



cartilage in both shoulders was causally related to his repetitive employment duties. The employing establishment noted that he had retired as of January 31, 2013.

By letter dated October 24, 2013, OWCP informed appellant of the medical and factual evidence required to support his claim. He was provided 30 days to submit the requested information.

Appellant submitted a November 11, 2013 report from Dr. Dana R. Johnson, an examining Board-certified family practitioner, who diagnosed bilateral acromioclavicular joint arthritis and bilateral impingement syndrome. Dr. Johnson reported the onset of appellant's condition began on January 1, 2012 and that he first sought treatment on November 8, 2013 for this condition. Appellant related that his job involved repetitive twisting, lifting, sorting and pushing. Dr. Johnson performed a physical examination and reviewed magnetic resonance imaging (MRI) scans of both shoulders dated July 25, 2013. The studies revealed supraspinatus tendiopathy and acromioclavicular arthritis in both shoulders with a focal anterior supraspinatus full thickness tear in the right shoulder. Dr. Johnson stated that based on appellant's subjective complaints and evaluation of symptoms it was within reasonable medical probability to conclude that appellant's condition was nonindustrial and due to the natural aging progression.

By decision dated December 24, 2013, OWCP denied appellant's claim. It found that the medical evidence was insufficient to establish that his bilateral shoulder condition was causally related to his employment duties.<sup>2</sup>

### **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 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 establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (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

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<sup>2</sup> The Board notes that, following the December 24, 2013 decision, OWCP received additional evidence. However, the Board may only review. The evidence that was in the record at the time OWCP issued its final decision. *See* 20 C.F.R. §§ 501.2(c)(1); *M.B.*, Docket No. 09-176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

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

<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).

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>6</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>7</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>8</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>9</sup>

### ANALYSIS

Appellant alleged that he developed a bilateral shoulder condition as a result of his repetitive duties as a distribution clerk. OWCP accepted that he had repetitive work duties and been diagnosed with bilateral acromioclavicular joint arthritis and bilateral impingement syndrome. It denied appellant's claim finding that he submitted insufficient medical evidence to establish that his bilateral shoulder condition was causally related to factors of his employment. The Board finds that he provided insufficient medical evidence to establish that his bilateral shoulder condition resulted from his employment duties.

Appellant was treated by Dr. Johnson who related that he reported an onset of his condition on January 1, 2012, but did not seek medical treatment until November 8, 2013. Dr. Johnson performed a physical examination and reviewed MRI scans of both shoulders. As to the cause of appellant's bilateral shoulder condition, Dr. Johnson opined that the condition was not due to his employment, but was the result of the natural aging process with progression of degenerative changes.

The issue of causal relationship is a medical question that must be established by probative medical opinion from a physician.<sup>10</sup> The only medical report of record is from Dr. Johnson, who found appellant's condition was not employment related. Appellant failed to submit any medical report attributing his condition to his federal employment. As the record does not contain probative medical opinion supporting causal relationship, the Board finds that appellant did not meet his burden of proof.

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<sup>6</sup> *D.U.*, Docket No. 10-144 (issued July 27, 2010); *R.H.*, 59 ECAB 382 (2008); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Donald W. Wenzel*, 56 ECAB 390 (2005).

<sup>7</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>8</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>9</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>10</sup> *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, 57 ECAB 137 (2005).

OWCP advised appellant by letter dated October 24, 2013 of the evidence needed to establish his claim. However, appellant did not submit such evidence.

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 meet his burden of proof to establish that his bilateral shoulder condition was causally related to factors of his employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 24, 2013 is affirmed.

Issued: September 12, 2014  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board