

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

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**I.B., Appellant**

**and**

**U.S. POSTAL SERVICE, CHICAGO  
NETWORK DISTRIBUTION CENTER, Forest  
Park, IL, Employer**

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**Docket No. 16-1095  
Issued: August 1, 2016**

*Aparnances:  
Appellant, pro se  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge

ALEC J. KOROMILAS, Alternate Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On April 28, 2016 appellant filed a timely appeal from a January 19, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 established any additional conditions or any employment-related disability from October 26, 2015 to January 8, 2016 causally related to a September 10, 2015 employment injury.

**FACTUAL HISTORY**

On September 15, 2015 appellant, then a 51-year-old parcel post machine operator, filed a traumatic injury claim (Form CA-1) alleging that she sustained a left shoulder injury in the

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

performance of duty on September 10, 2015. The cause of the injury was described as “broken slides.” Appellant submitted a note describing the incident as picking up heavy mail from the floor, then trying to throw it into an all-purpose container with her left arm. The record indicates that she stopped work and filed claims for wage-loss compensation (Form CA-7) commencing October 26, 2015 to January 8, 2016.

By report dated September 10, 2015, Dr. Sameer Panjwani, Board-certified in family medicine, provided a history that appellant had developed left shoulder pain after picking up and throwing mail. He noted that appellant had a history of neck problems with C2-4 surgery. Dr. Panjwani provided results on examination and diagnosed left shoulder conditions of pain, rotator cuff tendinitis, sprain/strain, and impingement. He reported that appellant could work with restrictions that included 10 pounds lifting and no overhead work.

On September 14, 2015 appellant was treated by Dr. Adolphus Anekwe, a Board-certified internist, for a “left shoulder injury at work.” Dr. Anekwe provided results on examination and the record indicates a magnetic resonance imaging (MRI) scan was ordered. By report dated September 30, 2015, he reported that appellant was being evaluated for a possible rotator cuff tear and was awaiting authorization for an MRI scan.

In a report dated October 8, 2015, Dr. Anekwe wrote that appellant was unable to work from September 10 to October 28, 2015. He diagnosed left rotator cuff tear, left shoulder sprain/strain, and shoulder injury. On October 26, 2015 Dr. Anekwe diagnosed tendinopathy of the left rotator cuff, cervical radiculopathy, cervicalgia, and left subscapular muscle strain. He indicated that appellant would be released to work with restrictions as of November 9, 2015.

Dr. Anekwe submitted a report dated November 11, 2015 opining that appellant had strained her left subcapularis muscle due to a work accident on September 10, 2015. He indicated that appellant was given a steroid injection on October 26, 2015 “due to the strain of the subcapularis muscle that caused a rotator cuff syndrome complex.” Dr. Anekwe also opined that appellant “suffers with cervical radiculopathy due to the accident of [September 10, 2015].”

On November 25, 2015 appellant submitted a claim for compensation (Form CA-7) from October 26 to November 13, 2015. She subsequently submitted Form CA-7’s claiming compensation to January 8, 2016. In a report dated December 3, 2015, Dr. Anekwe again diagnosed tendinopathy of the left rotator cuff, cervical radiculopathy, cervicalgia, and left subscapularis muscle strain.

OWCP accepted the claim on December 4, 2015 for left shoulder sprain/strain and left shoulder impingement. With respect to additional diagnosed conditions, including cervical radiculopathy, rotator cuff tear, and rotator cuff tendinitis, it found the evidence did not establish these conditions were causally related to the September 10, 2015 injury. OWCP also indicated that appellant must submit additional medical evidence with respect to disability for work.

On January 12, 2016 appellant submitted a form report dated January 12, 2016 and signed by Dr. Nikhil Pandhi, an osteopath. According to the report a left shoulder rotator cuff tear “were the findings of Dr. Pandhi’s MRI scan. Due to the accident [September 10, 2015].” The report indicated that appellant was receiving physical therapy.

