

right shoulder conditions due to factors of her federal employment. She indicated that she first became aware of her claimed conditions on April 13, 2016 and first realized their relation to her federal employment on April 21, 2016. Appellant did not stop work.

In a June 6, 2016 development letter, OWCP advised appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries.

Appellant subsequently submitted a narrative statement dated June 16, 2016 indicating that her federal duties required using a computer 7.5 hours per day, five days a week, which included typing, using her hands, wrists, and arms in extensive repetitive movements in a nonergonomic environment. She further indicated that she began to have some stiffness in her right shoulder, as well as pain and tingling in both elbows, starting in November 2015 and attributed her conditions to the volume of her workload and the way her cubicle was set-up, which was ergonomically incorrect. Appellant stated that sometime around the week of April 11, 2016, she had tightness and pain in her right shoulder and it began to make a popping or clicking sound. It hurt when extended and the pain began to move down both arms. When over-the-counter pain relievers did not work, she made an appointment to see her physician on April 21, 2016.

In a May 12, 2016 report, Courtney Potempa, a physician assistant, diagnosed left lateral epicondylitis, left rotator cuff syndrome, and right frozen shoulder and referred appellant to physical therapy.

On June 14, 2016 Dr. Robert Strugala, a Board-certified internist, noted that appellant was initially evaluated by Ms. Potempa on May 12, 2016 for pain in both arms, with the most significant pain emanating from her right shoulder. He noted that appellant did not recall any specific definite trauma, but her symptoms had been present since April and she “struggled with pain that seemed to begin with activities at work.” Appellant described a nonergonomic work setting where the desk relative to the keyboard was at the wrong height and as a consequence she had to elevate her arms to type and her arms were not in a resting position. Dr. Strugala reviewed diagnostic testing from May 2016 and found some acromioclavicular (AC) joint degeneration on the right shoulder. He administered an injection and diagnosed right shoulder pain, which was not consistent with impingement syndrome and opined that appellant’s condition “seem[ed] to have occurred with consistently elevating the right shoulder at work due to her desk setting.” Dr. Strugala further diagnosed adhesive capsulitis of the right shoulder and provided work restrictions of no lifting and no overhead activities with the right arm.

By decision dated July 12, 2016, OWCP denied appellant’s claim, finding that the medical evidence of record was insufficient to establish causal relationship between her adhesive capsulitis condition and the accepted factors of her federal employment.

On July 26, 2016 appellant requested reconsideration and submitted an ergonomic workstation assessment dated July 5, 2016 finding that her workstation was set-up with a single monitor, a damaged track ball for a mouse, and an aerodynamic, ergonomic-friendly keyboard. The assessment noted that appellant sat in an upright sitting position at her desk, but many issues with her workstation set-up caused her to constantly adjust her body position. The evaluator made recommendations, including a new mouse, placing the keyboard and mouse in a more neutral

position to eliminate the uneven resting of her arms at different heights, and relieving congestion at the desk to increase her work space.

In a July 21, 2016 report, Dr. Strugala diagnosed right rotator cuff syndrome with impingement signs and bilateral lateral epicondylitis. Appellant was tender over the lateral epicondyle of each elbow and had a positive Hawkins' test for impingement of the right shoulder. Dr. Strugala opined that appellant's conditions were work related based on her description of her workstation, more specifically that her desk relative to the keyboard was at the wrong height, which required her to elevate her arms in an unnatural position to type and prohibited her from maintaining them in a rested position. Dr. Strugala opined that this caused the development of the rotator cuff issues, as well as the lateral epicondylitis in each elbow. He noted that no other trauma or unusual activity had occurred.

On September 8, 2016 Dr. Strugala continued to diagnose bilateral shoulder impingement, with decreased active range of motion, and left elbow lateral epicondylitis. He noted that appellant reported symptoms increasing at work, particularly towards the end of her shift, and advised that she shorten her shift to six hours.

In a September 14, 2016 report, Michelle Knezevic, a registered nurse, diagnosed bilateral lateral epicondylitis and bilateral shoulder impingement syndrome and provided the following work restrictions: regular duties with a 10-minute break every hour and a reduced schedule of a 6-hour shift maximum.

By decision dated October 18, 2016, OWCP denied modification of its prior decision.

On November 10, 2016 appellant again requested reconsideration.

