

FACTUAL HISTORY

On May 4, 2016 appellant, then a 44-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that earlier that day, she sustained a right shoulder and cervical spine strain while pushing a patient on a gurney. She stopped work that day.

In a May 11, 2016 letter, OWCP advised appellant of the evidence needed to establish her claim, including medical evidence diagnosing an injury related to the May 4, 2016 incident, and a report from her physician explaining how and why that incident would cause the claimed injuries. It afforded appellant 30 days to submit such evidence.

A supervisor provided a May 4, 2016 statement noting that appellant reported a “right shoulder spasm” to her that morning.

In a May 16, 2016 letter, the employing establishment controverted the claim, noting that she had claimed a November 19, 2015 right shoulder injury under a separate file, denied by OWCP on January 28, 2016.

Dr. Eugene A. Eline, an attending osteopathic physician Board-certified in orthopedic surgery, provided a June 7, 2016 narrative report. He noted treating appellant for a November 29, 2015 shoulder and neck injury sustained while performing a dressing change on a bedbound patient. Dr. Eline opined that the May 4, 2016 incident was a “reinjury to the neck and right shoulder.” On examination, he noted severe causal and thoracic spinal tenderness on the right, right trapezial tenderness, and decreased cervical range of motion, 4/5 weakness of the right deltoid and right biceps, right shoulder restrictions with impingement signs, a positive Spurling’s maneuver on the right, and hypersensitivity in the right C5-6 and C6-7 dermatomes. Dr. Eline obtained x-rays demonstrating degenerative disc disease at C5-6 with anterior osteophyte formation, and no abnormal findings of the right shoulder. He noted that a February 4, 2016 magnetic resonance imaging (MRI) scan showed disc degeneration at C5-6. Dr. Eline diagnosed cervical radiculopathy, cervical stenosis, right shoulder impingement, cervical spine pain, and thoracic spine pain, aggravated by the May 4, 2016 incident. He limited appellant to light duty, with no use of the right arm. Dr. Eline prescribed physical therapy.

Appellant accepted a light-duty job offer on June 3, 2016.

In a June 10, 2016 statement, a coworker recalled that on May 4, 2016 he saw appellant emerging from a diagnostic suite clutching her right shoulder. Appellant then related to him that she injured her shoulder while pushing a patient on a gurney that morning.

By decision dated June 23, 2016, OWCP denied the claim, finding that appellant had failed to submit sufficient medical evidence to establish causal relationship between the accepted May 4, 2016 work incident and the claimed right shoulder injury. It noted that Dr. Eline characterized the May 4, 2016 event as a reinjury or reactivation of a preexisting condition.

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.³ 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.⁴

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 she actually experienced the employment incident that is alleged to have occurred.⁵ 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.⁶ 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.⁷

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.⁸

ANALYSIS

Appellant claimed that she sustained right shoulder and cervical spine strains on May 4, 2016 while pushing a patient on a gurney. In support of her claim, appellant submitted supervisory and coworker statements affirming that the incident occurred as alleged. She also provided a May 31, 2016 report from Dr. Eline, an attending Board-certified orthopedic surgeon, diagnosing cervical radiculopathy, cervical stenosis, right shoulder impingement, cervical spine pain, and thoracic spine pain. Dr. Eline opined that the May 4, 2016 incident aggravated these conditions, which were caused by a claimed November 29, 2015 occupational incident.

OWCP accepted that the May 4, 2016 incident occurred at the time, place, and in the manner alleged, but denied the claim because of the lack of medical evidence supporting causal relationship. It found that Dr. Eline had not provided sufficient medical rationale explaining how and why the May 4, 2016 incident could have caused or aggravated the diagnosed conditions.

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Gary J. Watling*, 52 ECAB 278 (2001).

⁶ *S.N.*, Docket No. 12-1222 (issued August 23, 2013); *Tia L. Love*, 40 ECAB 586, 590 (1989).

⁷ *Deborah L. Beatty*, 54 ECAB 340 (2003).

⁸ *Solomon Polen*, 51 ECAB 341 (2000).

Dr. Eline mentioned the November 29, 2015 occupational incident, denied by OWCP, but did not explain how he was able to differentiate between the sequelae of the two events, nor did he provide medical rationale on the issue of causation. In the absence of such rationale, his opinion is of insufficient probative value to meet appellant's burden of proof.⁹

OWCP advised appellant on May 11, 2016 of the evidence needed to establish her claim, including her physician's rationalized opinion supporting causal relationship. As appellant failed to submit medical evidence diagnosing an injury related to the accepted incident, OWCP properly denied the claim.¹⁰

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 not established neck and right shoulder injuries causally related to the May 4, 2016 work incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 23, 2016 is affirmed.

Issued: January 5, 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

⁹ *Supra* note 7.

¹⁰ *Id.*