

became aware of her condition and its relation to her federal employment on April 4, 2016. Appellant did not stop work.

Appellant submitted an x-ray report dated March 28, 2016 from Dr. Thomas W. MacLennan, a Board-certified diagnostic radiologist, diagnosing mild osteoarthritis in the left acromioclavicular joint.

In a letter dated April 7, 2016, OWCP requested additional factual and medical evidence in support of appellant's occupational disease claim and provided a factual development questionnaire. It advised her that she had not submitted evidence establishing a diagnosis of any condition resulting from an employment activity. OWCP afforded appellant 30 days to respond. Appellant provided her response to OWCP's factual development questionnaire on May 1, 2016.

In a note dated June 6, 2016, Dr. Vinay K. Buttan, a Board-certified internist, provided, "Patient's problems in [left] shoulder could be work related."

Dr. MacLennan performed a magnetic resonance imaging (MRI) scan of appellant's left shoulder on June 4, 2016. He noted that appellant had complained of left shoulder pain for six months and that she could not reach backwards with her arm extended. Dr. MacLennan diagnosed small anterior superior labral tears and moderate rotator cuff tendinosis.

By decision dated June 9, 2016, OWCP denied appellant's occupational disease claim finding that she had not submitted medical evidence supporting that her left shoulder condition was causally related to her accepted employment factors. It found that she had not submitted medical evidence containing a medical diagnosis in connection with the employment factors.

On June 20, 2016 appellant requested an oral hearing from OWCP's Branch of Hearings and Review. In a letter dated January 1, 2017, the Branch of Hearings and Review notified appellant that her telephonic oral hearing was scheduled for February 14, 2017 at 2:15 p.m. Eastern Standard Time. Appellant telephoned OWCP on February 15, 2016 noting that she had missed the scheduled oral hearing. She agreed instead to a review of the written record by an OWCP hearing representative. In a letter dated February 15, 2017, the Branch of Hearings and Review noted that appellant failed to appear for the oral hearing and that she had accepted a review of the written record. It afforded appellant 30 days to submit additional evidence.

In a letter dated February 21, 2017, appellant requested that OWCP's hearing representative accept her claim and noted her repetitive employment duties of carrying heavy items. She asserted that doctors would not opine that her condition was work related.

By decision dated April 21, 2017, OWCP's hearing representative affirmed the June 9, 2016 denial of appellant's claim finding that there was no medical evidence of record which provided a diagnosis that could be causally connected to appellant's employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, 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, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³

OWCP’s regulations define an occupational disease as “a condition produced by the work environment over a period longer than a single workday or shift.”⁴ To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁵

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁶ Medical rationale includes a physician’s detailed opinion on the issue of whether there is causal relationship between the claimant’s diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, 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 specific employment activity or factors identified by the claimant.⁷ The belief of a claimant that a condition was caused or aggravated by the employment is insufficient to establish causal relation.⁸

ANALYSIS

The Board finds that appellant has failed to meet her burden of proof to establish an injury causally related to factors of her federal employment.

² *Supra* note 1.

³ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

⁴ 20 C.F.R. § 10.5(q).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989); *see also J.H.*, Docket No. 16-1329 (issued June 23, 2017).

⁶ *T.F.*, 58 ECAB 128 (2006).

⁷ *A.D.*, 58 ECAB 149 (2006).

⁸ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

Appellant filed an occupational disease claim alleging that she developed osteoarthritis of her left shoulder due to her repetitive employment duties of heavy lifting, pushing, pulling, loading, and driving. She submitted limited medical evidence in support of her claim. Dr. MacLennan provided x-rays of her left shoulder as well as a left shoulder MRI scan and diagnosed left shoulder osteoarthritis and moderate rotator cuff tendinosis with small anterior superior labral tears. He did not discuss the relationship between appellant's diagnosed conditions and her employment. As Dr. MacLennan did not provide an opinion on the cause of appellant's condition, these reports are insufficient to establish causal relationship.⁹

The Board has held that the fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.¹⁰ An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated, or aggravated by her employment is sufficient to establish causal relationship.¹¹ To establish an occupational disease claim, appellant must submit a physician's report that discusses the accepted employment factors and opines that there is a causal relationship between her diagnosed condition and her employment.

Appellant also submitted a brief note from Dr. Buttan who opined that appellant's problems in the left shoulder could be work related. Dr. Buttan did not provide a clear diagnosis of appellant's left shoulder problem. Without a diagnosis, this report cannot establish appellant's occupational disease claim.¹² Dr. Buttan also failed to provide an opinion with a reasonable degree of medical certainty, but rather his opinion is speculative in nature and cannot establish causal relationship.¹³

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 failed to meet her burden of proof to establish an injury causally related to factors of her federal employment.

⁹ *D.R.*, Docket No. 16-0528 (issued August 24, 2016).

¹⁰ *D.W.*, Docket No. 16-0639 (issued August 5, 2016); *L.D.*, Docket No. 09-1503 (issued April 15, 2010); *D.I.*, 59 ECAB 158 (2007); *Daniel O. Vasquez*, 57 ECAB 559 (2006).

¹¹ *D.W.*, *id.*; *D.U.*, Docket No. 10-144 (issued July 27, 2010) *Robert Broome*, 55 ECAB 339 (2004); *Anna C. Leanza*, 48 ECAB 115 (1996).

¹² *D.M.*, Docket No. 16-0346 (issued June 15, 2017).

¹³ *Supra* note 8.

ORDER

IT IS HEREBY ORDERED THAT the April 21, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 24, 2017
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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