

ISSUE

The issue is whether appellant met her burden of proof to establish left shoulder and wrist conditions causally related to accepted factors of her federal employment.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are set forth below.

On April 16, 2015 appellant filed an occupational disease claim (Form CA-2) alleging that carrying a mail satchel on her left shoulder while at work on or before October 20, 2009 and from October through December 2013 caused left shoulder pain and left carpal tunnel syndrome. The employing establishment asserted that she had stopped work on December 13, 2013 and first reported the claimed condition to her supervisor on April 20, 2015.⁴

In a July 27, 2015 development letter, OWCP notified appellant of the additional evidence needed to establish her claim, including a detailed statement of the work factors alleged to have caused or contributed to the left upper extremity condition, and a report from her attending physician explaining how and why those tasks would have resulted in a left shoulder condition or left carpal tunnel syndrome. It afforded her 30 days to submit the requested evidence.

By decision dated August 27, 2015, OWCP denied appellant's occupational disease claim as she submitted insufficient factual evidence to substantiate any causative work factors. It also found that she had not submitted any medical evidence.

In a September 4, 2015 letter, appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative, which was held on March 30, 2016. During the hearing, appellant asserted that carrying a mail satchel on her assigned walking route from October 19 to December 13, 2013 aggravated her accepted left upper extremity condition and caused left carpal tunnel syndrome. She underwent left shoulder surgery and a left carpal tunnel release on August 12, 2014.

Following the hearing, appellant submitted her April 7, 2016 statement in which she asserted that years of carrying a mail satchel at work injured her left shoulder, left hand, and the

³ *Order Remanding Case*, Docket No. 16-1293 (issued August 26, 2016).

⁴ Appellant has a prior claim, assigned OWCP File No. xxxxxx076, wherein OWCP accepted that, on or before October 20, 2009, appellant, then a 38-year-old city carrier, sustained a left shoulder and upper arm sprain caused by carrying a satchel of mail on her left shoulder at work. Following that injury, appellant was off work. She returned to light-duty work in August 2010, delivering a mounted route. From October to December 14, 2013, appellant was assigned a modified walking route, which required her to carry a mail satchel.

On January 24, 2014 appellant filed a claim for recurrence of disability (Form CA-2a) under OWCP File No. xxxxxx076. By decision dated May 1, 2014, under OWCP File No. xxxxxx076, OWCP denied the recurrence claim, finding that she did not establish a worsening of the accepted left upper extremity condition or a change in her light-duty position such that she was no longer medically capable of performing those duties.

left side of her neck. Her symptoms were exacerbated by delivering a walking route from October to December 13, 2013.

The employing establishment provided February 6 and March 12, 2014 e-mails which confirmed that appellant delivered a park and loop route from October 19 to December 11, 2013. Appellant applied for disability retirement on July 20, 2015.

Appellant submitted medical evidence from Dr. William C. Andrews, Jr., an attending Board-certified orthopedic surgeon. In a January 13, 2011 report, Dr. Andrews diagnosed degenerative cervical disc disease and left subacromial bursitis. He opined that appellant's left carpal tunnel syndrome preexisted the accepted left shoulder condition and was a "distinct problem from the other symptoms that occurred from the work injury." Dr. Andrews obtained x-rays which demonstrated left acromioclavicular (AC) joint degeneration.

In a February 7, 2011 report, Dr. Andrews opined that a small midline C6-7 herniation or protrusion demonstrated by January 30, 2011 magnetic resonance imaging (MRI) scan was of insufficient significance to cause appellant's left shoulder pain. He administered a series of left subacromial injections.⁵ In reports from March 31 to June 10, 2011, Dr. Andrews limited appellant to light-duty work with lifting up to 20 pounds and frequent lifting or carrying restricted to 10 pounds.⁶ He increased her lifting limitation to 25 pounds as of December 6, 2011.

