

and carrying mail. He explained that over the past few months he noticed that his left shoulder, elbow, and wrists were very tired and sore and that his hand had diminished sensation throughout the workday. Appellant stopped work on January 30, 2015 and returned to work on February 4, 2015, working three to seven hours as tolerated. On February 19, 2015 he stopped work again.

In an attached statement, appellant described his duties as a letter carrier. He related that he carried all the mail on the left arm, elbow, and wrist and used his left hand for grasping the letters throughout the day. Appellant discussed how he carried letters with his left hand and carried catalogs and larger envelopes with the “cruck” of his left arm, which required bending the elbow at 90 degrees. He explained that sorting mail required, on average, between 1 to 2 hours per day and the actual delivery or carrying of the mail required, on average, 6 to 6½ hours per day. Appellant reported that on January 30, 2015 he experienced severe shoulder and neck pain. When medications did not alleviate the symptoms he sought medical treatment from his physician, who informed him that the aggravation of his left shoulder, left elbow, and left wrist symptoms was due to his work environment and overuse over a period of time while working.

Appellant was initially examined by Dr. Dow E. Brophy, a Board-certified family practitioner, who related in reports dated February 2 and 9, 2015 that appellant complained of moderate pain in his left shoulder radiating from the anterior aspect to the left side of the neck and left arm. Dr. Brophy reviewed appellant’s history and conducted an examination. He observed moderate tenderness over the left upper extremity, left pectoral, coracobrachialis, rotator cuff, and arm and spasm of the left upper extremity. Dr. Brophy noted normal findings following examination of the right upper extremity. He diagnosed pain in the limb. Dr. Brophy opined: “Due to [appellant’s] work, posture, and job requirements, I feel this is a result of overuse of his left upper extremity over time.” In various work excuse notes, Dr. Brophy requested that appellant be excused from work from January 30 to February 18, 2015.

In a February 16, 2015 magnetic resonance imaging (MRI) scan of the cervical spine examination report, Dr. M. Dane Wallsch, a Board-certified diagnostic radiologist, noted bulging discs at C3-4 and C4-5 and left lateral disc protrusion at C5-6.

By letter dated February 24, 2015, OWCP advised appellant that the evidence submitted was insufficient to establish his claim. It requested that he respond to the attached questionnaire in order to substantiate the factual elements of his claim and to provide a narrative medical report from a physician, which included a description of his specific employment duties, a medical diagnosis based on physical examination, and an opinion supported by medical rationale explaining how his work activities caused or contributed to his medical condition. Appellant was afforded 30 days to submit this evidence.

On March 10, 2015 OWCP received a statement from appellant in response to its development letter. Appellant noted that he had worked as a letter carrier for over 25 years and discussed that his employment duties included lifting and carrying between 5 and 20 pounds, standing and simple grasping for 1 hour per day, and walking for 6 to 6½ hours per day. He explained that for weeks, if not months, after he delivered mail at work he noticed pain and soreness in his left shoulder, arm, and hand. Appellant initially thought he was just tired and sore and tried to relieve the soreness by hot showers and ointment. He noted that on January 30, 2015 he experienced severe shoulder pain in the arm after working for approximately 1 to 1½

hours. Appellant took medication, but when he did not experience any relief from the pain and discomfort he made an appointment with his physician. He further reported that the latest diagnostic testing results revealed bulging cervical discs at C3-4 and C4-5 and left lateral disc protrusion likely compressing the nerve root at C5-6. Appellant related that in the past he had surgery on both shoulders, left knee, and right wrist that were all muscle and bone related. He mentioned that his hobbies included hunting and fishing and that he had a home-based business, which required half an hour to five hours of work per week.

Appellant was examined by Dr. Matthew Krebs, a Board-certified anesthesiologist specializing in pain medicine, who noted in a March 12, 2015 narrative report that appellant complained of shooting, sharp, and burning pain in his shoulders as well as pain, numbness, and tingling in his left hand. He explained that his pain seemed to start in January 2015 with no specific injury and he believed that his work aggravated his symptoms. Dr. Krebs noted that appellant worked as a postal carrier, but was presently off work because of his symptoms. He reviewed appellant's history and provided findings on examination. Dr. Krebs related that neurological examination revealed left arm weakness, numbness, tingling, and abnormal reflexes. He also observed tenderness over appellant's left trapezius, mid-cervical spinous processes, left shoulder weakness, and left elbow weakness on flexion and extension. Dr. Krebs noted that a cervical spine MRI scan revealed bulging discs at C3-4 and C4-5, left lateral disc protrusion C5-6 compressing left C6 nerve. He diagnosed cervical radiculopathy and spinal stenosis in the cervical region.

