



## **FACTUAL HISTORY**

On August 15, 2014 appellant, then a 43-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that he developed a right shoulder condition as a result of delivering mail in the performance of duty. He indicated that he first became aware of the condition and its relation to his federal employment on August 4, 2014. In an August 15, 2014 narrative statement, appellant indicated that he began to feel pain in his right shoulder on August 4, 2014 while delivering mail midway through his route between 11:00 a.m. and 1:00 p.m.

In an August 12, 2014 attending physician's report (Form CA-20), Dr. Daniel Alexander, an orthopedic surgeon, diagnosed right shoulder rotator cuff osseous abnormality and right proximal biceps tendon pain secondary to tendinitis. He checked a box "yes" indicating his support for causal relationship, noting that the injury occurred while appellant was on duty. Dr. Alexander restricted appellant from lifting or carrying more than 10 pounds with the right arm.

On August 26, 2014 Dr. Alexander released appellant to work without restrictions.

In a September 15, 2014 letter, OWCP notified appellant of the deficiencies of his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

Appellant submitted physical therapy notes dated August 14 through September 24, 2014 and two narrative statements. In his narrative statement dated October 2, 2014, he indicated that he had been employed as a rural carrier for 23 years and his federal duties included sorting and delivering mail which required twisting, bending, lifting, and reaching with the right arm six to nine hours per day, five to six days per week. Appellant alleged that he sustained a right shoulder injury on May 12, 2004 while reaching to grab the handle of a mailbox and pulling it open. He alleged another right shoulder injury on April 17, 2007 while repeatedly reaching longer distances than usual to insert mail into mailboxes due to a snow storm. Appellant did not seek any medical treatment at either time, nor did he have any loss of work. He attached his two previously filed traumatic injury claims (Form CA-1) for the alleged right shoulder injuries dated May 12, 2004 and April 17, 2007.

In an August 12, 2014 report, Dr. Alexander diagnosed right shoulder rotator cuff tendinitis with mild impingement and right proximal biceps tendon pain secondary to tendinitis and noted that appellant had right shoulder pain "for some time, for about eight days, progressively getting worse." Appellant reported that he was working as a rural carrier on August 4, 2014 when he started to develop significant right shoulder pain and denied prior injury to the shoulder. Dr. Alexander found full passive and active motion to the bilateral shoulders with 5/5 strength. He found a positive Speed's test, mildly positive Hawkins' test on the right, a negative O'Brien's test, and negative crossover. There was no tenderness about the right acromioclavicular (AC) joint and appellant had mild-to-moderate tenderness over the right proximal biceps tendon. X-rays of the right shoulder taken in the office that day showed no significant osseous abnormality. Dr. Alexander reported that appellant was "pain free." On August 26, 2014 he found that appellant's right shoulder impingement had improved and opined that he was capable of returning to work without restrictions. On October 7, 2014 appellant

presented with no apparent distress and examination of the right shoulder revealed full active range of motion in forward elevation and abduction. Hawkins' testing was negative and Dr. Alexander found that appellant was neurovascularly intact distally.

By decision dated November 20, 2014, OWCP found that the medical evidence was insufficient to establish causal relationship between appellant's right shoulder condition and factors of his federal employment.

On February 10, 2015 appellant requested reconsideration and submitted physical therapy notes dated August 17 through October 1, 2014. He also submitted progress reports dated November 18, 2014 through March 24, 2015 from Dr. Alexander. On November 18, 2014 Dr. Alexander reported that appellant had full 5/5 strength of his rotator cuff muscles bilaterally, a radial pulse of 2+ and equal bilaterally, and brisk capillary refill bilaterally. On December 30, 2014 he opined that appellant's right shoulder condition was causally related to the repetitive reaching that he did at his job. In his reports dated February 10 and March 24, 2015, Dr. Alexander found that examination of appellant's right shoulder revealed mild tenderness to palpation over the AC joint and full range of motion, but with some discomfort and a positive Hawkins' sign. He requested a magnetic resonance imaging scan of the right shoulder.

By decision dated May 19, 2015, OWCP denied modification of its prior decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden 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 timely filed within the applicable time limitation period of FECA, and that an injury<sup>4</sup> was sustained in the performance of duty. These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease, an employee must submit 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.<sup>6</sup>

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> OWCP regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

<sup>5</sup> *See O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>6</sup> *See D.R.*, Docket No. 09-1723 (issued May 20, 2010). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. 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>7</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that he developed a right shoulder condition causally related to factors of his federal employment.

