

FACTUAL HISTORY

On February 28, 2016 appellant, a 48-year-old mail handler, filed an occupational disease claim (Form CA-2), alleging that he developed “a spontaneous worsening of condition affecting neck, back, both shoulders, arms, knees, and right wrist.” He indicated that he first became aware of the condition on April 6, 2015, and related it to his federal employment on May 8, 2015. Appellant stopped work on May 7, 2015.

In a February 28, 2016 narrative statement, appellant indicated that he had an open occupational disease claim for a right shoulder condition under OWCP File No. xxxxxx648.³ He further indicated that he originally submitted a notice of recurrence (Form CA-2a) in May 2015, but when he submitted the form to his manager he was told that it was not appropriate for the situation and was advised to fill out an occupational disease claim (Form CA-2) instead.

Appellant submitted an April 8, 2015 report from his chiropractor and diagnostic reports dated March 10, 2011 through January 4, 2016, including an April 5, 2011 magnetic resonance imaging (MRI) scan revealing a ganglion cyst on his right wrist.

In reports dated February 14 through April 14, 2011, Dr. Ludwig Licciardi, a Board-certified orthopedic surgeon, diagnosed right wrist ganglion cyst, right shoulder labral tear and anterior impingement, traumatically-induced chondromalacia of the left knee, and right knee suspicious for torn medial meniscus. He opined that appellant’s conditions were causally related to pushing carts weighing up to 200 pounds onto a ramp and into the back of a truck in the course of his federal employment.

On January 4, 2016 Dr. Placido Menezes, an orthopedic surgeon, diagnosed traumatic (cervical) degenerative discs with radiculopathy and traumatic degenerative changes of the right acromioclavicular (AC) joint with adhesive capsulitis. He opined that appellant’s conditions were the direct result of a work injury dated May 7, 2015. Dr. Menezes asserted that appellant had been under his care since May 8, 2015 after he sustained an injury to his cervical spine and right shoulder at work due to repetitive lifting and moving mail trays weighing up to 70 pounds each.

In an April 6, 2016 letter, OWCP advised appellant of the deficiencies of his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

Subsequently, appellant submitted reports dated January 7 through April 14, 2016 from Dr. William J. Lackey, a Board-certified orthopedic surgeon, who diagnosed multi-level disc bulge protrusions with some resultant bilateral neural foraminal and central stenosis at C4-7, degenerative disc disease with resultant moderate central and bilateral neural foraminal central stenosis at L4-5, and right shoulder adhesive capsulitis. Dr. Lackey opined that appellant had increasing symptomology and pain within his right shoulder and cervical spine and had been suffering from lumbar symptomology exacerbated by repetitive and overhead activities, particularly those noted within the right shoulder. He found that appellant continued to suffer

³ The claim was accepted for aggravation of right shoulder tendinitis, which arose on or about December 10, 2010.

from cervical neck pain with restricted range of motion, muscle spasms, and radicular pains into the bilateral upper extremities, right shoulder pain with restricted range of motion, low back pain with muscle spasms, restricted range of motion, and radicular symptoms into the bilateral lower extremities. Dr. Lackey asserted that these symptoms had been “present for approximately five to seven years but ha[d] been increasing in intensity and frequency of recently even up until April.” He opined that appellant was totally disabled for work. In a February 4, 2016 report, Dr. Lackey asserted that appellant first began to develop increasing intensification of his symptomatology after “spontaneously worsening of his condition on April 7, 2015.” In an April 4, 2016 report, he advised that appellant was totally disabled. In an April 14, 2016 follow-up report, Dr. Lackey noted that appellant presented status post a spontaneous worsening of his condition on April 7, 2015. Physical examination revealed right shoulder labral tears with anterior impingement and rotator cuff calcific tendinitis with impingement. Dr. Lackey stated that these were a direct result of appellant’s work-related activities, including repetitive heavy lifting, handling heavy buckets, trays, parcels of mail, and equipment below the knee and above shoulder level, as well as overhead reaching.

In a May 4, 2016 report, Dr. Alexandros Zouzias, appellant’s neurosurgeon, diagnosed cervical spondylosis and severe radiculopathy. He asserted that appellant had complained of cervical and lower back pain with radiation to his upper and lower extremities for a period of years and since May 2015 the pain had become completely intolerable and impacted his ability to function.

By decision dated June 10, 2016, OWCP accepted appellant’s claim for right wrist ganglion cyst.

In a July 14, 2016 report, Dr. Lackey reiterated his opinion that appellant presented with a spontaneously worsening of his condition on April 7, 2015 and continued to suffer from persistent symptomatology.

By decision dated July 29, 2016, OWCP found that the medical evidence of record was insufficient to establish a causal relationship between appellant’s right shoulder, neck, and back conditions and factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing 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 injury⁴ 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.⁵

⁴ 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).

