

ISSUE

The issue is whether appellant met her burden of proof to establish a left shoulder condition was causally related to the accepted March 2, 2016 employment incident.

FACTUAL HISTORY

On March 20, 2016 appellant, then a 54-year-old transportation security officer, filed a traumatic injury claim (Form CA-1) alleging that on March 2, 2016 she sustained left shoulder pain due to carrying a heavy backpack filled with testing materials. She did not stop work.

By correspondence dated April 14, 2016, OWCP informed appellant that the evidence of record was insufficient to establish her claim. Appellant was advised that a medical opinion from a physician explaining how the March 2016 incident caused a diagnosed condition was necessary to support her claim. She was afforded 30 days to provide this evidence.

In response to OWCP's April 14, 2016 letter, appellant submitted additional medical reports.

In work status summary notes covering the period March 23 to May 4, 2016, Jason Depasquale, a certified physician assistant, noted that appellant sustained a new work injury on March 2, 2016 as the result of carrying a heavy book bag on her left shoulder. Appellant related continuing to have left shoulder pain and limited range of motion during each visit. Examination findings from the March 23, 2016 visit included no impingement, negative x-ray interpretation, and positive Yergason's tests. Mr. Depasquale, on May 4, 2016, reported that a magnetic resonance imaging (MRI) scan found a less than one centimeter supraspinatus tear and partial full-thickness tendon tear of a portion of a tendon and deltoid muscle.

A March 30, 2016 work status summary note reported that March 2, 2016 was the date of injury, that appellant had been released to return to work with restrictions on March 23, 2016, and that a left shoulder MRI scan had been ordered. Anotai Annie Oonjit, a certified physician assistant, was listed as the provider.

On an April 15, 2016 work status summary note, Dr. Jenny Grace, Board-certified in obstetrics and gynecology, reported an injury date of March 2, 2016. She diagnosed left arm pain, left shoulder bicipital tendinitis, and left shoulder pain, and provided work restrictions beginning May 4, 2016.

An April 30, 2016 left shoulder MRI scan revealed possible bursitis, indeterminate partial rotator cuff tear with probable small full-thickness component, and possible subacromial impingement.

In a May 4, 2016 work status summary note, Dr. Wanda E. Guy-Craft, an examining physician Board-certified in family medicine, reported an injury date of March 2, 2016. She diagnosed left arm pain, left shoulder bicipital tendinitis, left shoulder bursitis, and unspecified left shoulder rotator cuff muscle/tendon injury. Dr. Guy-Craft also provided work restrictions with May 4, 2016 as the return to work date.

By decision dated May 18, 2016, OWCP denied the traumatic injury claim. It accepted that the incident occurred as alleged and that there were diagnoses of partial rotator cuff tear and possible bursitis. However, OWCP found that the evidence submitted was insufficient to establish that the diagnosed conditions were causally related to the accepted March 2, 2016 employment incident.

In a form dated June 16, 2016 and received on June 22, 2016, appellant requested a review of the written record by an OWCP hearing representative. Along with her request she resubmitted medical evidence previously considered.

In a letter dated June 18, 2016, appellant, through counsel, changed her request for review of the written record to a request for an oral hearing before an OWCP hearing representative.

Following a hearing held on November 10, 2016, an OWCP hearing representative issued a decision based on review of the written record as initially requested by appellant. She affirmed the May 18, 2016 decision denying appellant's claim, finding that the medical evidence of record failed to establish a diagnosed condition causally related to the accepted March 2, 2016 employment incident.

In a letter dated April 28, 2017, appellant, through current counsel, requested reconsideration. In support of her request, additional evidence was submitted.

In a June 9, 2016 report, Dr. Susan S. Jordan, an orthopedic surgeon, noted appellant's accepted March 2, 2016 employment incident, medical history, and that appellant had returned to full-duty work. She reported that a left shoulder MRI scan revealed a bursal-sided rotator cuff tear of about 70 percent to the tendon and 12 millimeters anterior to posterior. A physical examination revealed positive impingement signs, tuberosity tenderness, and positive guarding with range of motion. Dr. Jordan diagnosed a partial thickness rotator cuff tear and noted that appellant had presented with left shoulder pain and weakness following a work injury.

Dr. Jordan, in progress notes signed on June 13, and 16, 2016, noted that appellant was seen for complaints of left shoulder pain. Examination findings were provided and injury and medical histories were noted. Dr. Jordan reported that appellant had returned to full-duty work. On the notes signed on June 13, 2016, she diagnosed left shoulder pain and left shoulder partial thickness rotator cuff tear.

In an October 14, 2016 report, Dr. Michael Cushing, an examining Board-certified orthopedic surgeon, related that appellant had injured her left shoulder on March 2, 2016 as the result of compensating for her right shoulder. Appellant related that she continued to have left shoulder discomfort and pain since the March 2, 2016 incident. A physical examination revealed full left shoulder range of motion with painful arc of motion, no tenderness, no crepitance, positive Neer and Hawkins tests, and no joint stability. Dr. Cushing diagnosed left shoulder impingement syndrome, left rotator cuff sprain, and left shoulder pain. He recommended surgical intervention and determined that appellant was unable to work due to her severe left shoulder disability.

