

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

N.A., Appellant)

and)

DEPARTMENT OF THE INTERIOR, FISH &)
WILDLIFE SERVICE, Austin, TX, Employer)

**Docket No. 14-1411
Issued: October 16, 2014**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On June 6, 2014 appellant filed a timely appeal from a December 13, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant sustained a recurrence of a medical condition causally related to his accepted May 12, 1998 injury on December 7, 2012.

FACTUAL HISTORY

Appellant, then a 39-year old biologist, was electrocuted and injured both shoulders on May 12, 1998 when he touched an electrode. He filed a claim for benefits on May 18, 1998,

¹ 5 U.S.C. § 8101 *et seq.*

which OWCP accepted for bilateral shoulder dislocation; closed fracture of scapula, bilateral; and unspecified complications of medical care. Appellant returned to full duty.

On January 18, 2013 appellant filed a Form CA-2 notice of recurrence alleging a recurrence of medical condition as of December 7, 2012, causally related to his accepted May 12, 1998 employment injury. He noted that the claim was for medical treatment only. Appellant explained that he was sitting at his desk, not doing anything unusual on December 7, 2012 when the sudden pain in his left shoulder began. He noted that his left shoulder had been fine since undergoing reconstructive surgery in February 2000.

By letter dated February 21, 2013, OWCP advised appellant that it required additional factual and medical evidence, including a medical report, to support his claim that his condition/or disability as of December 7, 2012 was causally related to his accepted conditions.

In a January 10, 2013 report, received by OWCP on February 12, 2013, Dr. Stephen Pearce, Board-certified in orthopedic surgery, stated that he initially saw appellant on June 9, 1998 after he sustained his fracture/dislocation of both shoulders on May 12, 1998. He advised that while the right shoulder stabilized and had been asymptomatic ever since, the left shoulder continued to be unstable. Dr. Pearce performed surgery on the left shoulder on February 9, 2000 and stated that appellant did well postoperatively; he had not seen appellant for several years. He asserted that appellant's left shoulder had been asymptomatic until December 7, 2012, at which time he was simply reaching for an object and felt an abrupt onset of pinching pain in the shoulder. Dr. Pearce advised that, after examining appellant on January 9, 2013 and taking a detailed history, he was certain that this was related to the original work-related injury of May 12, 1998.

By decision dated May 9, 2013, OWCP denied the claim for a recurrence of medical condition.

In a March 13, 2013 report, Dr. Pearce reiterated his previous findings and conclusions. He advised that on December 7, 2012 appellant noted a recurrence of pain in the left shoulder, atraumatic onset. Dr. Pearce stated that, since that incident, he had experienced a feeling of catching and partial dislocation, very similar to the symptoms he was having prior to his February 9, 2000 surgery. He stated the results of radiographic tests showed that the shoulder was reduced, with two screws revealed from the previous tuberosity transfer. Dr. Pearce advised that the results of the January 4, 2013 magnetic resonance imaging (MRI) scan of the left shoulder revealed a truncation of the posterior-superior glenoid labrum, which might be secondary to a prior labral detachment or a chronic labral fraying and degeneration. He stated, however, that the MRI scan views were similarly clouded and yielded a limited evaluation of the subscapular tendon, with an otherwise intact rotator cuff.

On September 16, 2013 appellant requested reconsideration.

By decision dated December 13, 2013, OWCP denied modification of the May 9, 2013 decision.

LEGAL PRECEDENT

A recurrence of a medical condition is defined under OWCP's implementing federal regulations as a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.² Continuous treatment for the original condition or injury is not considered a need for further medical treatment after release from treatment, nor is an examination without treatment.³

A claimant has the burden of establishing that he or she sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury.⁴ To meet this burden, the employee must submit medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, supports that the condition is causally related and supports his or her conclusion with sound medical rationale.⁵

ANALYSIS

In the instant case, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates his claimed recurrence of medical condition as of December 7, 2012 to his May 12, 1998 work injury.

In support of his claim appellant submitted reports from Dr. Pearce. In his January 10, 2013 report, Dr. Pearce stated that since the May 12, 1998 work injury appellant's right shoulder had stabilized and had been asymptomatic; the left shoulder, however, continued to show instability. He performed surgery on the left shoulder on February 9, 2000 and stated that appellant did well postoperatively. The left shoulder was asymptomatic until December 7, 2012, at which time appellant felt an onset of pinching pain in the shoulder while reaching for an object at work. Dr. Pearce stated that he was certain that this was related to the original work-related injury of May 12, 1998. In the March 13, 2013 report, he opined that appellant experienced a recurrence of left shoulder pain, atraumatic onset, on December 7, 2012. Since then appellant had experienced a sensation of catching and partial dislocation, much like the symptoms he had prior to his February 9, 2000 surgery. Dr. Pearce stated that radiographic tests revealed that the left shoulder was reduced, with two screws from the previous tuberosity transfer. He advised that the results of an MRI scan of the left shoulder appellant revealed a truncation of the posterior-superior glenoid labrum, which might be secondary to a prior labral detachment or a chronic labral fraying and degeneration. Dr. Pearce advised that the MRI scan views were similarly clouded and provided a limited evaluation of the subscapular tendon, with an otherwise intact rotator cuff.

² 20 C.F.R. § 10.5(y). *See also R.B.*, Docket No. 13-1663 (issued July 29, 2014).

³ *Id.*

⁴ *See S.S.*, Docket No. 14-211 (issued May 1, 2014).

⁵ *See Ronald A. Eldridge*, 53 ECAB 218 (2001).

Dr. Pearce's opinion on causal relationship is of limited probative value in that he did not provide adequate medical rationale in support of his conclusions.⁶ He did not describe why appellant's accepted left shoulder dislocation and scapular fracture conditions would have caused a recurrence as of December 7, 2012, requiring further medical treatment. Furthermore, Dr. Pearce's opinion is generalized in nature and equivocal. He noted that appellant had undergone successful surgical treatment of the left shoulder in February 2000. Dr. Pearce does not explain why appellant's left shoulder condition as of December 7, 2012 was still causally related to the May 12, 1998 injury, given that appellant's accepted shoulder condition had been successfully treated. As noted, appellant has the burden of proof to submit rationalized medical evidence establishing the relationship of the claimed recurrence to the original injury. The weight of the medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁷ The Board finds that the medical evidence is insufficient to establish a recurrence of a medical condition causally related to the accepted bilateral shoulder dislocation and bilateral scapular fracture conditions. The Board will affirm OWCP's December 13, 2013 decision.

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 his burden of proof to establish a recurrence of medical condition as of December 7, 2012 causally related to his accepted bilateral shoulder dislocation and bilateral scapular fracture conditions.

⁶ *William C. Thomas*, 45 ECAB 591 (1994).

⁷ *See Ann C. Leanza*, 48 ECAB 115 (1996).

ORDER

IT IS HEREBY ORDERED THAT the December 13, 2013 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: October 16, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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