



## ISSUE

The issue is whether appellant met her burden of proof to establish a left shoulder condition causally related to the accepted March 8, 2016 employment incident.

## FACTUAL HISTORY

On March 16, 2016 appellant, then a 55-year-old medical support assistant, filed a traumatic injury claim (Form CA-1) alleging that, on March 8, 2017, she experienced left shoulder pain after lifting boxes to change toner and pulling out cartridges from a copy machine. She stopped work on March 9, 2016 and returned to work on March 16, 2016. Appellant's supervisor indicated on the form that she had complained of left shoulder pain subsequent to surgery in 2012.

OWCP, by letter dated March 28, 2016, requested additional factual and medical information from appellant, including a detailed statement regarding the circumstances surrounding the alleged March 8, 2017 incident and a medical report addressing causal relationship between a diagnosed condition and the work incident.

In a note dated March 8, 2016, received by OWCP on March 31, 2016, a physician assistant diagnosed a nontraumatic strain of the left rotator cuff and found that appellant should remain off work for two days. An x-ray obtained March 8, 2016 showed no osseous abnormality and mild degeneration at the left glenohumeral and acromioclavicular joints.

Dr. John R. Tiffany, Board-certified in family medicine, found on March 15, 2016 that appellant could not work from March 15 to 16, 2016 due to "medical reasons."

On March 18, 2016 Dr. Michelle F. Papa, an osteopath, indicated that appellant was evaluated on March 10, 2016 for a left shoulder condition. She determined that she could resume work without restrictions on March 14, 2016.

The employing establishment, by letter dated March 31, 2016, controverted the claim, noting that appellant had provided medical information from three different practices. It indicated that she had an open claim for medical benefits.

On April 4, 2016 Dr. Heather B. Bittner-Fagan, a family practitioner, evaluated appellant for left shoulder pain. She noted appellant's history of continued left shoulder problems following a prior rotator cuff tear with surgery in 2013, and a subsequent reinjury of her shoulder at work. Dr. Bittner-Fagan diagnosed left shoulder joint pain.

An April 19, 2016 magnetic resonance imaging (MRI) scan revealed supraspinatus tendinitis with a possible intrinsic interstitial tear and biceps tenosynovitis.

In a statement dated April 21, 2016, appellant related that she heard her shoulder “pop” after she pulled out a cartridge from the copy machine. She indicated that she had a prior claim, assigned OWCP File No. xxxxxx950.<sup>3</sup>

By decision dated April 29, 2016, OWCP denied appellant’s traumatic injury claim. It found that she had not established that the March 8, 2016 work incident occurred as alleged, as the allegation on her claim form was vague and she had not responded to its request for additional information.

In an emergency department report dated March 8, 2016, received by OWCP on June 24, 2016, a physician assistant diagnosed a nontraumatic left rotator cuff strain and found that appellant should remain off work for two days. She obtained a history of appellant experiencing a work injury four years earlier with increased pain after “lifting boxes over the [p]ast few days.”

Dr. Stephen A. Stache, a sports medicine specialist, evaluated appellant on July 19, 2016 for left shoulder pain. He noted that she had surgery to repair her rotator cuff after a work injury a few years earlier. After the surgery, appellant experienced shoulder pain and currently also had neck pain, headaches, and numbness in her left hand. Dr. Stache diagnosed cervicalgia, cervical disc degeneration, cervical radiculopathy, and unspecified disorders of the synovium and tendon of the left shoulder. He opined that an MRI scan of the left shoulder showed no evidence of a tear and advised that the examination findings were “consistent with more irritation of the cervical spine given her level of arthritis.” Dr. Stache noted that appellant became “confrontational” when he informed her that her neck caused her pain.

On March 17, 2017 appellant, through counsel, requested reconsideration. She maintained that an enclosed November 3, 2016 report from Dr. David Krasner, an osteopath, was sufficient to establish her claim.

In a report dated November 3, 2016, Dr. Krasner provided answers to questions on a form. He related that appellant sustained a reinjury after lifting heavy boxes changing a toner cartridge. Dr. Krasner noted that the examination findings were tenderness with extension and mild motion loss. He diagnosed rotator cuff syndrome and left shoulder pain. Dr. Kasner provided his signature below a statement that the described work injury was the “direct and proximate cause of the diagnoses.”

By decision dated June 9, 2017, OWCP modified its April 29, 2017 decision to find that appellant had established that the March 8, 2016 work incident occurred as alleged. However, it denied the claim as the medical evidence of record was insufficient to establish that she sustained a diagnosed condition as a result of the accepted employment incident.

On appeal counsel asserts that appellant’s treating physician found causal relationship.

