

fascia, and tendon at right shoulder/upper arm level. Appellant did not stop work, but she began working in a full-time modified position without wage loss.²

Appellant received periodic medical treatment from Dr. David Barba, an attending Board-certified orthopedic surgeon. In a March 20, 2017 report, Dr. Barba discussed appellant's January 27, 2017 employment injury and reported the findings of the physical examination he conducted on March 20, 2017. With respect to the right shoulder examination, he indicated that appellant did not exhibit any tenderness to palpation of the anterior rotator cuff, acromioclavicular joint, proximal deltoid region, or scapula. Appellant exhibited unrestricted range of motion of her right shoulder in all planes and the impingement test for the shoulder was negative. With respect to the cervical spine, Dr. Barba noted that appellant had tenderness to palpation of the right trapezial and paraspinal muscles, but that she did not have a cervical radiculopathy into the upper extremities. Range of motion testing of the cervical spine showed that appellant had decreased lateral flexion to the left. Dr. Barba diagnosed right-sided cervicgia with trapezial muscle strain, as well as left-sided cervicgia. He recommended that appellant continue modified-duty work on a full-time basis with restrictions of no lifting, pushing, or pulling more than 40 pounds.

The findings of a June 8, 2017 magnetic resonance imaging (MRI) scan of appellant's cervical spine contained an impression of straightening of the normal cervical lordosis with mild multilevel degenerative disc disease, including a broad-based posterior disc protrusion at C4-5 with right facet arthropathy and uncovertebral osteophytosis causing severe right neuroforaminal narrowing with mild central canal and left neuroforaminal stenosis, and broad-based posterior disc protrusions at C5-6 and C6-7 with uncovertebral osteophytosis and facet arthropathy causing mild-to-moderate bilateral neuroforaminal narrowing and mild central canal stenosis.

In a June 19, 2017 report, Dr. Barba diagnosed cervicgia without foraminal impingement and indicated that appellant should remain on full-time modified duty with a restriction of no lifting more than 25 pounds. He noted, "The patient is aging, is unable to lift heavy objects more due to natural age, wear and tear, as well as in relation to her ongoing work injury."

In an August 24, 2017 report, Dr. Aaron Coppelson, an attending Board-certified orthopedic surgeon indicated that he was providing an initial evaluation of appellant's medical condition. He indicated that, upon physical examination, appellant exhibited tenderness to palpation over the cervical paraspinal muscles and that range of motion of the cervical spine was self-limited by pain. Dr. Coppelson noted that examination of the left shoulder revealed no tenderness to palpation of the acromioclavicular joint, greater tuberosity, or subacromial space, but he did not provide any palpation examination results for the right shoulder. He noted that all the tested muscles of the upper extremities had 5/5 strength. Dr. Coppelson diagnosed cervical ligament and muscle strain/spasm, bilateral C5 through C7 radiculopathy, left supraspinatus tendinitis, subacromial bursitis, labrum tear, acromioclavicular joint tendinitis, and four trigger points in the cervical spine. He indicated that appellant could perform modified work with limited use of the left upper extremity, no overhead work, and no lifting, pushing, or pulling more than 10 pounds.

² OWCP initially administratively handled appellant's claim to allow for payment of a limited amount of medical expenses and it did not formally consider appellant's claim until it issued its March 10, 2017 decision.

Dr. Coppelson reexamined appellant on September 7, 2017 and, in a report dated September 7, 2017, he noted that appellant should remain on the same work restrictions he recommended on August 24, 2017.

On October 16, 2017 appellant began working in a modified mail handler position with the employing establishment for four hours per day.³ She filed a claim for compensation (Form CA-7) claiming disability compensation for four hours each workday for the period October 16 to 27, 2017 due to her January 27, 2017 employment injury. Appellant continued to file similar claims for compensation for the period October 28, 2017 and continuing.

Appellant submitted an October 5, 2017 report from Dr. Coppelson who noted that appellant reported that her symptoms were unchanged. Dr. Coppelson detailed the findings of his October 5, 2017 examination, noting findings similar to those denoted in his August 24 and September 7, 2017 reports, including four trigger points in the cervical spine and tenderness to palpation of the left shoulder. He diagnosed cervical strain, bilateral C5 through C7 radiculopathy, left supraspinatus tendinitis, subacromial bursitis, labrum tear, acromioclavicular joint tendinitis, and trigger points in the cervical spine. Dr. Coppelson noted that appellant was to maintain the same work status as he last delineated, *i.e.*, the recommendation contained in his August 24, 2017 report. On October 19, 2017 Dr. Coppelson provided examination findings from that date. He provided an assessment of appellant's condition similar to that contained in his prior reports and he indicated that appellant's work status should remain the same.

In a November 16, 2017 development letter, OWCP requested that appellant submit additional factual and medical evidence in support of her recurrence of disability claim.