Dr. Andrews found in January 23 and March 12, 2012 reports, that appellant was unable to carry a mail satchel on her left shoulder. Appellant's symptoms worsened as of a July 5, 2012 examination as she "fell recently and caught herself with her left arm." Dr. Andrews administered a left epicondylar injection on July 13, 2012.

In a March 11, 2013 report, Dr. Andrews opined that appellant's left-hand symptoms "stemmed directly from the shoulder" as she had no other injury to the left hand and had not been performing significant repetitive activities. He diagnosed left shoulder-hand syndrome. Dr. Andrews restricted appellant to light duty through October 13, 2013 with no carrying on the left shoulder.

In January 8 and 15, 2014 reports, Dr. Andrews opined that appellant had sustained left shoulder impingement syndrome with AC joint arthritis and arthrosis, related to the accepted left upper extremity condition under OWCP File No. xxxxxx076. He held her off work.

Dr. Andrews noted in a February 14, 2014 report that appellant's left carpal tunnel syndrome "can be a result of repetitive use of the wrist made worse by [appellant's] AC joint."

⁵ A March 1, 2011 MRI scan of the left shoulder showed low-grade tendinosis with supraspinatus insertion with mild peritendinobursitis and mild AC joint arthropathy with a very subtle stress reaction within the distal clavicle. August 15, 2012 electromyography and nerve conduction velocity studies of the left upper extremity demonstrated moderate median neuropathy at the wrist.

⁶ Appellant participated in physical therapy from 2011 through November 2014.

On August 5, 2014 he performed a left distal clavicle excision and left carpal tunnel release. Dr. Andrews provided progress reports through November 6, 2014.⁷

In a December 11, 2015 report, Dr. Andrews noted that appellant was “still significantly limited in terms of range of motion [ROM] and strength.” He found that she was unable to perform any overhead activities, with lifting to shoulder level limited to 15 pounds. Dr. Andrews held appellant off work through April 28, 2016 due to left shoulder pain.

By decision dated May 9, 2016, OWCP’s hearing representative affirmed the prior decision as modified, finding that the medical evidence of record was insufficient to establish causal relationship. He accepted that appellant carried a mail satchel at work from October 19 to December 11, 2013. The hearing representative found, however, that Dr. Andrews provided insufficient rationale to support that carrying a mail satchel caused or aggravated the diagnosed left carpal tunnel syndrome and left shoulder impingement. Appellant, through counsel, subsequently appealed to the Board.

By order issued August 26, 2016,⁸ the Board set aside OWCP’s May 9, 2016 decision and remanded the case for OWCP to administratively combine OWCP File Nos. xxxxxxx076 and xxxxxx789.

On September 7, 2016 OWCP combined the two claims, with OWCP File No. xxxxxx076 serving as the master file. Appellant submitted an October 15, 2015 impairment rating by Dr. Joshua B. Macht, an attending Board-certified internist. Dr. Macht noted appellant’s assertion that “the constant pressure and weight of the [mailbag] caused injury to [appellant’s] left arm and shoulder.” He diagnosed postoperative status of the left wrist and shoulder.⁹

By decision dated September 15, 2016, OWCP denied appellant’s claim as the medical evidence of record did not establish the claimed causal relationship between the accepted work factors and a left wrist or shoulder condition. It found that Dr. Andrews did not provide sufficient medical rationale to support that the established work factor of carrying a mail satchel caused or aggravated the diagnosed left shoulder and wrist conditions.

In a September 26, 2016 letter, received by OWCP on September 27, 2016, appellant, through counsel, requested a hearing before an OWCP hearing representative. During the hearing,

⁷ From July 24, 2015 to January 28, 2016, appellant was followed by Dr. Andrea Stutesman, a Board-certified physiatrist, for pain management.

⁸ *Supra* note 3.

