

ISSUE

The issue is whether appellant met his burden of proof to establish left shoulder, thoracic, and cervical conditions causally related to a September 6, 2012 employment incident.

FACTUAL HISTORY

This case has been previously before the Board.⁴ The facts and circumstances outlined in the prior Board decision are incorporated herein by reference. The relevant facts are as follows.

Appellant, a 27-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1), alleging that he injured his left shoulder, thoracic spine, and cervical spine on September 6, 2012 as a result of lifting parcels into designated locations. In a decision dated April 16, 2015, the Board affirmed OWCP's August 29, 2014 decision denying appellant's claim. The Board found that appellant had not met his burden of proof to establish left shoulder, thoracic, or cervical conditions causally related to the September 6, 2012 employment incident. The facts and circumstances outlined in the Board's prior decision are incorporated herein by reference.

Following the Board's decision, on April 13, 2016 appellant's representative requested reconsideration and submitted reports dated January 24, 2015 through March 2, 2016 from Dr. William E. Bragg, an orthopedic surgeon. Dr. Bragg diagnosed left shoulder anterior labral tear, impingement, and biceps tendinitis and performed a left shoulder arthroscopy, anterior labral repair, subacromial decompression (SAD)/acromioplasty, and debridement on July 31, 2015. He subsequently performed a left shoulder debridement, labral repair, subacromial decompression, and open biceps tenodesis on January 21, 2016. In a February 24, 2015 report, Dr. Bragg asserted that appellant injured his left shoulder while he was working for the employing establishment lifting parcels. Appellant described the pain as intermittent and worsening, sharp and stabbing in his arm, and increased with standing, lifting, exercise, and twisting. He noted that he was terminated from his job as a result of this pain and injury. Dr. Bragg opined that appellant's examination and history were consistent with a labral tear which was caused by lifting parcels at work.

A February 24, 2015 x-ray of the left shoulder demonstrated no evidence of acute fracture or dislocation.

A magnetic resonance imaging (MRI) scan dated November 3, 2015 revealed no evidence of labral tear, edema in the dorsal lateral acromion, and no evidence of rotator cuff tear.

On September 2, 2015 Dr. Bragg reiterated his opinion that appellant's left shoulder condition was consistent with the reported injury sustained at work from lifting mail parcels and pitching them for work. He explained that given the weight of the parcels, approximately 40 to 70 pounds, this motion "certainly could result in injury to [appellant's] shoulder consistent with his injury." Dr. Bragg opined that appellant's labral injuries were visible upon MRI scan although the radiologist did not note these findings.

⁴ Docket No. 15-256 (issued April 16, 2015).

In an April 1, 2016 report, Dr. John Champlin, a Board-certified family practitioner, opined that lifting and pitching postal parcels at work on September 6, 2012 caused or aggravated appellant's condition. He admitted to being somewhat perplexed by OWCP's failure to understand the relationship between "lifting and throwing heavy objects and sustaining a cervical fracture caused by compression of the bony spine due to the muscular activity around the shoulder girdle and neck involved in the physical activity of lifting and throwing heavy objects." Dr. Champlin opined that there was clear evidence outlining appellant's shoulder injury as he developed pain in the shoulder while lifting and throwing up to 70-pound parcels in the performance of duty on September 6, 2012. He asserted that both he and Dr. Bragg had diagnosed labral tear for which appellant underwent surgical repairs on July 31, 2015 and January 21, 2016. Dr. Champlin explained that shoulder joints are uniquely susceptible to this type of injury while involved in activities such as lifting and pitching of objects, which causes undue stress on the narrowed edge of the shallow cup that is the labrum of the shoulder. When stressors exceed the ability of the labrum to withstand them, labrum tears occur. Dr. Champlin noted that labrum tears were chronically painful conditions. He opined that given the medical evidence and lack of any evidence of any other preexisting condition or injury, there was a clear causal relationship between the physical activities involved in sorting heavy objects, and lifting and throwing them, and development of both appellant's compression fracture of the cervical spine and the labral tear. Dr. Champlin reported that appellant continued to suffer from shoulder and neck pain and experienced limitations in his physical activities.

By decision dated June 15, 2016, OWCP denied modification of its prior decision because the medical evidence submitted was insufficient to establish causal relationship between appellant's claimed conditions and the September 6, 2012 employment incident.

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 timely filed within the applicable time limitation period of FECA, that an injury⁵ was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether "fact of injury" has been established. A fact of injury determination is based on two elements. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged. 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.

⁵ OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

⁶ See *T.H.*, 59 ECAB 388 (2008).

