

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

B.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Dallas, TX, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 15-1576
Issued: October 21, 2015**

Appearances:
Tim Egbuchunam, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 16, 2015 appellant, through her representative, filed a timely appeal from a June 26, 2015 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 has met her burden of proof to establish a neck or shoulder injury causally related to her federal employment.

FACTUAL HISTORY

On November 28, 2014 appellant, then a 50-year-old letter carrier, filed an occupational disease claim (Form CA-2) and claim for compensation alleging that she sustained pressure in her neck, bilateral shoulder pain, and tingling and numbness in her wrists as a result of her

¹ 5 U.S.C. § 8101 *et seq.*

federal employment. On the claim form she indicated that she first became aware of the condition on January 14, 2014. Appellant's supervisor noted on the claim form that appellant stopped work on January 17, 2014. By letter dated December 9, 2014, OWCP requested that appellant submit additional evidence to support her claim.

Appellant submitted a supplemental statement dated November 13, 2014, relating that she had worked for approximately 27 years as a letter carrier. She described her job duties, including casing mail, loading, unloading, and delivering mail. According to appellant, her cumulative job duties, constant turning, and casing mail with both hands contributed to her injuries.

With respect to medical evidence, appellant submitted a report dated November 14, 2014 from Dr. Charles Willis, a Board-certified anesthesiologist. Dr. Willis reported that appellant was seen for pain in the neck and shoulders. He noted that she had worked for 27 years, sustained an injury on January 14, 2014, and had been off work since January 17, 2014 "related to her alternate low back DOL [Department of Labor] work injury."² Dr. Willis also reported in his history that appellant had a February 12, 2007 injury to her knee, hip, low back, and right leg, and he reported that radiographs, nerve study, and a magnetic resonance imaging (MRI) scan had been performed. He did not provide a date or discuss the results of diagnostic testing. Dr. Willis provided results on examination and diagnosed cervical sprain, bilateral rotator cuff syndrome, and bilateral cervical radiculopathy. He further reported that appellant's injury "occurred during normal performance of work duties while performing repetitive lifting, carrying, pushing, pulling, and reaching activities, lifting up to 70+ pounds of parcels and boxes of mail directly causing excessive strain to the bilateral shoulder joints, cervical spine and nerves directly causing cervical sprain, cervical radiculopathy, and rotator cuff syndrome."

Appellant also submitted form reports dated November 14 and December 2, 2014. The November 14, 2014 report was signed by a physician assistant. The December 2, 2014 report does not contain a legible identifying signature. On January 20, 2015 OWCP received a cervical MRI scan report dated December 4, 2014 from Dr. Steven Steinbaum, a radiologist. Dr. Steinbaum noted disc protrusions at C3 through C6.

By decision dated January 26, 2015, OWCP denied the claim for compensation. It found the medical evidence was insufficient to establish the claim. OWCP indicated that appellant had been working light duty since the February 12, 2007 employment injury, and Dr. Willis had failed to provide a complete medical history.

On March 4, 2015 appellant, through her representative, requested reconsideration. He stated that date of injury was January 14, 2014. The representative argued that appellant was working full duty at the time of the injury. Appellant resubmitted the November 14, 2014 report from Dr. Willis along with a functional capacity evaluation dated January 14, 2015.³

² Appellant filed a claim for injury on February 12, 2007 to her right leg and thigh area OWCP claim number xxxxxx389. That claim was accepted for sprains to the right hip, thigh, knee and leg, as well as a lumbosacral sprain. Appellant filed a CA-7 claim for compensation for the accepted conditions commencing January 18, 2014.

³ The report stated the examiner was a Carla Davis. No signature or other information was provided.

By decision dated June 26, 2015, OWCP reviewed the case on its merits and denied modification. It found the medical evidence was insufficient to warrant modification.⁴

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁵

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a 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 diagnosed condition is causally related to the employment factors identified by the claimant.⁶

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁷ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁸ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁹

ANALYSIS

In the present case, appellant has alleged that she sustained neck and shoulder injuries related to her job duties as a letter carrier for over 27 years. The job duties and activities reported by her included repetitive movements while casing mail, lifting of mail, and turning. OWCP accepted that appellant engaged in activity related to casing and delivering of mail. As to medical evidence, the Board finds that she has not submitted the medical evidence necessary to establish that she sustained neck and shoulder injuries resulting from her employment duties.

In support of her claim, appellant submitted the November 14, 2014 report from Dr. Willis. The Board finds that this report is of diminished probative value to the issue

⁴ OWCP again reviewed the November 14, 2014 report from Dr. Willis.

⁵ 20 C.F.R. § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁶ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ *Id.*

presented. Dr. Willis does not provide a complete factual and medical background. He notes that appellant worked for 27 years at the employing establishment, but then states that the injury occurred on January 14, 2014. Dr. Willis provides no indication as to what specifically happened on January 14, 2014. There is no medical evidence of record regarding treatment on or around January 14, 2014, nor is there an explanation as to why this is considered a date of injury. In addition, Dr. Willis does not demonstrate an understanding of appellant's specific work history. He acknowledged that appellant had a February 12, 2007 injury, but OWCP indicated that appellant had worked light duty following the injury and Dr. Willis does not discuss appellant's work duties since 2007. Furthermore, Dr. Willis notes that there were diagnostic tests that included MRI scans, x-rays, and nerve studies, without providing further explanation or discussing the results. The only diagnostic study of record is a cervical MRI scan dated December 4, 2014, completed after the report from Dr. Willis.

A probative medical report must not only contain a complete background, but must also provide an opinion on causal relationship that is supported by medical rationale. Dr. Willis provides three diagnoses: cervical strain; cervical radiculopathy; and bilateral rotator cuff syndrome. These are three different diagnoses and Dr. Willis concluded without explanation that all diagnoses are related to repetitive work activity that placed excessive strain to the shoulders and neck. A rationalized medical opinion is an opinion that provides clear explanation as to the medical basis for the opinion regarding a specific diagnosis. The general statement as to work activities causing strain is not a rationalized medical opinion on the issue.¹⁰ As Dr. Willis did not provide a rationalized medical explanation as to how appellant's actual employment duties would have physiologically caused the diagnosed conditions, his opinion is of limited probative value.

The Board notes that the record also contains evidence from a physician assistant and a functional capacity evaluation, but to be of probative value, a medical report must be from a physician under FECA.¹¹ Reports from a physician assistant are of no probative medical value.¹² There is no indication that the January 14, 2015 functional capacity evaluation was prepared or reviewed by a physician.

For the above reasons, the Board finds that appellant did not meet her burden of proof in this case.

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.

¹⁰ See *R.C.*, Docket No. 15-1012 (issued September 1, 2015) (physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated the diagnosed condition).

¹¹ See 5 U.S.C. § 8101(2), which provides that the term "physician" includes "surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law."

¹² *George H. Clark*, 56 ECAB 162 (2004); *Barbara J. Williams*, 40 ECAB 649 (1989).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a neck or shoulder injury causally related to her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 26, 2015 is affirmed.

Issued: October 21, 2015
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board