16 to June 19, 2013 and an April 16, 2013 duty status report, Dr. Dawkins noted an injury date of April 16, 2013 and reported diagnoses including shoulder pain, tendinitis, shoulder sprain/strain and upper arm/shoulder injury. He provided no opinion explaining how the diagnosed conditions were caused or aggravated by the accepted April 16, 2013 employment incident. Medical evidence that offers no opinion regarding the cause of an employee's condition is of diminished probative value and insufficient to meet appellant's burden of proof on causal relationship.<sup>13</sup> Thus, these reports are insufficient to support her claim.

The record also contains an April 16, 2013 attending physician's form in which Dr. Dawkins diagnosed tendinitis and checked "yes" to the question of whether injury had been caused or aggravated by the identified employment activity. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.<sup>14</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's conditions became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.<sup>15</sup> Causal relationship must be established by rationalized medical opinion evidence and she failed to submit such evidence.

OWCP advised appellant that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and the physician's opinion, with medical reasons, on the cause of her condition. Appellant failed to submit appropriate medical documentation in response to OWCP's request. As there is no probative, rationalized medical evidence addressing how her claimed bilateral shoulder conditions was caused or aggravated by the April 16, 2013 employment incident, appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty.

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.

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<sup>12</sup> See *Robert Broome*, 55 ECAB 339 (2004).

<sup>13</sup> *A.F.*, 59 ECAB 714 (2008); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>14</sup> *D.D.*, 57 ECAB 734 (2006); *Cecelia M. Corley*, 56 ECAB 662 (2005).

<sup>15</sup> See *D.U.*, Docket No. 10-144 (issued July 27, 2010); *D.I.*, 59 ECAB 158 (2007); *Robert Broome*, *supra* note 12; *Anna C. Leanza*, 48 ECAB 115 (1996).

**CONCLUSION**

The Board finds that appellant has not established that she sustained a bilateral shoulder condition causally related to the April 16, 2013 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated July 23, 2013 is affirmed.

Issued: February 5, 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