By decision dated November 21, 2016, OWCP denied appellant's request for reconsideration without a merit review because she failed to advance a relevant legal argument or submit any relevant and pertinent new evidence.

On November 26, 2016 appellant again requested reconsideration and submitted reports dated October 27 and November 17, 2016 from Dr. Strugala who indicated that appellant continued to struggle with left elbow pain consistent with lateral epicondylitis and right shoulder pain with rotator cuff syndrome and impingement. He opined that the repetitive nature of appellant's work activities, particularly with the arms positioned in a nonergonomic location, was the "probable cause" of her conditions and, therefore, he believed that her symptoms were "likely work related." In a November 17, 2016 addendum report, Dr. Strugala reiterated his opinion that based upon his clinical diagnosis and the history provided by appellant, he believed the nature of appellant's repetitive work activities, particularly with the arms positioned in a nonergonomic location, was the cause of her work symptoms.

By decision dated January 26, 2017, OWCP denied modification of its October 18, 2016 decision.

LEGAL PRECEDENT

A claimant seeking benefits under FECA 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 that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.²

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (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.³

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that her bilateral elbow and right shoulder conditions are causally related to the accepted factors of her federal employment.

OWCP accepted the implicated employment factors, specifically that appellant's job duties required typing and using a computer up to 7.5 hours per day at a nonergonomic workstation, and also accepted that there was a medical diagnosis in connection with the employment incident. However, it denied appellant's occupational disease claim because the medical evidence of record was insufficient to establish a causal relationship between the diagnosed condition(s) and the accepted employment factors.

With respect to the May 12, 2016 report from Ms. Potempa, a physician assistant, and the September 14, 2016 report from Ms. Knezevic, a registered nurse, the Board notes that these documents do not constitute competent medical evidence because neither physician assistants nor registered nurses are considered "physicians" as defined under FECA.⁴ Consequently, the above-noted evidence is insufficient to meet appellant's burden of proof with respect to causal relationship.⁵

Initially, Dr. Strugala diagnosed adhesive capsulitis of the right shoulder and opined that appellant's condition was not consistent with impingement syndrome, but "seem[ed] to have occurred with consistently elevating the right shoulder at work due to her desk setting." Appellant

² 20 C.F.R. § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

³ See *D.R.*, Docket No. 09-1723 (issued May 20, 2010). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ 5 U.S.C. § 8101(2); *Sean O'Connell*, 56 ECAB 195 (2004) (physician assistants); *E.K.*, Docket No. 09-1827 (issued April 21, 2010) (registered nurses). See also *Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

⁵ See *supra* notes 2-5.

had described a nonergonomic work setting where the desk relative to the keyboard was at the wrong height and as a consequence she had to elevate her arms to type and her arms were not in a resting position. Later, Dr. Strugala diagnosed right rotator cuff syndrome, bilateral shoulder impingement, and bilateral lateral epicondylitis. He opined that, based upon his clinical diagnosis and the history provided by appellant, he believed the nature of her repetitive work activities, particularly with her arms positioned in a nonergonomic location was the cause of her conditions. However, Dr. Strugala failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as typing and using a computer up to 7.5 hours per day at a nonergonomic workstation, caused or aggravated her bilateral elbow and right shoulder conditions. He noted that appellant's conditions occurred while she 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 her physical activity at work actually caused or aggravated the diagnosed conditions.⁶ The Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between her condition and her employment factors.⁷ In addition, he indicated that the repetitive nature of appellant's work activities, particularly with the arms positioned in a nonergonomic location, was the "probable cause" of her conditions and, therefore, he believed that her symptoms were "likely work related." The Board has long held that medical opinions that are speculative or equivocal in character have little probative value.⁸ Thus, the Board finds that Dr. Strugala's reports are insufficiently rationalized to establish that appellant's conditions were caused or aggravated by factors of her federal employment.

As appellant has not submitted rationalized medical evidence sufficient to support her allegation that she sustained an injury causally related to the accepted employment factors, she has not met her burden of proof to establish a claim.

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 bilateral elbow and right shoulder conditions causally related to the accepted factors of her federal employment.

⁶ See *K.W.*, Docket No. 10-0098 (issued September 10, 2010).

⁷ See *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁸ *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

ORDER

IT IS HEREBY ORDERED THAT the January 26, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 13, 2018
Washington, DC

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

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

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