

on March 5, 2013 and first realized it was causally related to his employment on May 24, 2013. Appellant did not stop work.

In an accompanying narrative statement, appellant noted experiencing right shoulder pain radiating down to his elbow which his physician believed to be caused by repetitive casing and delivering of mail with his right arm. He noted working three hours a day casing mail and four hours a day delivering mail. Appellant sought treatment for his right shoulder and arm on March 5, 2013 when the pain became intolerable.

Mario Mughetti, the postmaster, noted in a June 6, 2013 e-mail that appellant owned and operated a snowplowing business for over 20 years which required him to lift 80-pound bags of salt. He further noted that appellant was a volunteer fireman and split firewood for personal use and for sale. In a June 13, 2013 statement, Mr. Mughetti noted first learning of appellant's shoulder issue on June 6, 2013 when appellant submitted a magnetic resonance imaging (MRI) scan report. He advised that appellant's route required him to work 11 days in a two-week period. Mr. Mughetti delivered mail to 533 mailboxes and made 521 stops along a route that was 71.16 miles. He noted that appellant cased mail approximately one to one and a half hours per workday and delivered mail for four to six hours per workday.

Appellant was treated by Dr. Kwabena Boakye, a Board-certified family practitioner, on May 14 and 24, 2013 for worsening right shoulder pain. He reported working at the employing establishment in a job that required lifting. Dr. Boakye diagnosed right shoulder pain and partial tears in the infraspinatus and subscapularis. On June 10, 2013 appellant reported performing work duties which required lifting, pushing, and daily use of the upper extremity. Dr. Boakye noted that a recent MRI scan revealed a partial tear in the tendon of the infraspinatus, subscapularis, and teres minor muscle with tendinosis. He opined that normally these changes were seen with chronic usage and stress on the joints. Dr. Boakye opined that appellant's job at the employing establishment "puts him at high risk for these kinds of injuries." A May 20, 2013 right shoulder MRI scan showed an incomplete full thickness tear of the anterior supraspinatus tendon with partial retraction. Also noted were partial tears of the infraspinatus, subscapularis, and teres minor tendons as well as long head biceps tendinosis.

In a letter dated June 25, 2013, OWCP advised appellant of the type of evidence needed to establish his claim. It particularly requested that he submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific work factors.

Appellant submitted a June 26, 2013 report from Dr. Joseph Choi, a Board-certified orthopedist, who treated him for right shoulder pain. Dr. Choi noted that appellant was a rural mail carrier and had shoulder pain while working. He noted right shoulder findings of no atrophy, minimal crepitus, intact sensation, limited range of motion, and a positive impingement test. An x-ray revealed osteoarthritis of the shoulder. Dr. Choi diagnosed right rotator cuff tear refractory to conservative treatment. He recommended a right shoulder rotator cuff tear repair. In a June 26, 2013 attending physician's report, Dr. Choi diagnosed right rotator cuff tear and noted with a checkmark "yes" that appellant's condition was caused or aggravated by work activity. He recommended surgery and returned appellant to work full duty. In a duty status report dated June 26, 2013, Dr. Choi diagnosed rotator cuff tear and noted that appellant could return to work full time with a lifting restriction. On July 11, 2013 he diagnosed right shoulder

rotator cuff tear. Dr. Choi opined that appellant's shoulder pain was the result of repetitive activity of delivering mail. He noted that appellant did not have a prior shoulder injury and has failed conservative treatment. On July 24, 2013 Dr. Choi reported treating appellant on June 26, 2013 and releasing him to work without restrictions.

In an undated statement, appellant reiterated that his letter carrier activities contributed to his right shoulder condition and required use of his right arm to case and deliver mail to over 500 mailboxes on a 71-mile route. He noted repetitive motion while spending three hours a day casing mail and four hours delivering mail. In an undated statement, appellant noted working as a chief and incident commander for a volunteer fire company doing administrative paperwork, driving a firetruck, and operating water pump controls at fire calls. He reported making 50 calls a year which last from one half hour to three to eight hours. Appellant noted having a snowplowing business serving 30 homes and a church parking lot and a salting service where he would lift approximately six 50-pound bags of salt. He stated that the snowplow was a push button operation. Appellant noted between 2008 and 2010 that he and a friend split logs and used the wood to heat his home and those of friends.

On July 11, 2013 the employing establishment controverted the claim. A human resource specialist noted outside of his carrier job appellant worked as a fire chief, operated a snowplowing business, and cut fire wood. He stated that appellant was not providing an accurate history of injury as his physicians did not note the outside activities in their reports.

In an August 5, 2013 decision, OWCP denied the claim finding that the medical evidence was insufficient to establish that the claimed condition was causally related to his employment.²

Appellant submitted a state workers' compensation form report from Dr. Boakye dated April 16, 2013. Dr. Boakye diagnosed pain in the shoulder joint and sleep apnea. A June 6, 2013 x-ray revealed no evidence of acute abnormality of the right shoulder.