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<sup>3</sup> This claim is not before the Board on the present appeal.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged.<sup>8</sup> 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.<sup>9</sup>

Causal relationship is a medical issue, and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>10</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>11</sup> must be one of reasonable medical certainty,<sup>12</sup> and must explain the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>13</sup>

## ANALYSIS

Appellant alleged that she sustained an injury to her left shoulder on March 8, 2016 after lifting boxes to replace toner and pulling out copier cartridges. She has established that the March 8, 2016 incident occurred at the time and place, and in the manner alleged. The issue, consequently, is whether the medical evidence establishes that appellant sustained an injury as a result of this incident.

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<sup>4</sup> 5 U.S.C. § 8101 *et seq.*

<sup>5</sup> *Alvin V. Gadd*, 57 ECAB 172 (2005); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *See Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>7</sup> *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>8</sup> *See C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008).

<sup>9</sup> *See Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006).

<sup>10</sup> *See John J. Montoya*, 54 ECAB 306 (2003).

<sup>11</sup> *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>12</sup> *John W. Montoya*, *supra* note 10.

<sup>13</sup> *Judy C. Rogers*, 54 ECAB 693 (2003).

The Board finds that appellant has not established an injury causally related to the accepted March 8, 2016 employment incident. The determination of whether an employment incident caused an injury is generally established by medical evidence.<sup>14</sup>

Dr. Tiffany, on March 15, 2016, advised that appellant was unable to work on March 15 and 16, 2016. On March 8, 2016 Dr. Papa related that she had treated appellant for a left shoulder condition and found that she could resume work without restrictions on March 14, 2016. As neither physician addressed causation, their reports are of diminished probative value.<sup>15</sup>

In a report dated April 4, 2016, Dr. Bittner-Fagan discussed appellant's history of a rotator cuff tear with surgery in 2013 and a subsequent reinjury at work. She diagnosed left shoulder joint pain. Dr. Bittner-Fagan, however, did not provide a firm diagnosis or attribute any condition to the March 8, 2016 work incident. The Board has consistently held that pain is a symptom and not a compensable medical diagnosis.<sup>16</sup> Furthermore, a physician must provide a narrative description of the identified employment incident and a reasoned opinion regarding whether the employment incident described caused or contributed to a diagnosed medical condition.<sup>17</sup> The Board, therefore, finds that the report of Dr. Bittner-Fagan is insufficient to meet appellant's burden of proof.

On July 19, 2016 Dr. Stache reviewed appellant's history of a prior left shoulder condition and her current complaints of left shoulder and neck pain with numbness in the left hand. He diagnosed cervicalgia, cervical disc degeneration, cervical radiculopathy, and unspecified disorders of the synovium and left shoulder tendon. Dr. Stache opined that the examination findings were consistent with cervical spine irritation. As he did not relate any diagnosed medical condition to the March 8, 2016 employment incident, his report is of diminished probative value.<sup>18</sup>

Dr. Krasner provided answers to questions regarding appellant's condition in a form report dated November 3, 2016. He diagnosed rotator cuff syndrome and left shoulder pain and indicated that she had experienced a reinjury lifting boxes changing a toner cartridge. Dr. Kasner noted that appellant had mild loss of motion and tenderness upon extension. He found that the work injury caused the diagnosed conditions. Dr. Kasner, however, did not provide a reasoned opinion explaining how work events on March 8, 2016 caused or aggravated the diagnosed rotator cuff syndrome. Medical evidence that states a conclusion, but does not offer any rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>19</sup> Such rationale is particularly

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<sup>14</sup> *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

<sup>15</sup> *See D.A.*, Docket No. 17-0816 (issued July 24, 2017); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>16</sup> *See B.P.*, Docket No. 12-1345 (issued November 13, 2012); *C.F.*, Docket No. 08-1102 (issued October 2008).

<sup>17</sup> *See R.J.*, Docket No. 17-1384 (issued October 25, 2017).

<sup>18</sup> *See supra* note 15.

<sup>19</sup> *See J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

important given appellant's history of a preexisting shoulder condition.<sup>20</sup> Consequently, Dr. Kasner's report is insufficient to meet her burden of proof.

Appellant also received treatment from a physician assistant. Reports from physician assistants, however, have no probative value as physician assistants are not considered "physicians" as defined under FECA.<sup>21</sup>

On appeal counsel contends that appellant's treating physician found causation. However, as noted above, in order to establish causal relationship, a physician must provide an opinion that the condition for which compensation is claimed is causally related to employment and the opinion must be supported by affirmative evidence, explained by medical rationale, and be based on a complete and accurate medical and factual background of the claimant.<sup>22</sup> Appellant failed to submit such evidence and thus has not met her burden of proof.<sup>23</sup>

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 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 8, 2016 employment incident.

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<sup>20</sup> See *E.D.*, Docket No. 16-1854 (issued March 3, 2017).

<sup>21</sup> See 5 U.S.C. § 8101(2); *Allen C. Hundley*, 53 ECAB 551 (2002).

<sup>22</sup> See *J.W.*, Docket No. 17-0870 (issued July 12, 2017).

<sup>23</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 9, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 3, 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