



## **FACTUAL HISTORY**

On October 7, 2014 appellant, then a 70-year-old rural carrier, filed a traumatic injury claim (Form CA-1), alleging that on October 3, 2014 she injured her right shoulder. She specifically alleged that she was transferring mail from the rear of her mail truck to the front when she felt and heard a “pop” in her right shoulder. Appellant stopped on October 4, 2014 and did not return.

Appellant submitted an attending physician’s report (Form CA-20) from Dr. Elisha McLam, a Board-certified family practitioner, dated October 8, 2014. Dr. McLam noted that appellant had a sudden onset of right shoulder pain on October 3, 2014 while moving a box of mail at work. Dr. McLam noted that x-rays revealed no fracture and diagnosed right shoulder pain highly suspicious for rotator cuff tear. Dr. McLam noted by checking a box marked “yes” that appellant’s condition was caused or aggravated by an employment incident. She noted that appellant was totally disabled from October 3, 2014.

In an October 16, 2014 duty status report, Dr. McLam noted clinical findings of right shoulder pain with limited range of motion. She likely diagnosed a rotator cuff tear. In a report dated October 23, 2014, Dr. McLam noted treating appellant for a workers’ compensation injury to the right shoulder. Appellant reported injuring her shoulder at work on October 3, 2014 while moving a box of mail from one seat to another when she experienced a sudden “pop” in her right shoulder. Examination revealed no mobility of the right arm, painful palpation over the upper right chest and suprascapular, and very limited passive and active range of motion in all directions due to pain. Dr. McLam diagnosed right shoulder pain and referred appellant to an orthopedist.

Appellant was treated by Dr. Richard N. Gagnon, a Board-certified orthopedist, on October 30, 2014 who diagnosed right rotator cuff tear and referred appellant for physical therapy.<sup>3</sup> She submitted physical therapy notes from November 10, 2014. Also of record is a November 18, 2014 attending physician’s report from a physician assistant.

By letter dated November 25, 2014, OWCP advised appellant that her claim was originally received as a simple, uncontroverted case which resulted in minimal or no time loss from work. It indicated that appellant’s claim had been administratively handled to allow medical payments up to \$1,500.00, but the merits of the claim had not been formally adjudicated. OWCP advised that, because she had not returned to full duty, her claim would be formally adjudicated. It requested that appellant submit additional information including a comprehensive medical report from her treating physician which included a reasoned explanation as to how the specific work factors contributed to her claimed injury.

Appellant provided an October 30, 2014 report from Dr. Gagnon who noted treating her for a right shoulder injury which occurred while delivering mail. She reported moving a box of mail from one seat to another on October 3, 2014 when she felt a sudden sharp pain and pop in her right shoulder. Examination revealed limited range of motion, mild weakness, and

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<sup>3</sup> An x-ray of the right shoulder dated October 30, 2014 revealed mild periarticular degenerative changes involving the acromioclavicular glenohumeral joint.

tenderness over the right tuberosity. X-rays of the right shoulder showed mild narrowing of the acromioclavicular joint. Dr. Gagnon diagnosed probable right rotator cuff tear and recommended conservative treatment. On November 18, 2014 appellant was treated by Dr. McLam for a possible rotator cuff tear. On November 25, 2014 Dr. Gagnon provided results on examination and repeated the history of the October 3, 2014 work incident. He found appellant was disabled for two months. A November 25, 2014 referral for physical therapy from Dr. Gagnon diagnosed right rotator cuff tear. In a December 16, 2014 duty status report, Dr. Gagnon diagnosed torn right rotator cuff and advised that appellant was disabled from work. In a December 16, 2014 attending physician's report, he noted the history of injury followed by persistent pain and weakness. Dr. Gagnon diagnosed probable rotator cuff tear. He noted by checking a box marked "yes" that appellant's condition was caused or aggravated by a work activity. Dr. Gagnon indicated that appellant was disabled from October 3, 2014.

In a work capacity evaluation dated December 16, 2014, Dr. Gagnon noted that appellant was unable to perform her usual job and would be disabled for two or more months.

In a decision dated January 7, 2015, OWCP denied appellant's claim for an employment-related injury because she had failed to submit medical evidence containing a medical diagnosis in connection with the accepted October 3, 2014 employment incident.

On February 4, 2015 appellant requested a review of the written record. She submitted an x-ray of the right shoulder dated October 30, 2014 and a November 25, 2014 report from Dr. Gagnon, all previously of record. In a report dated January 23, 2015, Dr. Gagnon recommended a magnetic resonance imaging (MRI) scan to determine a definitive diagnosis. In a note dated February 3, 2015, he diagnosed right rotator cuff tear by MRI scan done on January 27, 2015. In a February 3, 2015 note, Dr. Gagnon advised that appellant was totally disabled until March 17, 2015. On February 3, 2015 he referred appellant for physical therapy. In a March 17, 2015 note, Dr. Gagnon noted that appellant was totally disabled and was scheduled for surgery on April 20, 2015. Appellant also submitted physical therapy notes.