Appellant was seen by Dr. Cushing on November 4 and February 20, 2017 and he provided medical and injury histories in his progress notes. Examination findings were given and diagnoses of left shoulder pain, left shoulder impingement syndrome, left rotator cuff capsule sprain, and right rotator cuff capsule sprain. Dr. Cushing, in the November 4, 2016 progress notes, recommended left shoulder arthroscopy, subacromial decompression, and rotator cuff repair surgery.

By decision dated June 26, 2017, OWCP denied modification as it found none of the medical evidence submitted contained an opinion establishing causal relationship.

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 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 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.⁶ First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.⁷ 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.⁸

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁹ 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.¹⁰ The opinion of the physician must be based on a complete

³ 5 U.S.C. § 8101 *et seq.*

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 B.F., Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

⁷ D.B., 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁸ C.B., Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 4.

⁹ Y.J., Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

¹⁰ J.J., Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006)

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.¹¹

ANALYSIS

OWCP accepted that on March 2, 2016 appellant carried a heavy backpack with testing materials on her left shoulder. It denied her claim as she did not submit rationalized, probative medical evidence to establish that the accepted March 2, 2016 incident caused or contributed to a diagnosed medical condition. The Board finds that appellant failed to meet her burden of proof to establish an injury on March 2, 2016 causally related to the accepted employment incident.

The question before the Board is whether the March 2, 2016 incident appellant had described caused a left shoulder injury. None of the medical evidence submitted to the record provides a physician's rationalized opinion explaining how the March 2, 2016 activity caused the diagnosed left shoulder conditions.¹²

In support of her claim appellant submitted reports from Dr. Cushing, Dr. Grace, Dr. Guy-Craft, and Dr. Jordan, who concluded that appellant sustained a work injury on March 2, 2016. Dr. Guy-Craft and Dr. Grace diagnosed left arm pain, left shoulder bicipital tendinitis, left shoulder bursitis, and unspecified left shoulder rotator cuff muscle/tendon injury. Dr. Jordan diagnosed a left shoulder partial rotator cuff tear and left shoulder pain. Dr. Cushing diagnosed left shoulder impingement syndrome, left rotator cuff sprain, and left shoulder pain. However, the Board has found that a mere conclusion without the necessary rationale is insufficient to meet a claimant's burden of proof.¹³ Rationalized medical opinion evidence must relate the specific employment incident identified by the claimant to the claimant's condition, with medical rationale explaining how the employment incident physiologically caused the diagnosed conditions. None of these physicians provided any opinion explaining how or why the accepted March 2, 2016 work incident caused the diagnosed conditions,¹⁴ thus these reports fail to establish appellant's claim.¹⁵

The remaining medical evidence of record is of limited probative value. The MRI scan report, while diagnosing a left shoulder condition, fails to offer a medical opinion as to how the

¹¹ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹² *See G.M.*, Docket No. 13-2143 (issued February 7, 2014).

¹³ *V.G.*, Docket No. 17-0067 (issued April 5, 2017); *T.C.*, Docket No. 16-1052 (issued November 8, 2016).

¹⁴ *M.B.*, Docket No. 16-1188 (issued January 10, 2017); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, *supra* note 9; *Ellen L. Noble*, 55 ECAB 530 (2004).

¹⁵ *Id.*

accepted March 2, 2016 work incident caused a medical condition.¹⁶ Diagnostic reports which offer no opinion regarding causal relationship are of limited probative value.¹⁷

OWCP also received reports from physician assistants. However, the Board has held that reports from physician assistants have no probative value as these practitioners are not considered physicians under FECA.¹⁸

The Board therefore finds that appellant has failed to establish causal relationship between carrying a heavy backpack with training materials on March 2, 2016 and the diagnosed left shoulder conditions. The fact that a condition manifests itself during a period of employment is insufficient to establish causal relationship.¹⁹ Temporal relationships alone will not suffice.²⁰ Entitlement to FECA benefits may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relationship.²¹

There is no well-reasoned medical opinion supporting appellant's claim for compensation. Accordingly, the Board will affirm OWCP's June 26, 2017 decision, which found that appellant failed to establish a left shoulder condition causally related to the accepted March 2, 2016 employment incident.

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 a left shoulder condition causally related to the accepted March 2, 2016 employment incident.

¹⁶ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹⁷ *See G.H.*, Docket No. 17-1387 (issued October 24, 2017).

¹⁸ *See David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); *Sean O'Connell*, 56 ECAB 195 (2004) (reports by nurse practitioners and physician assistants are not considered medical evidence as these persons are not considered physicians under FECA); *see also D.B.*, Docket No. 17-0448 (issued October 12, 2017). 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law).

¹⁹ *See A.C.*, Docket No. 16-0452 (issued October 27, 2017); 20 C.F.R. § 10.115(e).

²⁰ *See D.I.*, 59 ECAB 158, 162 (2007).

²¹ *See M.H.*, Docket No. 16-0228 (issued June 8, 2016).

ORDER

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

Issued: January 25, 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