

ISSUE

The issue is whether appellant has met her burden of proof to establish that she developed an occupational disease causally related to factors of her federal employment.

FACTUAL HISTORY

On January 4, 2016 appellant, then a 61-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that on January 4, 2016 she first became aware that her right arm and shoulder pain was due to factors of her federal employment duties.³ In her accompanying statement, appellant noted that she performed repetitive movements with her right arm and shoulder while casing and pulling down mail on her route. She noted that she had worked at the employing establishment for 31 years. Appellant reported that she was currently performing limited duty, working only three hours a day, but continued to case and pull down her route.

Appellant submitted a report dated June 15, 2004 from Dr. Kathryn Raphael, a Board-certified internist. Dr. Raphael noted at the time of this report that appellant had worked as a letter carrier for more than 10 years. At that point, appellant attributed her right shoulder condition to an increased volume of mail on her new route. She asserted that she was carrying heavier buckets of mail weighing 10 to 25 pounds each. Dr. Raphael diagnosed right shoulder impingement resolved and mild chronic right shoulder pain of unclear etiology. She found that appellant was performing her full duties and had reached maximum medical improvement.

In a letter dated January 14, 2016, OWCP requested that appellant provide additional factual and medical evidence in support of her claim for a work-related right shoulder condition. It afforded her 30 days for a response.

Dr. Michael Hebrard, a Board-certified physiatrist, examined appellant on January 15, 2016. He diagnosed adhesive capsulitis of the right shoulder and incomplete rotator cuff tear of the left shoulder. Dr. Hebrard listed appellant's job duties as repetitive pushing, pulling, reaching, and lifting at and above shoulder level, grasping, fingering, and pinching repetitively, squatting, bending, standing, sitting, climbing, and stooping. He noted that she attributed her right shoulder condition to casing mail requiring the physical activities of reaching above and below shoulder level, grasping, pinching, and extending her shoulder. Appellant performed these activities for three hours a day, five days a week. Dr. Hebrard reviewed a May 27, 2015 magnetic resonance imaging (MRI) scan which demonstrated a torn supraspinatus tendon, split tears in the subscapularis and infraspinatus tendons, mild glenohumeral capsulitis, and acromioclavicular joint arthropathy. He opined that appellant's right shoulder was aggravated by the conditions of her employment. Dr. Hebrard explained that the physiologic

³ Appellant has filed several prior occupational disease claims and one prior traumatic injury with OWCP. These claims include: No. xxxxxx232, OWCP accepted for bilateral wrist conditions; No. xxxxxx433, OWCP accepted for a right knee condition; No. xxxxxx854 OWCP accepted for bilateral hip degenerative joint disease; No. xxxxxx583 OWCP accepted a left knee condition; No. xxxxxx230 in which OWCP accepted right shoulder impingement in 1993; and No. xxxxxx871 in which OWCP accepted internal derangement of adhesive capsulitis of the left shoulder in 2015. These other claims are not part of the present appeal.

mechanism of repetitive reaching at and above shoulder level led to repetitive exposure of impingement of the supraspinatus tendon which was located underneath the acromion. He further noted that repetitive reaching, pushing, and pulling at and above shoulder level led to chronic deterioration of the rotator cuff with microscopic tearing and a subsequent full tear of the supraspinatus tendon.

Appellant responded to OWCP's request for information on January 23, 2016 and described her job duties of repetitively sorting and casing letters and flats on both a straight case and a right wing case. She also noted that she was required to lift trays, buckets of letters, and flats. Appellant described pulling down her route as pulling, rubber banding, and placing items in the buckets for delivery. She asserted in 2015 her route was adjusted and increased resulting in increasing mail volume. Appellant noted that she had been working three hours a day since November 2012 and prior to November 2010 she was a full-time letter carrier. In regard to her previous right shoulder claim, she reported that she received no right shoulder treatment after June 15, 2004.

On January 15, 2016 Dr. Hebrard provided additional work restrictions for appellant's three-hour workday including no reaching overhead and no lifting or carrying more than 10 pounds. He completed a note on March 22, 2016 and described her casing activities as including 150 cases for three hours a day at 18 pieces of mail per minute. Dr. Hebrard calculated that appellant was repetitively reaching more than 500 times within her three-hour workday. He provided his findings on examination and diagnosed adhesive capsulitis of the right shoulder. Dr. Hebrard opined that appellant's diagnosed condition was causally related to her job duties.

By decision dated April 5, 2016, OWCP denied appellant's occupational disease claim finding that she had not submitted the necessary medical opinion evidence to establish that her right shoulder condition was due to her employment activities. It found that Dr. Hebrard's reports did not address her previous shoulder condition and had little probative value.

Counsel requested an oral hearing with OWCP's Branch of Hearings and Review on April 15, 2016. Appellant testified at the oral hearing, before an OWCP hearing representative, on November 30, 2016. She described her activities while casing mail as constantly placing pieces of mail in the appropriate slot. Appellant alleged that she cased between 800 and 1,000 pieces of mail every work morning. She noted that she was restricted to sitting due to her previously accepted hip claim. Appellant continued to work three hours a day. She received compensation for the remaining five hours under an accepted right knee claim.

