

injury to her upper arm and shoulder and related it to factors of her federal employment on January 12, 2016. She believed that her duties of sorting letter and flat pieces of mail and lifting parcels with her right arm while scanning parcels with her left hand and arm were the direct cause of her medical condition. Appellant did not stop work.

In a January 13, 2016 report, Dr. Kathryn L. Buege, an examining osteopath, noted that appellant had sought treatment for right shoulder pain. She provided a medical history, history of injury, and physical examination findings. Appellant related that the injury occurred at work, approximately one week prior, when she experienced right shoulder pain. A physical examination of the right shoulder revealed decreased range of motion and tenderness. Dr. Buege reviewed a right shoulder x-ray, which showed no pathology. She diagnosed right rotator cuff tendinitis and cervical radiculopathy. In an attached visit information form, Dr. Buege noted appellant was seen that day for complaints of right shoulder pain associated with employment-related repetitive work.

In a January 15, 2016 report, Dr. Thomas E. Price, a treating internist specializing in occupational medicine, indicated that appellant was seen for an evaluation of her right shoulder pain. He reported that her pain began “over the summer in July [2015]” and worsened since then. Appellant stated that her work duties included repetitive lifting and pushing packages with her right shoulder. Dr. Price observed that this type of activity currently aggravated her pain. A review of x-ray interpretations showed mild right shoulder degenerative changes and mild C5-6 degenerative changes with no bony pathology. Examination findings included decreased right shoulder range of motion and right trapezius pain/tenderness. Dr. Price noted that appellant’s complaints were consistent with her history of injury. He diagnosed right shoulder tendinitis and right shoulder pain in his report. Appellant was given work restrictions including no lifting more than 15 pounds and no overhead bilateral upper extremity use.

A January 15, 2016 work status summary indicated that appellant was capable of working with restrictions of no overhead work and lifting up to 15 pounds. She was referred for physical therapy.²

By letter dated February 22, 2016, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It informed her that the record of evidence failed to establish both the factual portion of her claim, *i.e.*, that she actually experienced the employment factors alleged to have caused her injury, and the medical portion, *i.e.*, that the alleged factors caused the diagnosed conditions. Appellant was advised as to the medical and factual evidence required to establish her claim and afforded her 30 days to provide this information. OWCP also requested that she respond to an attached development questionnaire.

By letter dated February 22, 2016, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor about the accuracy of appellant’s statement, a copy of her position description, precautions taken to minimize effects of the activities alleged, and the frequency and duration of the tasks requiring physical exertion.

² The signature on the form appears to be of Dr. Price and is on a Work Status Summary note similar to others he submitted in this claim.

OWCP received medical and factual evidence including physical therapy notes, progress notes, and work status form reports dated January 15 and February 26, 2016.

In a February 25, 2016 report, Jody B. Dauber, a physical therapist, noted that appellant had worked at the employing establishment for approximately 30 years and her job required daily repetitive motion of scanning parcels, grabbing the parcel, and then tossing the parcels aside. She opined that appellant's right shoulder pain and injury had been caused by the daily repetitive work activities.

In a February 26, 2016 progress note, Dr. Price noted appellant's subjective complaints and medical and injury histories. He reported her job required repetitive movements of her right shoulder and hand due to lifting and pushing parcels. A physical examination revealed slightly limited right shoulder abduction, but full forward flexion, internal rotation, and external rotation. Dr. Price diagnosed right shoulder strain/tendinitis, which he attributed to appellant's work.

In progress notes dated March 7, 2016, Dr. Gordon Steinagle, a treating Board-certified internist and occupational medicine physician, attributed appellant's right shoulder injury to her duties as a distribution clerk. He diagnosed a right shoulder repetitive impingement/injury due to daily lifting and scanning packages. Appellant related having right shoulder pain which disturbed her sleep at times. A physical examination revealed 100 degrees right shoulder abduction and some right biceps muscle tenderness. Diagnoses included anxiety, cervical spinal stenosis, C-3 herniated disc, low back pain, right biceps tendinitis, and right shoulder rotator labral cuff tear. Dr. Steinagle recommended a magnetic resonance imaging scan be performed on the right shoulder.