⁹ By decision dated June 2, 2016 under OWCP File No. xxxxxx076, OWCP issued a schedule award for 10 percent permanent impairment of the left upper extremity, based on Dr. Macht’s October 15, 2015 impairment rating as reviewed by an OWCP medical adviser. Following a telephonic hearing, an OWCP hearing representative affirmed the June 2, 2016 schedule award by decision dated May 3, 2017. Appellant then appealed to the Board. By decision and order issued December 15, 2017 under Docket No. 17-1470, the Board set aside the June 2, 2016 schedule award and remanded the claim for further development on whether a ROM or diagnosis-based impairment method should be utilized to determine the appropriate percentage of permanent impairment.

held on April 26, 2017, appellant reiterated that carrying a mail satchel at work in late 2013 exacerbated her left shoulder condition and caused the development of shoulder-hand syndrome.

By decision dated June 22, 2017, OWCP's hearing representative affirmed the September 15, 2016 decision. The hearing representative found that the medical evidence of record was insufficient to establish that carrying a mail satchel on her left shoulder and arm worsened appellant's accepted left shoulder condition or caused new left upper extremity conditions to develop.

LEGAL PRECEDENT

An employee seeking benefits under FECA¹⁰ 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 or specific condition for which compensation is claimed is causally related to the employment injury.¹¹ 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.¹²

An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift.¹³ 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) 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.

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 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

¹⁰ *Supra* note 2.

¹¹ *Joe D. Cameron*, 41 ECAB 153 (1989).

¹² *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

¹³ 20 C.F.R. § 10.5(q).

the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁴

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish left shoulder and wrist conditions causally related to factors of her federal employment.

In support of her occupational disease claim, appellant submitted reports from Dr. Andrews, an attending Board-certified orthopedic surgeon. Dr. Andrews offered several explanations of the etiology of her left carpal tunnel syndrome and left shoulder impingement. On January 13, 2011 he opined that appellant's left carpal tunnel syndrome preexisted her left shoulder condition and was distinct from the other sequelae of the accepted left shoulder injury. In a July 5, 2012 report, Dr. Andrews noted that a recent fall had worsened her left shoulder and wrist symptoms. Yet, in a March 11, 2013 report, he opined that because appellant sustained no other left hand injury, her carpal tunnel syndrome "stemmed directly from the shoulder." Additionally, Dr. Andrews opined on February 14, 2014 that her left carpal tunnel syndrome "can be a result of repetitive use of the wrist" and exacerbated by AC joint involvement. He thus offered several conflicting etiologies of appellant's left carpal tunnel syndrome and left shoulder condition. The equivocal nature of this opinion diminishes its probative quality.¹⁵ Dr. Andrews' reports are therefore insufficient to meet appellant's burden of proof to establish causal relationship between the accepted work factor of carrying a mail satchel and the onset of the claimed left shoulder and wrist conditions.

Dr. Macht, an attending Board-certified internist, repeated appellant's assertion that the physical stresses of carrying a mail satchel on her left shoulder caused AC joint damage and left carpal tunnel syndrome. However, he did not provide his independent medical opinion to support this contention. Dr. Macht's opinion is thus insufficient to meet appellant's burden of proof.¹⁶

The Board notes that OWCP advised appellant, by a July 27, 2015 development letter, of the type of evidence needed to establish her claim, including a physician's well-reasoned explanation of how the identified work factors would have caused or aggravated the claimed conditions. However, appellant has not submitted such evidence. Therefore, she has failed to meet her burden of proof to establish that she sustained left shoulder and wrist conditions causally related to factors of her federal employment.

On appeal, counsel contends that the June 22, 2017 decision is contrary to fact and law. As set forth above, the medical evidence of record is insufficiently rationalized to meet appellant's burden of proof to establish causal relationship.

¹⁴ *Solomon Polen*, 51 ECAB 341 (2000).

¹⁵ *Ricky S. Storms*, 52 ECAB 349 (2001).

¹⁶ *Deborah L. Beatty*, 54 ECAB 340 (2003).

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 failed to meet her burden of proof to establish left shoulder and wrist conditions causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 22, 2017 is affirmed.

Issued: April 16, 2018
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