By decision dated January 19, 2016, OWCP denied claims for wage-loss compensation from October 26, 2015 to January 8, 2016. It found the medical evidence did not establish any additional employment-related conditions, or an employment-related disability for the period claimed.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> The term disability is defined as the incapacity because of an employment injury to earn the wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity.<sup>3</sup>

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative, and substantial medical evidence.<sup>4</sup> Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work. When a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.<sup>5</sup> The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.<sup>6</sup>

To establish a causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>7</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>8</sup> The opinion of the physician must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship.<sup>9</sup>

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<sup>2</sup> *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> 20 C.F.R. § 10.5(f); *see e.g.*, *Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

<sup>4</sup> *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

<sup>8</sup> *Elizabeth Stanislaw*, 49 ECAB 540 (1998).

<sup>9</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

## ANALYSIS

In the present case, OWCP accepted that on September 10, 2015 appellant lifted mail from the floor, threw it into a container, and sustained a left shoulder injury. The accepted conditions were left shoulder sprain/strain, and left shoulder impingement. The January 19, 2016 decision indicated that appellant had received continuation of pay (COP) and then claimed wage-loss compensation commencing October 26, 2015. With respect to the claim for compensation commencing October 26, 2015, the initial question is whether there were other conditions established as casually related to the January 19, 2016 employment injury. Once the employment-related conditions are established, then the determination can be made as to whether any disability from an employment-related condition during the period October 26, 2015 to January 8, 2016 was established.

Addressing the question of additional conditions, the Board notes that the medical evidence of record contains several diagnoses, including left rotator cuff tear, left rotator cuff tendinopathy, left rotator cuff syndrome, cervical radiculopathy, and cervicalgia. As to a rotator cuff tear, the diagnosis was provided in an October 8, 2015 report from Dr. Anekwe. Dr. Anekwe did not provide any discussion of diagnostic testing results supporting the diagnosis. Moreover, no probative opinion was provided on the causal relationship between the rotator cuff tear diagnosis and the September 10, 2015 employment injury. Dr. Anekwe does not provide a report that discusses the actual employment incident or shows familiarity with the mechanism of injury. He does not provide an opinion, supported with sound medical rationale, on causal relationship with employment.

Dr. Pandhi provided a brief report that referred to undated MRI scan findings of a rotator cuff tear. No other explanation was provided, and as to causal relationship the January 12, 2016 report simply stated "due to accident" on September 10, 2015. The report provides no accurate history, findings on examination, or medical rationale to support the opinion.

With respect to the other rotator cuff diagnoses of tendinitis, tendinopathy, or syndrome, the record contains no rationalized medical opinion on causal relationship with the employment injury. Dr. Anekwe briefly opined in his November 11, 2015 report that a subscapularis strain had caused a rotator cuff syndrome. He did not provide a complete factual or medical history, or provide medical rationale explaining how the employment injury caused a rotator cuff syndrome.

The conditions of cervical radiculopathy and cervicalgia are similarly lacking in any probative medical opinion on causal relationship. Dr. Panjwani had noted that appellant had a history of preexisting cervical problems that included surgery. An opinion regarding a cervical condition must provide an accurate history and clearly explain how the September 10, 2015 employment injury affected the neck. The brief opinion from Dr. Anekwe in the November 11, 2015 report that cervical radiculopathy was due to the employment accident is of little probative value. The Board accordingly finds that the evidence does not establish any additional employment-related conditions.

With respect to an employment-related disability as of October 26, 2015, there is no evidence establishing further employment-related disabilities during the period claimed. In an October 26, 2015 report, Dr. Anekwe had reported that appellant was disabled through November 9, 2015, without further explanation. He did not provide a rationalized medical opinion with respect to an employment-related disability as of October 26, 2015. As noted

above, the only accepted employment-related conditions were left shoulder sprain/strain, and left shoulder impingement.

It is appellant's burden of proof to establish an additional employment-related condition and the period of claimed disability.<sup>10</sup> For the reasons discussed above, the Board finds 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.

### **CONCLUSION**

The Board finds that appellant has not established any additional conditions or an employment-related disability from October 26, 2015 to January 8, 2016 causally related to a September 10, 2015 employment injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated January 19, 2016 is affirmed.

Issued: August 1, 2016  
Washington, DC

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

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

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

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<sup>10</sup> See *Jaja K. Asaramo*, 55 ECAB 200 (2004).