The medical evidence appellant submitted fails to establish that fact of his federal employment caused or aggravated his right shoulder condition. Appellant submitted a statement in which he identified the factors of employment that he believed caused the condition, including twisting, bending, lifting, and reaching with the right arm, which OWCP accepted as factual. However, to establish a claim that he sustained an employment-related injury, he must also submit rationalized medical evidence which explains how his medical condition was caused or aggravated by the implicated employment factors.<sup>8</sup>

In an August 12, 2014 attending physician's report, Dr. Alexander diagnosed right shoulder rotator cuff osseous abnormality and right proximal biceps tendon pain secondary to tendinitis. He checked a box marked "yes," noting that the injury occurred while appellant was on duty. The Board has held that a physician's opinion that consists of checking a box on a form report is of diminished probative value in establishing causal relationship.<sup>9</sup> No rationale or explanation was provided by Dr. Alexander on the issue of causal relationship.<sup>10</sup>

In another report also dated August 12, 2014, Dr. Alexander diagnosed right shoulder rotator cuff tendinitis with mild impingement and noted that appellant had right shoulder pain "for some time, for about eight days, progressively getting worse." He found full passive and active motion to the bilateral shoulders with 5/5 strength. There was no tenderness about the right AC joint and appellant had mild-to-moderate tenderness over the right proximal biceps tendon. X-rays of the right shoulder taken in the office that day showed no significant osseous abnormality. Dr. Alexander reported that appellant was "pain free."

An October 7, 2014 examination of appellant's right shoulder revealed full active range of motion in forward elevation and abduction. Hawkins' testing was negative and Dr. Alexander found that appellant was neurovascularly intact distally.

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<sup>7</sup> See *O.W.*, *supra* note 5.

<sup>8</sup> See *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

<sup>9</sup> See *Calvin E. King*, 51 ECAB 394 (2000).

<sup>10</sup> See *Sedi L. Graham*, 57 ECAB 494 (2006).

In reports dated February 10 and March 24, 2015, Dr. Alexander found that examination of appellant's right shoulder revealed mild tenderness to palpation over the AC joint and full range of motion but with some discomfort and a positive Hawkins' sign. On December 30, 2014 he opined that appellant's right shoulder condition was causally related to the repetitive reaching that he performed at his job. However, Dr. Alexander failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as twisting, bending, lifting, and reaching with the right arm, caused or aggravated his right shoulder condition. He noted that appellant's condition occurred while he was at work, but such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how his physical activity at work actually caused or aggravated the diagnosed conditions.<sup>11</sup> The Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between his condition and his employment factors.<sup>12</sup> Dr. Alexander failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as twisting, bending, lifting, and reaching with the right arm, caused or aggravated his right shoulder condition. Thus, the Board finds that Dr. Alexander's reports are insufficiently rationalized to establish that appellant's condition was caused or aggravated by factors of his federal employment.

In his October 2, 2014 narrative statement, appellant alleged that he sustained an employment-related right shoulder injury on May 12, 2004 while reaching out to grab the handle of a mailbox and pulling it open and another employment-related right shoulder injury on April 17, 2007 while repeatedly reaching longer distances to insert mail into mailboxes due to a snow storm. The Board finds, however, that OWCP has not previously accepted a right shoulder condition in appellant's case.

In support of his claim, appellant submitted physical therapy notes dated August 14 through October 1, 2014. Physical therapists are not considered "physicians" under FECA.<sup>13</sup> This evidence thus does not constitute competent medical evidence as it does not contain rationale by a physician relating his disability to his employment.

As appellant has not submitted any rationalized medical evidence to support his allegation that he sustained an injury causally related to the accepted employment factors, he failed to meet his burden of proof to establish a claim.

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.

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<sup>11</sup> See *K.W.*, Docket No. 10-98 (issued September 10, 2010).

<sup>12</sup> See *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>13</sup> See 5 U.S.C. § 8101(2). Section 8101(2) of FECA provides as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." See also *Paul Foster*, 56 ECAB 208, 212 n.12 (2004).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that he developed a right shoulder condition in the performance of duty causally related to factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 19, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 11, 2016  
Washington, DC

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

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

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