Appellant was treated by Dr. Shoaib Asgher, a Board-certified family physician, on June 17, 2013 for a right shoulder injury sustained at work. He reported working as a letter carrier sorting and delivering mail. Dr. Asgher noted that appellant did not have a specific injury but noted this "could be" from repetitive movement while working at the employing establishment and during delivery. He diagnosed supraspinatus tendon tear.

On March 3, 2014 appellant requested reconsideration. In support of his request, he submitted reports from Dr. Choi. On July 25, 2013 Dr. Choi saw appellant for a preoperative right shoulder evaluation for a torn rotator cuff. On August 9, 2013 he performed a right shoulder arthroscopic subacromial decompression and right shoulder arthroscopic rotator cuff tear repair. Dr. Choi diagnosed right shoulder massive rotator cuff tear. In reports dated August 26 to December 3, 2013, he treated appellant for a right shoulder rotator cuff tear repair. Dr. Choi diagnosed status post rotator cuff repair. On February 12, 2014 he noted that appellant was a mail carrier and began to have right shoulder pain while delivering mail. Dr. Choi

² On December 30, 2013 appellant appealed to the Board. On February 21, 2014 he requested withdrawal of his appeal. In an order dated March 13, 2014, the Board dismissed appellant's appeal. Docket No. 14-0500 (issued March 13, 2014).

diagnosed right shoulder rotator cuff tear. He noted that appellant's extracurricular activities included being a volunteer firefighter, snowplowing, and preparing wood to heat his home. Dr. Choi opined that appellant's shoulder injuries were the result of the work he did as a mail carrier. He noted that appellant had no prior shoulder pain with other activities and reported his shoulder started to hurt him while delivering mail. Dr. Choi noted repetitive motion at the shoulder level or above can cause a rotator cuff tear. He stated that the imaging studies, intraoperative findings, and the resolution of symptoms after fixation suggest this was the reason behind his shoulder pain.

In a decision dated June 4, 2014, OWCP denied modification of the prior decision.³

On November 5, 2014 appellant requested reconsideration. He submitted a September 15, 2014 report from Dr. Choi who noted that appellant was a rural carrier who reported his shoulder pain was from repetitive work delivering mail. Appellant noted no prior shoulder issues. Dr. Choi noted that appellant's injury was symptomatic and refractory to conservative care. He opined that the facts of this injury were the direct and proximate cause of the diagnosis based on reasonable medical probability. Dr. Choi noted "there may be other causes for this medical problem, but one of the causes is clearly the activities of work described above."

In a decision dated January 23, 2015, OWCP denied modification of the prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place, and in the manner alleged. Appellant must also establish that such event, incident, or exposure caused an injury.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) 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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is generally rationalized medical

³ On August 14, 2014 appellant appealed to the Board. On September 22, 2014 he requested that his appeal be withdrawn. In an order dated October 31, 2014, the Board dismissed appellant's appeal. Docket No. 14-1808 (issued October 31, 2014).

⁴ See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.⁵

ANALYSIS

It is not disputed that appellant's work duties as a rural carrier included casing and delivering mail.

OWCP denied appellant's claim for compensation as the medical evidence was insufficient to establish that appellant's medical condition of right arm condition causally related to his employment. However, the Board notes that the medical evidence submitted by appellant generally supports appellant's claim. Specifically, the February 12, 2014 report from Dr. Choi noted that appellant was a mail carrier and began to have right shoulder pain while delivering mail. Dr. Choi diagnosed right shoulder rotator cuff tear. He opined that appellant's shoulder injuries were the result of the work he did as a mail carrier. Dr. Choi noted that appellant reported his shoulder started to hurt him while delivering mail and he noted repetitive motion at the shoulder level or above can cause a rotator cuff tear. He also had an accurate history of the activities performed by appellant outside of his federal employment including work as a volunteer firefighter, snowplowing, and preparing wood to heat his home. Dr. Choi considered these outside factors when rendering his medical opinion. He stated that the imaging studies, intraoperative findings, and the resolution of symptoms after fixation suggest activities associated with delivering mail are the reason behind his shoulder pain. Although Dr. Choi's opinion is not sufficiently rationalized to carry appellant's burden of proof in establishing his claim, it stands uncontroverted in the record and is, therefore, sufficient to require further development of the case by OWCP.⁶

In view of the above evidence OWCP should have referred the matter to an appropriate medical specialist to determine whether appellant may have sustained right shoulder, arm, and elbow pain as a result of his employment duties.

Proceedings under FECA are not adversary in nature nor is OWCP a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.⁷

Therefore, the Board finds that the case must be remanded to OWCP for preparation of a statement of accepted facts concerning appellant's working conditions and referral of the matter

⁵ *Solomon Polen*, 51 ECAB 341 (2000).

⁶ *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

⁷ *John W. Butler*, 39 ECAB 852 (1988).

to an appropriate medical specialist, consistent with OWCP procedures, to determine whether appellant may have sustained right shoulder, arm, and elbow pain as a result of performing his employment duties. Following this, and any other further development as deemed necessary, OWCP shall issue an appropriate merit decision on appellant's claim.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 23, 2015 is set aside and the case is remanded for further development in accordance with this decision of the Board.

Issued: October 23, 2015
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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