Following the oral hearing, appellant submitted the May 27, 2015 right shoulder MRI scan. This scan demonstrated a torn supraspinatus tendon, splits in the subscapularis and infraspinatus tendons, mild glenohumeral capsulitis, and acromioclavicular joint arthropathy. In a July 23, 2015 report, Dr. Scott M. Taylor, an orthopedic surgeon, noted that appellant attributed her bilateral shoulder conditions to cumulative trauma from years of lifting and reaching at work. He reviewed appellant's right shoulder MRI scan and diagnosed rotator cuff syndrome.

Dr. Hebrard, in a June 27, 2016 report, addressed causal relationship between appellant's employment activities and her hip, knee, and shoulder conditions. He opined that she had an

underlying condition of osteoarthritis and that repetitive activities of her job aggravated these underlying conditions. Dr. Hebrard noted appellant's reaching and lifting led to aggravation of her underlying osteoarthritis and joint disease. He opined that her conditions were due to her employment activities.

By decision dated January 24, 2017, OWCP's hearing representative found that appellant had not submitted the necessary rationalized medical opinion evidence to establish causal relationship between her diagnosed condition and her accepted employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 and 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.⁵

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."⁶ 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.

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.⁷ 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.⁸ The

⁴ *Supra* note 2.

⁵ *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

⁶ 20 C.F.R. § 10.5(q).

⁷ *T.F.*, 58 ECAB 128 (2006).

⁸ *A.D.*, 58 ECAB 149 (2006).

belief of a claimant that a condition was caused or aggravated by the employment is insufficient to establish causal relationship.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that she developed an occupational disease causally related to factors of her federal employment.

OWCP accepted that appellant's work duties included repetitive reaching and lifting in casing and pulling down mail. It denied her claim, however, because the medical evidence of record is insufficient to establish that appellant developed her claimed conditions causally related to factors of her federal employment as a modified mail handler.

Appellant submitted a series of reports from Dr. Hebrard addressing her right shoulder condition. On January 15, 2016 Dr. Hebrard diagnosed adhesive capsulitis of the right shoulder and incomplete rotator cuff tear of the left shoulder. He described appellant's accepted job duties and opined that appellant's right shoulder was aggravated by the conditions of her employment. Dr. Hebrard failed, however, to provide a detailed medical history of her preexisting right shoulder condition or prior injuries related to the pain in her right shoulder.¹⁰ Moreover, he failed to discuss whether her preexisting injury had progressed beyond what might be expected from the natural progression of that condition.¹¹ While Dr. Hebrard explained how appellant's current duties could contribute to her condition, without a clear understanding of her complicated history of injury, it is unclear whether appellant's diagnosed conditions were caused or aggravated by her occupational employment duties, or were due to a preexisting condition, or to degenerative changes. A well-rationalized opinion is particularly warranted when there is a history of a preexisting condition.¹²

In his March 22 and June 27, 2016 report, Dr. Hebrard opined that appellant had an underlying condition of osteoarthritis and that repetitive job activities aggravated the underlying conditions. He noted that her reaching and lifting led to aggravation of her underlying osteoarthritis and joint disease. Dr. Hebrard opined that appellant's conditions were due to her employment activities. His findings on causation, however, failed to provide a sufficient explanation as to the mechanism of injury pertaining to this occupational disease claim as alleged by appellant, namely, how repetitive reaching and lifting would cause or aggravate her right shoulder injury.¹³ Without explaining how physiologically the movements involved in

⁹ *Lourdes Harris*, 45 ECAB 545, 547 (1994).

¹⁰ *E.W.*, Docket No. 16-1729 (issued May 12, 2017).

¹¹ *R.E.*, Docket No. 14-868 (issued September 24, 2014).

¹² *E.W.*, *supra* note 10; *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

¹³ *E.W.*, *supra* note 10; *S.W.*, Docket 08-2538 (issued May 21, 2009).

appellant's employment duties caused or contributed to her diagnosed conditions, Dr. Hebrard's opinion on causal relationship is equivocal in nature and of limited probative value.¹⁴

The remaining medical evidence of record is also insufficient to establish appellant's claim. The record contains a 2004 report from Dr. Raphael and a July 23, 2015 report from Dr. Taylor. Dr. Raphael's 2004 report does not address the central issue of whether appellant's right shoulder condition on or after January 4, 2016 is due to factors of her federal employment. Therefore, this report is insufficient to meet appellant's burden of proof.¹⁵ Dr. Taylor noted that appellant attributed her bilateral shoulder conditions to cumulative trauma from years of lifting and reaching at work. 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.¹⁶ As Dr. Taylor did not provide his own opinion on causal relationship between appellant's condition and her employment, his report is insufficient to meet appellant's burden of proof.¹⁷

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 met her burden of proof to establish that she developed an occupational disease causally related to factors of her federal employment.

¹⁴ See *E.W.*, *supra* note 10; *L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

¹⁵ *J.C.*, Docket No. 14-1673 (issued November 14, 2014).

¹⁶ *D.L.*, Docket No. 16-1639 (issued May 8, 2017); *Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹⁷ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the January 24, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 26, 2017
Washington, DC

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

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

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