In a March 14, 2015 letter, Dr. Brophy indicated that appellant had progressive pain in his left arm with weakness and no history of injury. He related that appellant attempted conservative therapy, but his symptoms continued to worsen. Dr. Brophy noted that the MRI scan of the cervical spine revealed multilevel disease in appellant's neck, particularly at the C5-6 level. He opined that appellant's overuse of his left arm and position of his neck while working "have contributed to and aggravated the situation, if they have not frankly caused the problem."

OWCP received a letter dated March 24, 2015 from a human resource (HR) specialist at the employing establishment, who alleged that appellant was well-versed in accident reporting as this was his 18th accident at work. She explained that he had 4 hours of sick leave and 66 hours of leave and worked an average of 31 hours per week for the prior year. The HR specialist alleged that appellant's attending physician had not provided a well-reasoned medical opinion establishing how his condition was work related. She asserted that appellant did not meet his burden of proof to establish a work-related condition. The employing establishment provided a job description for a city carrier.

Dr. Richard K. Osenbach, a Board-certified neurological surgeon, examined appellant and in an April 10, 2015 examination note and narrative report, related that appellant was referred to him for findings of a herniated disc on a cervical spine MRI scan. He noted that appellant worked as a mailman and had a route which involved walking and carrying a mailbag. Dr. Osenbach described appellant's ongoing symptoms and the medical treatment he sought. He noted that appellant currently complained of pain beginning on the left side of the neck radiating down the arm to a point just below the elbow. Upon examination of appellant's neck, Dr. Osenbach observed normal inspection with some slight reduction in range of motion of the cervical spine due to pain. Motor testing revealed some mild weakness of the left biceps and

brachioradialis muscles. Reflexes were symmetric and sensory examination was intact. Dr. Osenbach diagnosed brachial neuritis or radiculitis due to displacement of cervical intervertebral disc.

In an April 13, 2015 letter, appellant informed OWCP that he and his family were currently experiencing financial difficulty. He related that he submitted an occupational disease claim on February 13, 2015 and was told that his case was “under review,” but had not received any other response from OWCP. Appellant explained that his income since the beginning of this condition had been greatly decreased and that he had used sick leave and vacation time and was currently on leave without pay status since March 2015. He reported that many monthly bills were overdue and at risk of being “shutoff,” for nonpayment and requested additional assistance to help his family reach a financial stable state. Appellant submitted various bills and notices of past due payments.

OWCP denied appellant’s claim in a decision dated April 16, 2015. It accepted appellant’s repetitive duties as a letter carrier and that he had cervical radiculopathy. OWCP denied appellant’s claim finding insufficient medical evidence to establish that his condition was causally related to factors of his employment.

On April 28, 2015 appellant underwent cervical surgery.

On October 19, 2015 OWCP received appellant’s request for reconsideration. Appellant asserted that he submitted several pages of medical reports related to his cervical neck injury and his path to recovery. He related that his physicians understood that he worked as a letter carrier for the past 29 years. Appellant noted that no one event caused the injury, but that his condition had worsened due to time. He asserted that carrying a mailbag on his shoulder had taken a toll on his body. Appellant explained that the constant stress of the mailbag strap on the top of his shoulder and walking for 6 plus hours per day caused an unbalanced load and placed tension on the left side of his neck, causing pain and bulging of a cervical disc.

Appellant submitted various medical reports and letters along with his reconsideration request, including a May 12, 2015 report from Leroy Rung, a certified physician assistant, who noted that appellant had undergone C5-6 cervical discectomy and was doing well postoperatively. Mr. Rung reviewed appellant’s history and provided examination findings.

Dr. Krebs, in a letter dated May 13, 2015, noted reviewing appellant’s records. He related that appellant’s significant pain in his neck and down the left arm, causing left arm weakness and muscle tightness in the left shoulder could be a product of his work environment. Dr. Krebs opined that carrying mail and a bag on appellant’s shoulder could all be related to his current pain.

Appellant further submitted a May 21, 2015 letter from Dr. Osenbach, who reported that appellant’s “occupation as a letter/package carrier could be a contributing factor to neck pain and injury.”

Dr. Brophy related appellant’s continued complaints of progressive left arm pain in a June 9, 2015 letter. Appellant indicated that a cervical spine MRI scan revealed multilevel disease in his neck, particularly in the C5-6 level that was compressing on the nerve root.

