



## ISSUE

The issue is whether appellant has established a traumatic injury causally related to an accepted work incident.

## FACTUAL HISTORY

On October 14, 2014 appellant, then a 64-year-old telecommunications mechanic, filed a traumatic injury claim (Form CA-1) alleging that on October 3, 2014 he injured his neck, back, ribs, and left shoulder in the performance of duty. The form provided that he was “pulling a fiber optic cable through a conduit that was approx[imately] 1800 [feet] long. A flat rope rated at 6,000 [pounds] tensile strength was attached to the fiber cable to pull it through. The rope broke snagging his hand/arm and jerking/yanking violently.”

In a report dated October 27, 2014, Dr. Daniel G. DiChristina, a Board-certified orthopedic surgeon, obtained a history of appellant injuring his cervical spine at work on October 3, 2014 when he “noted [a] significant amount of tension across his left arm resulting in a point sensation to his left arm and to his cervical spine.”<sup>3</sup> Appellant had a history of a left rotator cuff repair. On examination, Dr. DiChristina found a positive impingement sign on the left and pain on palpation of the trapezius. He diagnosed cervical sprain/strain, underlying degenerative disease, and left shoulder sprain/strain following a prior rotator cuff repair. Dr. DiChristina interpreted x-rays of the cervical spine, obtained on October 27, 2014, as showing degenerative disc disease from C3-C7 and x-rays of the left shoulder as showing mild degenerative disc disease and the site of the distal clavicle excision. In a disability certificate, he opined that appellant was unable to work until November 27, 2014.

On November 25, 2014 Dr. DiChristina evaluated appellant for left shoulder and neck pain. He diagnosed osteoarthritis of the cervical spine and a lesion of the superior glenoid labrum. Dr. DiChristina opined that the “incident [he] described is the competent medical cause of this injury/illness” and that his complaints were also consistent with the examination findings and history of injury. He found that appellant was temporarily totally disabled and recommended magnetic resonance imaging (MRI) scans of the cervical spine and left shoulder.

OWCP, by letter dated December 5, 2014, advised appellant that it had originally paid a limited amount of medical expenses as his claim appeared minor and was uncontroverted. It was now formally adjudicating his claim. OWCP requested that appellant submit additional factual and medical information, including a detailed report from his attending physician addressing the causal relationship between any diagnosed condition and the identified work incident.

By decision dated January 12, 2015, OWCP denied appellant’s claim as the medical evidence of record was insufficient to establish a diagnosed condition causally related to the October 3, 2014 work incident. It found that he had failed to submit medical evidence

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<sup>3</sup> On November 4, 2014 appellant submitted the first page of an authorization for examination and/or treatment (Form CA-16). The form provided a history of appellant sustaining an injury after string breaking while pulling fiber optic cable.

explaining how the October 3, 2014 employment incident caused either osteoarthritis of the cervical spine, a superior glenoid labrum lesion, or rotator cuff syndrome.

In a statement dated December 13, 2014, received by OWCP on January 12, 2015, appellant described the October 3, 2014 work incident.<sup>4</sup> He noted that a line extending from a motor vehicle was pulling mule tape with tensile strength of around 2,000 pounds. Appellant advised that the line snapped and caught his hand jerking him backwards and spinning him around. He did not have a prior neck injury but had a shoulder repair in 2013. Appellant's supervisor drove him to seek medical treatment. He submitted witness statements corroborating the occurrence of the October 3, 2014 employment incident.

Dr. DiChristina, in a progress report dated March 27, 2015, noted that workers' compensation had denied appellant's claim. He related that appellant had "suffered an injury to his neck and left shoulder on the date of October 3, 2014 when a line jerked through his hand and pulled his left shoulder into significant extension and twisted his cervical spine." Dr. DiChristina provided examination findings and diagnosed cervical sprain/strain with underlying degenerative disc disease and left shoulder sprain causing rotator cuff tendinitis. He related, "[Appellant] is advised that in my opinion, the injury he sustained on the job on October 3, 2014 is the cause of the result and pathology exhibits of the cervical spine and his left shoulder" and should be covered by workers' compensation. Dr. DiChristina found that he could work but had continued impairment of the spine and left shoulder. On April 27, 2015 he advised that appellant was disabled from work indefinitely.

Appellant, on May 12, 2015, requested reconsideration. He submitted an undated authorization for examination and/or treatment (Form CA-16). The form provided a history of a string breaking, causing appellant to fall awkwardly on October 3, 2014. Dr. Thaddeus M. Pajak, an osteopath, obtained a history of a whiplash injury from a cord under tensile strength. He diagnosed brachial plexitis and checked a box marked "yes" that the condition was caused or aggravated by the described employment activity. Dr. Pajak determined that appellant could perform modified work.

By decision dated July 14, 2015, OWCP denied modification of its January 12, 2015 decision. It found that appellant had not provided a reasoned opinion regarding how the accepted work incident caused or aggravated the diagnosed conditions.

In a report dated July 27, 2015, Dr. DiChristina evaluated appellant for occasional left shoulder pain and mild neck pain. He diagnosed cervical sprain, osteoarthritis of the cervical spine, and rotator cuff syndrome. Dr. DiChristina related that the incident appellant described caused the injury. On August 6, 2015 he found that appellant could resume modified employment.

