United States Department of Labor
Employees' Compensation Appeals Board

R.H., Appellant	)	
and	)	**Docket No. 15-213**
	)	**Issued: March 12, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Coppell, TX, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 28, 2014 appellant filed a timely appeal from the August 14, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 met his burden of proof to expand his accepted work conditions to include carpal tunnel syndrome, foot effusions of tarsal metatarsal joints, tendinosis of the supraspinatus, infraspinatus, and subscapularis tendons, mild subacromial subdeltoid bursitis, and mild effusions of the glenohumeral joint.

[1] 5 U.S.C. §§ 8101-8193.

FACTUAL HISTORY

In April 2014 OWCP accepted that appellant, then a 59-year-old mail handler, sustained bilateral shoulder and upper arm sprains and right synovitis and tenosynovitis due to performing his work duties over time. It has been accepted that appellant was required to lift and carry mail sacks weighing up to 70 pounds and to push and pull heavy equipment.

On February 19, 2014 Dr. Mahe T. Nadeem, an attending Board-certified physical medicine and rehabilitation physician, obtained x-ray testing of appellant's extremities. The x-ray testing of his left ankle/foot showed no evidence of fracture, but did show evidence of postsurgical hardware at the posterior medial aspect of tibia with moderate degenerative changes of the distal tibia, distal fibula, and proximal talus. There were moderate degenerative changes of the ankle mortise joint.

The findings of April 28, 2014 magnetic resonance imaging (MRI) scan testing of appellant's left shoulder showed findings suggestive of impingement, mild subacromial subdeltoid bursitis, mild effusion of the glenohumeral joint, tendinosis of the subscapularus tendon, tendinosis of the supraspinatus and infraspinatus tendons, partial intrasubstance tear of the supraspinatus tendon, and para-labral cyst which had a high correlation with the presence of occult labral tears.

In an April 30, 2014 report, Dr. Nadeem discussed appellant's work duties and noted that he currently complained of pain in both shoulders, tingling in both hands, and back pain. Appellant had knee pain with standing and right elbow pain with gripping and holding. Dr. Nadeem mentioned February 19, 2014 x-ray testing of appellant's extremities, April 28, 2014 MRI scan testing of his left shoulder, and February 24, 2014 electromyogram (EMG) and nerve conduction velocity (NCV) testing.[2] She stated, "In my professional medical opinion, the patient's conditions should be upgraded to include the diagnoses listed below due to the recent diagnostic studies performed…." Dr. Nadeem recommended additional conditions be expanded to include rotator cuff tear of the supraspinatus tendon, carpal tunnel syndrome, foot effusions of tarsal metatarsal joints, tendinosis of the supraspinatus, infraspinatus, and subscapularis tendons, mild subacromial subdeltoid bursitis, and mild effusions of the glenohumeral joint.

On May 14, 2014 OWCP medical adviser noted that appellant had mild generalized degenerative arthritis which was not uncommon to his age group. He believed the request for additional accepted conditions was based on multiple testing results, some of which were fraught with frequent false positive findings, and which were not uncommon findings with any such tests in appellant's age group. OWCP medical adviser stated, "What is lacking here is a clear, rational, causal related diagnosis that is supported by reliable history, physical findings, and corroborating laboratory findings. With lack of these, it is my opinion that none of the diagnoses should be accepted as job related."

In a May 21, 2014 decision, OWCP denied appellant's request to expand his accepted work conditions as he had failed to submit sufficient rationalized medical evidence.

[2] The record does not contain a copy of the February 24, 2014 EMG and NCV test findings.

The findings of June 4, 2014 MRI scan testing of appellant's left shoulder showed findings compatible with impingement and long segment of severe articular surface partial tear of the supraspinatus tendon which had within it multiple small complete perforations or tears without retraction.