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

To establish that an injury was sustained in the performance of duty in an occupational disease claim, 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 claim; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue.⁷ A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background.⁸ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁹

ANALYSIS

OWCP accepted appellant's occupational disease claim for right wrist ganglion cyst. However, it declined to expand the claim to include additional diagnosed conditions affecting his right shoulder, and cervical and lumbar spine. The Board finds that appellant has not met his burden of proof to establish that the additional diagnosed conditions were causally related to the accepted employment exposure. Appellant identified the factors of employment that he believed caused his conditions, including repetitive lifting, pushing, and overhead activities at work, which OWCP accepted as factual. However, he must also submit rationalized medical evidence which explains how his medical conditions were caused or aggravated by the implicated employment factors.¹⁰

Dr. Zouzias diagnosed cervical spondylosis and severe radiculopathy and asserted that appellant had complained of cervical and lower back pain with radiation to his upper and lower extremities for a period of years and since May 2015. Nevertheless, the Board has held that 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 Consequently, Dr. Zouzias' report is insufficient to satisfy appellant's burden of proof with respect to causal relationship.

In his reports, Dr. Licciardi diagnosed right shoulder labral tear and anterior impingement, traumatically-induced chondromalacia of the left knee, and right knee suspicious for torn medial meniscus. He opined that appellant's conditions were causally related to pushing

⁶ See *D.R.*, Docket No. 09-1723 (issued May 20, 2010).

⁷ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ *Id.*

¹⁰ See *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

¹¹ See *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

carts weighing up to 200 pounds onto a ramp and into the back of a truck in the course of his federal employment. Dr. Licciardi noted that appellant's conditions 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.¹² Thus, the Board finds that Dr. Licciardi's reports are insufficient to establish appellant's claim.

On January 4, 2016 Dr. Menezes diagnosed traumatic (cervical) degenerative discs with radiculopathy and traumatic degenerative changes of the right AC joint with adhesive capsulitis. He opined that appellant's conditions were the direct result of a work injury dated May 7, 2015 when he sustained an injury to his cervical spine and right shoulder at work due to repetitive lifting and moving mail trays weighing up to 70 pounds each. As noted above, although Dr. Menezes noted that appellant's conditions occurred while he was at work, 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.¹³ Thus, the Board finds that Dr. Menezes' reports are insufficient to establish causal relationship.

Dr. Lackey diagnosed multi-level disc bulge protrusions with some resultant bilateral neural foraminal and central stenosis at C4-7, degenerative disc disease with resultant moderate central and bilateral neural foraminal central stenosis at L4-5, and right shoulder adhesive capsulitis. He opined that appellant had increasing symptomology and pain within his right shoulder and cervical spine and had been suffering from lumbar symptomology exacerbated by repetitive and overhead activities, particularly those noted within the right shoulder. Dr. Lackey asserted that appellant first began to develop increasing intensification of his symptomatology after a spontaneous worsening of his condition on April 7, 2015, and continued to suffer from persistent symptomatology. He indicated that appellant's symptoms had been "present for approximately five to seven years but [had] been increasing in intensity and frequency of recently even up until April" and opined that appellant was totally disabled for work. Dr. Lackey noted that appellant's cervical, lumbar, and right shoulder conditions were aggravated while 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 condition.¹⁴

Dr. Lackey failed to provide sufficient medical rationale explaining how appellant's conditions were caused or aggravated by repetitive lifting, pushing, and overhead activities at work. His opinion was based, in part, on temporal correlation. However, the Board has held that neither the mere 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 a causal relationship.¹⁵ Dr. Lackey did not otherwise

¹² See *K.W.*, Docket No. 10-98 (issued September 10, 2010).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

sufficiently explain the reasons why diagnostic testing and examination findings led him to conclude that appellant's employment factors caused or contributed to the diagnosed condition. Thus, the Board finds that the reports from Dr. Lackey are insufficient to establish that appellant sustained an employment-related injury.

Appellant has not submitted any rationalized medical evidence to support that his diagnosed cervical, lumbar, and right shoulder conditions are causally related to his accepted employment exposure, and as such, he has failed to meet his burden of proof.

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 10.607.¹⁶

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish cervical, lumbar, and right shoulder conditions causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the July 29, 2016 decision of the Office of Workers' Compensation Programs is affirmed.¹⁷

Issued: December 22, 2017
Washington, DC

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

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

¹⁶ The Board notes that appellant has the option to file a recurrence claim (Form CA-2a) under OWCP File No. xxxxxx648.

¹⁷ Colleen Duffy Kiko, Judge, participated in the preparation of this decision, but was no longer a member of the Board effective December 11, 2017.