



noting that appellant had not followed their procedures in reporting the injury. The record does not indicate that she stopped work.

In a report dated February 6, 2014, Dr. Kaylea Boutwell, a Board-certified anesthesiologist, diagnosed appellant with a left shoulder injury sustained on August 23, 2013 and performed a trigger point injection. She noted that appellant underwent previous left shoulder surgeries in 2000 and 2003.

By letter dated March 5, 2014, OWCP informed appellant of the evidence necessary to establish her claim. It noted that she had not submitted sufficient medical evidence to establish that her diagnosed condition was causally related to the incident of February 1, 2014. OWCP afforded appellant 30 days to submit additional evidence and to respond to its inquiries.

Appellant submitted a report of contact containing an illegible signature dated February 10, 2014. The person who wrote the report of contact stated that appellant spoke to her on February 9, 2014 regarding taking sick leave on that date.

By decision dated April 4, 2014, OWCP denied appellant's claim for compensation. It found that she had not submitted sufficient evidence to establish that the event of February 1, 2014 occurred as alleged, because the only date of injury given in medical evidence was August 23, 2013.

On April 22, 2014 appellant requested an oral hearing before an OWCP hearing representative.

In a report dated June 25, 2014, Dr. Corey G. Solman, Jr., a Board-certified orthopedic surgeon, diagnosed appellant with left shoulder pain with likely posterior instability and a possible posterior capsular tear. Physical examination revealed no significant deficits in range of motion, with mild tenderness over the posterior joint line, pain with a vigorous apprehension maneuver, and a positive inferior sulcus at 2+. Examination of a magnetic resonance imaging (MRI) scan revealed no substantial bony damage to the glenoid and some extreme laxity of the posterior capsule, with a possible reverse humeral avulsion glenohumeral ligament lesion.

By letter dated July 8, 2014, Dr. Solman stated that appellant had a work-related injury that occurred on August 23, 2013. He noted that he had first seen her on June 25, 2014 for evaluation of her left shoulder. Dr. Solman restated his diagnosis from the report of June 25, 2014, and stated that the injury of August 23, 2013 was the prevailing factor in the development of this condition.

On August 6, 2014 Dr. Solman diagnosed appellant with "left shoulder posterior inferior and inferior instability." He noted that she wished to undergo a cortisone injection to decrease inflammation in her left shoulder.

In progress notes dated October 19, 2014, a nurse noted that appellant had presented in the emergency room complaining of a left shoulder injury following an event in which she caught a falling patient.

The hearing was held on November 13, 2014. Appellant testified that she had injured her left shoulder on August 23, 2013, but that she had also injured it on February 1 and

October 19, 2014. She stated that on February 1, 2014 she was moving a patient out of a room for transport to the radiology department and felt a tear in her shoulder. Appellant stated that her injury was continuous and that it had been subluxating. The hearing representative afforded appellant 30 days to submit additional medical evidence.

Appellant submitted numerous reports signed by physical therapists dated between January 14 and February 25, 2014.

In a report dated January 9, 2014, Dr. Lyndon Gross, a Board-certified orthopedic surgeon, stated that appellant had informed him that on August 23, 2013 a patient pulled on her left arm and put his weight onto it as she was walking. He noted that she had previously injured her shoulder while working as a police officer on February 28, 2000 after a fall. This prior injury necessitated surgical intervention and was eventually released at maximum medical improvement. In April 2003, Dr. Gross diagnosed appellant with left shoulder multidirectional instability, and underwent another surgical intervention. He stated his current impression of left shoulder pain.

In a report dated February 6, 2014, Dr. Gross noted that appellant was feeling less pain in her shoulder after a corticosteroid injection into the glenohumeral joint on January 9, 2014.

In a report dated February 27, 2014, Dr. Gross assessed appellant with left shoulder pain. He noted that he had reviewed her prior MRI scan arthrogram, which revealed only postoperative changes in the anterior aspect of her shoulder from previous surgical intervention. Dr. Gross stated that he reviewed correspondence from appellant's physical therapist, who stated that "there have been significant inconsistencies that the patient has complained about during therapy" and that from a therapeutic standpoint, appellant's condition was improving.

By decision dated January 29, 2015, the hearing representative affirmed OWCP's April 4, 2014 decision, but modified the basis of denial. She noted that there was no rationalized medical evidence of record explaining how her diagnosed condition resulted from an incident on February 1, 2014.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</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>3</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>4</sup>

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<sup>2</sup> *Supra* note 1.

<sup>3</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364, 366 (2006).

<sup>4</sup> *S.P.*, 59 ECAB 184, 188 (2007); *Joe D. Cameron*, 41 ECAB 153, 157 (1989).

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.<sup>5</sup> First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>6</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>7</sup>

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.<sup>8</sup> An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>9</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>10</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 compensable employment factors.<sup>11</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>12</sup>

### ANALYSIS

The Board finds that the medical evidence submitted by appellant does not establish that the incident of February 1, 2014 caused a medical condition.

Appellant submitted numerous medical reports containing diagnoses of left shoulder conditions, a history of surgical intervention on her left shoulder, and statements of causation related to an incident on August 23, 2013. The date of the work event claimed in this case is

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<sup>5</sup> *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3.

<sup>6</sup> *D.B.*, 58 ECAB 464, 466 (2007); *David Apgar*, 57 ECAB 137, 140 (2005).

<sup>7</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734, 737 (2008); *Bonnie A. Contreras*, *supra* note 3.

<sup>8</sup> *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

<sup>9</sup> *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>10</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D'Wayne Avila*, 57 ECAB 642, 649 (2006).

<sup>11</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

<sup>12</sup> *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

February 1, 2014. However, there is no evidence of record containing a rationalized statement of causation between her diagnosed conditions and an event on February 1, 2014.

The medical record is devoid of a reference to this date as a date of injury; instead, each medical report refers to an incident or incidents on August 23, 2013, or October 19, 2014. As the case record lacks evidence of how the incident of February 1, 2014 caused appellant's diagnosed conditions, appellant has not submitted sufficient evidence to establish a causal relationship between the incident of February 1, 2014 and her left shoulder diagnoses.

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 her burden of proof to establish a traumatic injury in the performance of duty on February 1, 2014.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 29, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 9, 2015  
Washington, DC

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

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

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