On January 26, 2016 counsel again requested reconsideration.

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<sup>4</sup> An October 6, 2014 clinic note from the employing establishment indicated that appellant was unable to work pending evaluation.

In a decision dated April 25, 2016, OWCP denied appellant's request for reconsideration as he failed to raise an argument or submitted evidence sufficient to warrant reopening his case for further review of the merits under 5 U.S.C. § 8128(a).

On May 2, 2016 appellant, through counsel, again requested reconsideration. He submitted an operative report indicating that on February 17, 2015 Dr. John B. Savage, a Board-certified orthopedic surgeon, performed a rotator cuff repair.

Dr. Savage on a March 2, 2016 return to work form noted that appellant sustained an injury at work in October 2014 and found that he was totally disabled from work.

In a decision dated July 15, 2016, OWCP denied modification of its April 25, 2016 decision.

### **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.<sup>5</sup> 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.<sup>6</sup>

To determine whether an employee sustained a traumatic injury in the performance of duty, OWCP must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place, and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence.<sup>7</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed.<sup>8</sup> An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.<sup>9</sup>

### **ANALYSIS**

Appellant alleged that he injured his neck, back, ribs, and left shoulder on October 3, 2014 when a rope pulling a fiber optic cable broke, yanking back his hand and arm. He has

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<sup>5</sup> *Alvin V. Gadd*, 57 ECAB 172 (2005); *Anthony P. Silva*, 55 ECAB 179 (2003).

<sup>6</sup> *See Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>7</sup> *David Apgar*, 57 ECAB 137 (2005); *Delphyne L. Glover*, 51 ECAB 146 (1999).

<sup>8</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

<sup>9</sup> *Id.*

established that the employment incident occurred at the time, place, and in the manner alleged. The issue, consequently, is whether the medical evidence establishes that he sustained an injury as a result of this incident.

The Board finds that appellant has not met his burden of proof to establish that the October 3, 2014 work incident resulted in an injury. The determination of whether an employment incident caused an injury is generally established by medical evidence.<sup>10</sup>

In a March 27, 2015 report, Dr. DiChristina provided a history of appellant sustaining a left shoulder and neck injury on October 3, 2014 when a line jerked through his hand, pulling his left shoulder, and twisting his neck. He diagnosed cervical sprain/strain with underlying degenerative disc disease and left shoulder sprain causing rotator cuff tendinitis. Dr. DiChristina attributed the diagnosed conditions to the October 3, 2014 employment incident. On July 27, 2015 he diagnosed cervical sprain, cervical osteoarthritis, and rotator cuff syndrome. He opined that the work incident related by appellant caused the injury and was consistent with the findings on examination. Dr. DiChristina did not, however, support his causation finding with medical rationale explaining how the accepted work incident caused or aggravated the diagnosed conditions. Medical reports without rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.<sup>11</sup>

On October 27, 2014 Dr. DiChristina discussed appellant's history of an injury to his neck on October 3, 2014 when he experienced tension in his left arm. He reported findings and diagnosed cervical strain, underlying degenerative disc disease, and left shoulder sprain/strain after a previous rotator cuff repair. Dr. DiChristina on November 25, 2014 discussed appellant's continued complaints of neck and left shoulder pain. He diagnosed cervical osteoarthritis and a superior glenoid labrum lesion. Dr. DiChristina opined that appellant was disabled from employment. However, he did not provide a full description of the October 3, 2014 work incident or specifically attribute a diagnosed condition to the incident. 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>12</sup>

In a form report dated October 3, 2014, Dr. Pajak noted that appellant experienced a whiplash injury from a cord under tensile strength. He diagnosed brachial plexitis and indicated by checkmark that the condition resulted from the identified work factor. Dr. Pajak found that appellant could work with restrictions. When a physician's opinion on causal relationship consists only of checking "yes" to a form question without providing medical rationale explaining how the work condition caused the alleged injury, it is of little probative value and insufficient to establish causal relationship.<sup>13</sup>

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<sup>10</sup> See *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

<sup>11</sup> See *D.S.*, Docket No. 15-0821 (issued July 2, 2015); *Calvin E. King, Jr.*, 51 ECAB 394 (2000).

<sup>12</sup> See *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Conard Hightower*, 54 ECAB 796 (2003).

<sup>13</sup> See *H.H.*, Docket No. 16-0897 (issued September 21, 2016); *Gary J. Watling*, 52 ECAB 278 (2001).

On February 17, 2015 Dr. Savage performed a rotator cuff repair. In a progress report dated March 2, 2016, he indicated on a disability form that appellant sustained an injury on October 6, 2014 at work and was disabled from employment. Dr. Savage did not describe the history of injury, provide a diagnosis, or support his findings with rationale. In the absence of rationale, his opinion is of diminished probative value.<sup>14</sup>

The Board finds, for the reasons set forth above, that appellant failed to meet his burden of proof.<sup>15</sup>

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 and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not established a traumatic injury causally related to an accepted October 3, 2014 work incident.

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<sup>14</sup> See *E.G.*, Docket No. 16-0242 (issued October 14, 2016).

<sup>15</sup> Where, as in this case, an employing establishment properly executes a Form CA-16, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See *Tracy P. Spillane*, 54 ECAB 608 (2003). The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. See 20 C.F.R. § 10.300(c).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 15, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 21, 2017  
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