In a statement dated March 9, 2016, R.M., postmaster, noted that she had reviewed and agreed with appellant's statement. She noted that appellant's job was as a distribution/window clerk and that her duties were more distribution than customer service window. R.M. attached a copy of a position description for sales distribution associate job, which included 13 distinct duties and responsibilities.

By decision dated April 19, 2016, OWCP denied appellant's claim, finding that she had failed to establish fact of injury. Specifically, it found that she failed to establish the factual portion of her claim as she had not responded to the questions contained in the provided development questionnaire. In addition, OWCP further found that appellant failed to submit rationalized medical evidence explaining how the diagnosed condition had been caused or aggravated by the identified employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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

³ *Supra* note 1.

employment injury.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (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 claimed; 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 issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁷ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.⁸ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁹

ANALYSIS

Appellant filed an occupational disease claim alleging upper arm and shoulder injuries due to her job duties of scanning mail, sorting letter and flat pieces of mail, and lifting parcels. OWCP denied her claim finding that the evidence of record was insufficient to establish that she performed the duties alleged and that the medical evidence was insufficient to establish a causal relationship between the diagnosed medical conditions and her employment duties.

Appellant alleged in a Form CA-2 dated January 15, 2016, that her upper arm and shoulder pain was sustained while lifting and tossing parcels and sorting mail. There is no dispute that she performed such duties. The employing establishment confirmed on February 22, 2016 that appellant performed such duties, and also provided a position description. Thus, the Board finds that she has established the factual component of her claim. However, the Board further finds that appellant has submitted insufficient medical evidence to establish that these duties caused injury.¹⁰

⁴ *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁵ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *D.U.*, Docket No. 10-0144 (issued July 27, 2010); *R.H.*, 59 ECAB 382 (2008); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Donald W. Wenzel*, 56 ECAB 390 (2005).

⁷ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

⁸ *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

⁹ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁰ *E.M.*, Docket No. 15-1120 (issued January 13, 2016).

Dr. Buege in her January 13, 2016 report diagnosed right rotator cuff tendinitis and cervical radiculopathy. She noted that appellant's right shoulder pain was associated with repetitive work activities. However, pain is a symptom, not a specific medical diagnosis.¹¹ Furthermore, Dr. Buege did not provide an explanation of how appellant's repetitive work activities either caused or contributed to her current right shoulder and cervical conditions. The mere fact that a condition manifests itself during a period of employment is not sufficient to establish causal relationship.¹²

In his January 15, 2016 report, Dr. Price noted that appellant's work duties included repetitive lifting and pushing packages with her right shoulder. He concluded that she had degenerative changes of the right shoulder and of C5-6 of the cervical spine. In his February 16, 2016 progress note, Dr. Price diagnosed right shoulder strain/tendinitis which he attributed to appellant's work. However, he did not provide a sufficient explanation, based on medical rationale, of how any of her duties would have physiologically caused or contributed to these diagnosed medical conditions.¹³

Likewise, Dr. Steinagle related in his March 7, 2016 report, that appellant had a right shoulder repetitive injury, which he attributed to daily lifting and scanning of packages. His opinion regarding causal relationship is vague and is therefore insufficient to establish causal relationship as he too fails to provide medical rationale explaining how her employment duties would have physiologically caused the diagnosed condition.¹⁴

OWCP also received a report from a physical therapist who opined that appellant's right shoulder pain and injury were caused by daily repetitive work activities. However, the Board has held that reports signed by physical therapists have no probative value as physical therapists are not considered physicians under FECA.¹⁵

The Board finds that, as appellant has not submitted rationalized medical evidence establishing that she sustained an injury causally related to factors of her federal employment, she has not met her burden of proof.¹⁶

¹¹ *C.P.*, Docket No. 17-0042 (issued December 27, 2016).

¹² *See D.I.*, 59 ECAB 158, 162 (2007).

¹³ *See A.F.*, Docket No. 16-1342 (issued December 5, 2016).

¹⁴ *Id.*

¹⁵ 5 U.S.C. § 8101(2) provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The term physician includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the Secretary. *See Merton J. Sills*, 39 ECAB 572, 575 (1988); *P.R.*, Docket No 14-1007 (issued August 13, 2014). *See David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2).

¹⁶ *Supra* note 6.

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 did not meet her burden of proof to establish an injury causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 19, 2016 is affirmed as modified.

Issued: March 17, 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