An employee may establish that the employment incident occurred as alleged, but fail to show that his or her condition relates to the employment incident.⁷

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.⁸

ANALYSIS

OWCP accepted that the employment incident of September 6, 2012 occurred at the time, place, and in the manner alleged. The issue is whether appellant's left shoulder, thoracic, and cervical conditions resulted from the September 6, 2012 employment incident. The Board finds that appellant failed to meet his burden of proof to establish a causal relationship.

Dr. Bragg diagnosed left shoulder anterior labral tear, impingement, and biceps tendinitis and performed left shoulder surgeries on July 31, 2015 and January 21, 2016. In a February 24, 2015 report, he asserted that appellant injured his left shoulder while he was working for the employing establishment lifting parcels. Dr. Bragg opined that appellant's examination and history were consistent with a labral tear which was caused by lifting parcels at work. On September 2, 2015 he reiterated his opinion that appellant's left shoulder injury was consistent with the reported injury sustained at work from lifting mail parcels and pitching them for work. Dr. Bragg explained that given the weight of the parcels, approximately 40 to 70 pounds, this motion "certainly could result in injury to [appellant's] shoulder consistent with his injury." He noted that appellant's conditions occurred while he was at work, but, as noted above, such generalized statements do not establish causal relationship.⁹ Dr. Bragg did not provide sufficient medical rationale explaining how appellant's left shoulder conditions were caused or aggravated by lifting and pitching parcels at work on September 6, 2012. For these reasons, the Board finds that the reports from Dr. Bragg are insufficient to establish a left shoulder condition causally related to the September 6, 2012 work incident.

In his April 1, 2016 report, Dr. Champlin opined that lifting and pitching postal parcel at work on September 6, 2012 caused or aggravated appellant's left shoulder labral tear. He admitted to being somewhat perplexed by OWCP's failure to understand the relationship between "lifting and throwing heavy objects and sustaining a cervical fracture caused by compression of the bony spine due to the muscular activity around the shoulder girdle and neck involved in the physical activity of lifting and throwing heavy objects." Dr. Champlin opined that there was clear evidence outlining appellant's shoulder injury as he developed pain in the shoulder while involved in lifting and throwing up to 70-pound parcels on September 6, 2012.

⁷ *Id.*

⁸ *Id.*

⁹ *See K.W.*, Docket No. 10-98 (issued September 10, 2010).

He explained that shoulder joints are uniquely susceptible to this type of injury while involved in activities such as lifting and pitching of objects, which causes undue stress on the narrowed edge of the shallow cup that is the labrum of the shoulder. When the stressors exceed the ability of the labrum to withstand them, labrum tears occur. Dr. Champlin opined that given the medical evidence and lack of any evidence of any other preexisting condition or injury, there was a clear causal relationship between the physical activities involved in sorting heavy objects, and lifting and throwing them, and development of both appellant's compression fracture of the cervical spine and the labral tear. He reported that appellant continued to suffer from shoulder and neck pain and experienced limitations in his physical activities.

The Board finds that Dr. Champlin failed to provide sufficient medical rationale explaining the mechanism of how lifting and pitching parcels at work on September 6, 2012 caused appellant's left shoulder condition. Dr. Champlin noted that the condition occurred while appellant 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 condition.¹⁰ 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.¹¹ Dr. Champlin did not otherwise sufficiently explain why diagnostic testing and examination findings led him to conclude that the September 6, 2012 incident at work caused or contributed to the diagnosed condition. Thus, the Board finds that his April 1, 2016 report is insufficient to establish that appellant sustained an employment-related injury.

Other medical evidence of record, including diagnostic test reports, is of limited probative value and insufficient to establish the claim as this evidence does not specifically address whether appellant's diagnosed conditions are causally related to the September 6, 2012 work incident.¹²

Appellant's representative contends that the record does not contain a medical opinion contrary to the claim and OWCP did not seek advice from one of its medical advisers or refer the case for a second opinion evaluation. He argues that the totality of the medical evidence of record constitutes substantial, uncontradicted evidence in support of appellant's claim and raises an uncontroverted inference of causal relationship between the federal work incident and the claimed medical conditions. As noted above, appellant bears the burden of proof to establish an employment-related injury and he may establish that the employment incident occurred as alleged but fail to show that his condition relates to the employment incident.¹³ As appellant has

¹⁰ *See id.*

¹¹ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

¹² *See K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Linda I. Sprague*, 48 ECAB 386 (1997) (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).

¹³ *See supra* notes 5 and 6.

not submitted any rationalized medical evidence to support his allegation that he sustained an injury causally related to the September 6, 2012 employment incident, he has failed to meet his burden of proof to establish a claim for compensation.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that his left shoulder, thoracic, and cervical conditions are causally related to the September 6, 2012 employment incident.

ORDER

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

Issued: May 5, 2017
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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