In a June 10, 2014 report, Dr. Nadeem reported findings of examination on that date and again recommended accepting the additional conditions of rotator cuff tear of the supraspinatus tendon, carpal tunnel syndrome, foot effusions of tarsal metatarsal joints, tendinosis of the supraspinatus, infraspinatus, and subscapularis tendons, mild subacromial subdeltoid bursitis, and mild effusions of the glenohumeral joint. She stated, "In my professional medical opinion, [appellant] has been a consistent patient at this office and by performing examinations, therapeutic procedures, and sending out to request specific diagnostic procedures. The findings of the diagnostic procedures specify unquestionable diagnosis. Therefore, I feel [appellant's] conditions should be upgraded…."

In a June 30, 2014 report, Dr. Gregg Podleski, an attending osteopath, described the symptoms of appellant's left shoulder. On July 15, 2014 Dr. Podleski performed a rotator cuff repair of his left shoulder.

On August 8, 2014 OWCP medical adviser reviewed the recent diagnostic testing of the left shoulder and Dr. Podleski's July 15, 2014 operative report. He found left shoulder rotator cuff tear should be accepted as work related.

In an August 14, 2014 decision, OWCP accepted a partial tear of the left rotator cuff, but denied the expansion of the claim to include carpal tunnel syndrome, foot effusions of tarsal metatarsal joints, tendinosis of the supraspinatus, infraspinatus, and subscapularis tendons, mild subacromial subdeltoid bursitis, and mild effusions of the glenohumeral joint.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish 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 specific condition and/or disability for which compensation is claimed are causally related to the employment injury.[3] The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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 claimant.[4]

[3] *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

[4] *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

ANALYSIS

In April 2014 OWCP accepted that appellant sustained bilateral shoulder and upper arm sprains and right synovitis and tenosynovitis due to performing his work duties over time. Based on the opinion of OWCP medical adviser, it expanded appellant's accepted work conditions to include a partial tear of the left rotator cuff.

Appellant also claimed that his accepted work conditions should be expanded to include carpal tunnel syndrome, foot effusions of tarsal metatarsal joints, tendinosis of the supraspinatus, infraspinatus, and subscapularis tendons, mild subacromial subdeltoid bursitis, and mild effusions of the glenohumeral joint. The Board finds that appellant has failed to establish that these conditions were caused by his employment.

In reports dated April 30 and June 10, 2014, Dr. Nadeem, an attending Board-certified physical medicine and rehabilitation physician, recommended that carpal tunnel syndrome, foot effusions of tarsal metatarsal joints, tendinosis of the supraspinatus, infraspinatus, and subscapularis tendons, mild subacromial subdeltoid bursitis, and mild effusions of the glenohumeral joint be accepted as work related.[5]

The Board notes that Dr. Nadeem did not provide sufficient medical rationale to support the causal relationship of these conditions. Dr. Nadeem did not adequately explain how these conditions were work related or why they were not duplicative of other accepted conditions.[6] In her June 10, 2014 report, she stated that her request was justified by diagnostic testing, but she did not explain the basis for this statement.

Moreover, the record contains an opinion of OWCP medical adviser explaining why these additional medical conditions should not be accepted as work related. In his August 8, 2014 report, OWCP medical adviser stated that the conditions of tendinosis of the supraspinatus, infraspinatus, and subscapularis tendons, mild subacromial subdeltoid bursitis, and mild effusions of the glenohumeral joint were duplicative of other accepted work conditions. He also explained how the medical evidence, including the diagnostic testing in the record, did not clearly show that the claimed conditions of carpal tunnel syndrome and foot effusions of tarsal metatarsal joints were work related. OWCP medical adviser found the reports of Dr. Podleski did not show carpal tunnel syndrome and that diagnostic testing suggested that appellant's foot effusions were due to a nonwork-related condition.

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.

[5] Dr. Nadeem also recommended that appellant's claim include a left rotator cuff tear, but this condition was in fact accepted by OWCP.

[6] *See supra* note 4.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to expand his accepted work conditions to include carpal tunnel syndrome, foot effusions of tarsal metatarsal joints, tendinosis of the supraspinatus, infraspinatus, and subscapularis tendons, mild subacromial subdeltoid bursitis, and mild effusions of the glenohumeral joint.

ORDER

IT IS HEREBY ORDERED THAT the August 14, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 12, 2015
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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