In a decision dated July 14, 2015, an OWCP hearing representative affirmed the decision dated January 7, 2015. The hearing representative found that none of the medical reports provided a rationalized opinion establishing that the claimed right rotator cuff injury was causally related to the accepted employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish 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 of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

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<sup>4</sup> Gary J. Watling, 52 ECAB 357 (2001).

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. 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. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>5</sup>

Rationalized medical opinion evidence is generally required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.<sup>6</sup>

### ANALYSIS

It is undisputed that on October 3, 2014 appellant transferred mail from the rear of her mail truck to the front of the vehicle when she felt and heard her right shoulder pop. It is also undisputed that she has a diagnosed right rotator cuff tear. However, appellant has not submitted sufficient medical evidence to establish that her diagnosed right rotator cuff tear was caused or aggravated by the October 3, 2014 employment incident.

Appellant submitted reports from Dr. Gagnon dated October 30 and November 25, 2014 who treated her for a right shoulder injury which occurred while delivering mail. She reported moving a box of mail from one seat to another on October 3, 2014 when she felt a sudden sharp pain and pop in her right shoulder. Dr. Gagnon noted right shoulder x-rays revealed mild narrowing of the acromioclavicular joint. He diagnosed probable right rotator cuff tear. The Board finds that, although Dr. Gagnon noted that appellant was injured at work, he did not provide medical rationale explaining the basis of his opinion regarding the causal relationship between appellant's right rotator cuff tear and the October 3, 2014 employment incident.<sup>7</sup> Therefore, these reports are insufficient to meet appellant's burden of proof.

In his attending physician's report dated December 16, 2014, Dr. Gagnon diagnosed probable torn rotator cuff and noted by checking a box marked "yes" that appellant's condition was caused or aggravated by an employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was work related is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to

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<sup>5</sup> *T.H.*, 59 ECAB 388 (2008).

<sup>6</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>7</sup> *See T.M.*, Docket No. 08-975 (issued February 6, 2009) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

establish causal relationship.<sup>8</sup> Other reports from Dr. Gagnon did not specifically explain how the October 3, 2014 work incident caused or aggravated a diagnosed medical condition.<sup>9</sup>

The attending physician's report from Dr. McLam dated October 8, 2014 diagnosed right shoulder pain highly suspicious for rotator cuff tear. She also noted by checking a box marked "yes" that appellant's condition was caused or aggravated by an employment incident. As noted above, the Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was work related is of little probative value. Without a rationalized explanation or for the conclusion reached, such report is insufficient to establish causal relationship.<sup>10</sup>

On October 23 and November 18, 2014, Dr. McLam treated appellant for a right shoulder injury and diagnosed right shoulder pain. However, she appears merely to be repeating the history of injury as reported by appellant without providing her own opinion regarding whether appellant's condition was work related. To the extent that Dr. McLam is providing her own opinion, she failed to provide a rationalized opinion regarding the causal relationship between appellant's condition and the factors of employment believed to have caused or contributed to such condition.<sup>11</sup> Other reports from Dr. McLam are of limited probative value as they did not specifically address how the October 3, 2014 work incident caused or aggravated a diagnosed medical condition.

Appellant submitted reports from a physical therapist and a physician assistant. However, the Board has held that these are not considered medical evidence as these are not physicians under FECA.<sup>12</sup>

The remainder of the medical evidence, consistent of diagnostic tests, is of limited probative value as it does not provide an opinion on the causal relationship between the October 3, 2014 work incident and appellant's diagnosed medical conditions.<sup>13</sup> For this reason, this evidence is insufficient to meet appellant's burden of proof.<sup>14</sup>

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<sup>8</sup> The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim. *Sedi L. Graham*, 57 ECAB 494 (2006); *D.D.*, 57 ECAB 734 (2006).

<sup>9</sup> See *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

<sup>10</sup> *Id.*

<sup>11</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>12</sup> See *David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2).

<sup>13</sup> See *M.Y.*, Docket No. 16-0218 (issued May 11, 2016).

<sup>14</sup> See *supra* note 9.

On appeal appellant asserts that OWCP improperly denied the claim and that she had submitted sufficient medical evidence to establish that the October 3, 2012 incident caused her shoulder condition. As found above, the medical evidence failed to establish that appellant's diagnosed conditions were causally related to her employment. Appellant has not submitted a physician's report, based on an accurate history, which explains how work activities on October 3, 2014 caused or aggravated a right rotator cuff condition.

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 did not meet her burden of proof to establish a traumatic right shoulder injury in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 14, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 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