

work that was improperly administered. She claimed that her left shoulder and arm ached, her left hand was numb, and she was unable to move her arm above her head or behind her back. The employing establishment indicated that appellant left her duty area to receive an optional flu shot provided by an onsite medical facility. No evidence was received with the Form CA-1.

By letter dated February 2, 2015, OWCP advised appellant of the deficiencies in her claim and requested additional factual and medical evidence, including: (1) evidence that she actually experienced the incident or employment factors alleged to have caused the injury; (2) a medical diagnosis that could have reasonably resulted from the injury; (3) evidence that she was injured in the performance of her employment duties; and (4) a detailed narrative report from her physician which included a history of the injury and a medical explanation with objective evidence of how the reported work incident caused or aggravated the claimed conditions. Appellant was afforded 30 days to submit such evidence.

In a February 23, 2015 statement, appellant explained that she received the flu shot at her worksite, while on the clock, from a nurse at the employing establishment medical facility. She indicated that her arm began to bother her a couple hours after the shot was administered and that she had no previous problems with her arm prior to the administration of the shot. Appellant contended that the shot was administered too high on her arm. She indicated that, while she was not required to take the flu shot, her employing establishment encouraged all employees to do so.

In a November 15, 2014 report, a certified physician assistant noted that appellant received a flu shot two weeks prior and still had a sore arm with pain going down toward hand. Appellant was diagnosed with tendinitis and shoulder pain of unknown cause.

In a February 12, 2015 e-mail to appellant, Dr. Michael Atta, a Board-certified internist, indicated that he saw appellant in the Bettis Medical clinic on November 13, 2014 with a complaint of left shoulder pain, which she related to beginning within hours of having received an influenza vaccination during a voluntary workplace program on October 28, 2014. Dr. Atta diagnosed left intradeltoid hematoma possibly due to the influenza injection. He recommended that appellant see her primary care physician.

In a February 13, 2015 report, Dr. Gregory L. Hung, a Board-certified orthopedic surgeon, indicated that appellant received an influenza vaccination in her left shoulder on October 28, 2014 and subsequently developed pain in her left shoulder, which became associated with progressive loss of motion in the shoulder. He noted her medical care and presented examination findings. Adhesive capsulitis of left shoulder was diagnosed.

In a February 23, 2015 report, an unknown provider from Family Practice Forrest Hills, indicated that appellant presented on December 5, 2014 complaining of left arm and left shoulder pain from a flu shot on October 28, 2014. Appellant's treatment was summarized. It was noted that a January 30, 2015 x-ray of the left shoulder showed calcific tendinitis.

A December 11, 2014 physical therapy note was also provided.

By decision dated March 4, 2015, OWCP denied the claim, as the medical component of fact of injury had not been established. It found that the evidence of record was insufficient to establish a diagnosis causally connected to the work event.

On April 7, 2015 OWCP received appellant's request for a review of the written record by an OWCP hearing representative.

In an April 1, 2015 letter, appellant expressed her belief that her left shoulder problems were caused by the flu shot being administered too high on her arm.

In a March 23, 2015 e-mail to the office of Dr. Radhika Kotha, a family practitioner, appellant asked that the physician confirm that her injured arm was caused by the flu shot. An unidentified representative of Dr. Kotha's office replied that instead of seeing a physiatrist, appellant should see an orthopedic surgeon, and that perhaps she may need a magnetic resonance imaging scan of her shoulder. In a March 27, 2015 e-mail, Dr. Kotha's office representative noted, that they agreed in relevant part, that appellant's problem started after vaccination.

In an April 21, 2015 report, Dr. Christopher A. Radkowski, a Board-certified orthopedic surgeon, noted appellant's complaints and presented examination findings. He diagnosed possible tear of the left rotator cuff.

By decision dated September 25, 2015, an OWCP hearing representative affirmed OWCP's March 4, 2015 decision. It found that there was no diagnosed medical condition causally related to the 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, 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.² 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.³

In order to determine whether an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered conjunctively. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident that is alleged to have occurred.⁴ An employee has not met his or her burden of proof in establishing the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim.⁵

² *Joe D. Cameron*, 41 ECAB 153 (1989).

³ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁴ *Gary J. Watling*, 52 ECAB 278 (2001).

⁵ *S.N.*, Docket No. 12-1222 (issued August 23, 2013); *Tia L. Love*, 40 ECAB 586, 590 (1989).

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.⁶

The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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.⁷ Neither the 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 causal relationship.⁸

ANALYSIS

Appellant alleged that she sustained injuries to her left shoulder, arm, and hand after receiving a flu shot as part of a voluntary program while in the performance of duty. OWCP accepted that she sustained an employment incident on October 28, 2014. It found, however, that appellant had failed to submit sufficient medical evidence to establish causal relationship between her employment incident on October 28, 2014 and a diagnosed medical condition.

Appellant has described her employment incident of October 28, 2014 as having a flu shot administered too high on her left arm, which resulted in several left shoulder conditions. Dr. Kotha, in his March 27, 2015 e-mail, agreed that appellant's left shoulder problems started after the vaccination. She, however, failed to diagnose any medical condition related to the flu shot or provide any explanation as to what problems started after the vaccination.

Dr. Atta diagnosed left intradeltoid hematoma, which he opined was possibly due to receiving the flu shot. His opinion on causal relationship is speculative. The Board has held that medical opinions which are speculative or equivocal are of diminished probative value.⁹ Dr. Atta did not provide adequate medical rationale explaining the nature of the relationship between appellant's current shoulder condition and the employment incident.¹⁰ Thus, his report is insufficient to establish her claim.

⁶ *Deborah L. Beatty*, 54 ECAB 340 (2003).

⁷ *Solomon Polen*, 51 ECAB 341 (2000).

⁸ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

⁹ *See S.E.*, Docket No. 08-2214 (issued May 6, 2009) (the Board has generally held that opinions such as the condition is probably related, most likely related, or could be related are speculative and diminish the probative value of the medical opinion); *Cecilia M. Corley*, 56 ECAB 662 (2005) (medical opinions which are speculative or equivocal are of diminished probative value).

¹⁰ *Robert Broome*, 55 ECAB 339 (2004).

Dr. Hung diagnosed adhesive capsulitis of left shoulder and Dr. Radkowski diagnosed possible tear of the left rotator cuff. However, neither physician provided a medical opinion as to how the reported work incident caused or aggravated a medical condition. The Board has held that medical evidence which 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 A medical opinion is especially needed in the case as a January 30, 2015 x-ray of appellant's left shoulder indicates calcific deposits in the shoulder. Thus, these reports are insufficient to establish her claim.

Also of record are a November 15, 2015 report from a physician assistant and a physical therapy report. However, physician assistants and physical therapists are not considered physicians under FECA and are not competent to render a medical opinion.¹²

Causal relationship is a medical question that must be established by probative medical opinion from a physician.¹³ In this case, the Board finds that none of the medical evidence appellant submitted constitutes rationalized medical evidence, based upon a specific and accurate history of employment conditions, which are alleged to have caused or exacerbated a medical condition.¹⁴ Accordingly, the Board finds that OWCP properly denied her claim because she has not established a causal relationship between the work incident and her diagnosed conditions.

On appeal, appellant asserts that her arm was fine before she received the flu shot and someone should take responsibility as a mistake was made when it was administered. However, as discussed above, OWCP properly found that she had not established a causal relationship between the October 28, 2014 work incident and any diagnosed conditions. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.¹⁵ An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.¹⁶

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 an injury on October 28, 2014.

¹¹ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

¹² *G.G.*, 58 ECAB 389 (2007). *See* 5 U.S.C. § 8101(2).

¹³ *W.W.*, Docket No. 09-1619 (issued June 2010); *David Apgar*, 57 ECAB 137 (2005).

¹⁴ *Patricia J. Bolleter*, 40 ECAB 373 (1988).

¹⁵ *Daniel O. Vasquez*, 57 ECAB 559 (2006).

¹⁶ *S.S.*, 59 ECAB 315 (2008); *D.I.*, 59 ECAB 158 (2007).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 25, 2015 is affirmed.

Issued: October 20, 2016
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board