Dr. Brophy explained that the medical treatment appellant had received decreased his symptoms and opined that “the overuse of [appellant] left arm carrying his mailbag on his shoulder is the contributing factor and frankly what caused his problem.”

By decision dated January 14, 2016, OWCP denied modification of the April 16, 2015 denial decision. It found that the medical evidence failed to establish a causal relationship between appellant’s medical conditions and his employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence² including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.³ In an occupational disease claim, appellant’s burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁴

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁵ 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.⁶

ANALYSIS

Appellant alleged that he sustained cervical radiculitis and brachial neuritis as a result of his employment duties, which required walking and carrying a mailbag. OWCP accepted appellant’s repetitive duties as a letter carrier and that he sustained a diagnosed condition, but denied his claim finding insufficient medical evidence to establish a causal relationship between the medical condition and his employment. The Board finds that appellant has not established an occupational disease as a result of factors of his employment.

² *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

³ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁵ *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

⁶ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

Appellant was initially examined by Dr. Brophy who related appellant's complaints of pain in his left shoulder and left side of his neck in reports dated February 2 and 9, 2015. Upon examination, he observed moderate tenderness and spasms over the left upper extremity. Dr. Brophy initially diagnosed pain in the limb and opined that it was a result of overuse of appellant's left upper extremity over time "due to [appellant's] work, posture, and job requirements." In a March 14, 2015 letter, he reported that a cervical spine MRI scan revealed multilevel disease. Dr. Brophy opined that overuse of appellant's left arm and position of his neck while working "contributed to and aggravated the situation." In a June 9, 2015 letter, he further explained that overuse of appellant's arm and carrying his mailbag over his shoulder was the contributing factor and what caused his problem. Although Dr. Brophy provided an opinion on causal relationship, the Board finds that he did not provide any medical rationale to support his conclusion. Medical evidence that states a conclusion, but does not offer any rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁷ Although Dr. Brophy described the overuse of appellant's arm and carrying a mailbag, he did not specifically describe the process of mechanism by which appellant's specific employment duties resulted in his cervical condition.⁸

Dr. Krebs also examined appellant and in a narrative report dated March 12, 2015 related appellant's complaints of pain in his shoulders and left arm. He noted that appellant worked as a postal carrier and indicated that appellant believed that his work aggravated his symptoms. Dr. Krebs reviewed appellant's history and provided examination findings. He diagnosed cervical radiculopathy and spinal stenosis. In a May 13, 2015 letter, Dr. Krebs opined that carrying mail and wearing a mailbag on appellant's shoulder "could all be related" to his current pain. This opinion, however, is vague and speculative in nature and failed to explain the causal relationship between appellant's work and his condition.⁹

Likewise, Dr. Osenbach's opinion in a May 21, 2015 letter that appellant's work as letter carrier "could be a contributing factor" to his neck pain and injury is also speculative and fails to establish causal relationship. An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.¹⁰ These reports, therefore, fail to establish appellant's claim.

The additional February 16, 2015 MRI scan report by Dr. Wallsch also failed to establish appellant's claim. Although he noted diagnoses of bulging discs in appellant's cervical spine, he did not provide any opinion on the cause of appellant's condition. The Board has found that

⁷ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

⁸ *D.B.*, Docket No. 16-0210 (issued June 14, 2016); *M.M.*, Docket No. 15-607 (issued May 15, 2015); *M.W.*, Docket No. 14-1664 (issued December 5, 2014).

⁹ *Roy L. Humphrey*, 57 ECAB 238, 242 (2005); *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁰ *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glenn*, 53 ECAB 159 (2001).

medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹¹

Finally, the May 12, 2015 report from physician assistant, Mr. Rung, also lacks probative value to establish appellant's claim because physician assistants are not considered physicians as defined by FECA.¹²

As noted above, appellant bears the burden to establish the essential elements of his claim. Because he has failed to provide sufficient medical evidence to establish that his cervical condition was causally related to factors of his employment, he has failed to meet his burden of proof to establish his claim.

Appellant may submit new evidence or argument as part of a formal 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 his burden of proof to establish that his cervical and left upper extremity conditions were causally related to factors of his federal employment.

¹¹ *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

¹² 5 U.S.C. § 8101(2); *Roy L. Humphrey*, *supra* note 9 (2005).

ORDER

IT IS HEREBY ORDERED THAT the January 14, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 28, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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