Appellant submitted November 16 and December 14, 2017 reports from Dr. Coppelson who provided examination findings from those dates. Dr. Coppelson provided assessments of appellant's condition similar to those contained in his prior reports and he indicated that appellant's work status should remain the same.

In reports dated November 20 and December 11, 2017, Dr. Barba reported examination findings from those dates and diagnosed several left shoulder conditions, including mild glenohumeral osteoarthritis, labral tear/degeneration, and acromioclavicular osteoarthritis. He indicated that appellant could maintain her work restrictions on no overhead work and no lifting, pushing, or pulling more than 10 pounds.

Appellant also submitted a December 1, 2017 statement in which she noted that, on June 15, 2017, she sustained an injury when she was lifting letter trays at work.

³ The description of the modified mail handler position indicated that the physical requirements would be in accordance with the restrictions of appellant's attending physician.

By decision dated December 27, 2017, OWCP denied appellant's claim, finding that she failed to submit sufficient medical evidence to establish disability on or after October 16, 2017 due to her January 27, 2017 employment injury.⁴

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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 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.⁶ In general the term disability under FECA means incapacity because of injury in employment to earn the wages which the employee was receiving at the time of such injury.⁷ This meaning, for brevity, is expressed as disability for work.⁸

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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 the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability on or after October 16, 2017 due to her accepted January 27, 2017 employment injury.

Appellant submitted an October 5, 2017 report from Dr. Coppelson who noted that appellant reported that her symptoms were unchanged. Dr. Coppelson detailed the findings of his October 5, 2017 examination, noting findings similar to those denoted in his August 24 and November 7, 2017 reports, including four trigger points in the cervical spine and tenderness to palpation of the left shoulder. He diagnosed cervical strain, bilateral C5 through C7 radiculopathy, left supraspinatus tendinitis, subacromial bursitis, labrum tear, acromioclavicular joint tendinitis, and trigger points in the cervical spine. Dr. Coppelson noted that appellant was to maintain the

⁴ OWCP noted that appellant had mentioned injuring herself on June 15, 2017 when she lifted letter trays at work. It advised that appellant should pursue that injury under a separate claim file and indicated that the question of whether appellant sustained a June 15, 2017 work injury was not the subject of the present disability claim.

⁵ *Supra* note 1.

⁶ *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

⁷ *See* 20 C.F.R. § 10.5(f).

⁸ *Roberta L. Kaaumoana*, 54 ECAB 150 (2002); *see also A.M.*, Docket No. 09-1895 (issued April 23, 2010).

⁹ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

same work status as he last delineated, *i.e.*, the recommendation contained in his August 24, 2017 report.¹⁰

The Board notes that the submission of this report does not establish appellant's claim for disability on or after October 16, 2017 due to the January 27, 2017 employment injury because Dr. Coppelson acknowledged that appellant's medical condition was unchanged and that she could continue to work under the same work restrictions for months prior to October 2017, *i.e.*, the work restrictions he delineated in his August 24, 2017 report. This report does not contain an opinion that appellant had disability on or after October 16, 2017 due to her January 27, 2017 employment injury, and therefore it does not establish her claim for such disability. The Board has held that medical evidence which does not offer an opinion on a given medical matter is of no probative value regarding that matter.¹¹

Appellant also submitted October 19, November 16, and December 14, 2017 reports from Dr. Coppelson who provided examination findings on those dates. Dr. Coppelson provided assessments of appellant's condition similar to that contained in prior reports and he indicated that appellant's work status should remain the same. These reports do not contain any opinion that appellant had disability on or after October 16, 2017 due to her January 27, 2017 employment injury, and therefore they do not establish her claim for such disability.¹²

In reports dated November 20 and December 11, 2017, Dr. Barba reported examination findings from those dates and diagnosed several left shoulder conditions, including mild glenohumeral osteoarthritis, labral tear/degeneration, and acromioclavicular osteoarthritis. He indicated that appellant could maintain her work restrictions on no overhead work and no lifting, pushing, or pulling more than 10 pounds. The Board notes that these are essentially the same work restrictions that appellant worked under prior to and after she began working in the modified position on October 16, 2017. These reports contain no opinion that appellant sustained disability on or after October 16, 2017 due to the January 27, 2017 employment injury, and therefore they also do not establish appellant's disability claim.¹³

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 disability on or after October 16, 2017 due to her accepted January 27, 2017 employment injury.

¹⁰ In his August 24, 2017 report, Dr. Coppelson noted that appellant could perform modified-duty work with limited use of the left upper extremity, no overhead work, and no lifting, pushing, or pulling more than 10 pounds.

¹¹ See *Charles H. Tomaszewski*, 39 ECAB 461 (1988). The Board further notes that Dr. Coppelson diagnosed numerous medical conditions that have not been accepted as employment related.

¹² *Id.*

¹³ See *id.* The Board further notes that Dr. Barba diagnosed numerous left shoulder conditions that have not been accepted as employment related.

ORDER

IT IS HEREBY ORDERED THAT the December 27, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 7, 2018
Washington, DC

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

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

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