

**United States Department of Labor
Employees' Compensation Appeals Board**

_____)	
E.M., Appellant)	
)	
and)	Docket No. 18-0275
)	Issued: June 8, 2018
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Palatine, IL, Employer)	
_____)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On November 20, 2017 appellant filed a timely appeal from a September 1, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish an injury causally related to the accepted factors of her federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence with her appeal to the Board. The Board's jurisdiction is limited to the evidence that was before OWCP at the time it issued its final decision. The Board is therefore precluded from considering this additional evidence for the first time on appeal. 20 C.F.R. § 501.2(c)(1); *P.W.*, Docket No. 12-1262 (issued December 5, 2012).

FACTUAL HISTORY

On June 1, 2017 appellant, then a 58-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that, on April 21, 2017, she injured both shoulders at work while lifting, pushing, and pulling postal equipment containing rewrap mail. She stopped work that day and returned on April 25, 2017. The employing establishment controverted the claim. In correspondence dated June 5, 2017, it maintained that the claim should be adjudicated as a notice of occupational disease (Form CA-2).

In an April 22, 2017 report, Dr. Anatoly M. Rozman, a Board-certified physiatrist, indicated that appellant had previous injuries that were grossly resolved. He noted appellant's job duties and her report that, due to persistent pain and weakness, she struggled to properly perform job duties.³ Dr. Rozman described her complaints of neck pain radiating into both shoulders, bilateral elbow pain with swelling, right wrist pain and swelling, right hip area pain with swelling and burning, right low back pain radiating into the right lower extremity, chest wall pain, and bilateral shoulder pain on movement with any activities above the shoulder. Findings on physical examination included positive empty can and lift-off tests of both shoulders, pain on palpation of both lateral epicondyles, pain in the right trochanteric area, and pain in the right lumbosacral area, positive Ober's, Clarke's, Patrick's, and Tinel's tests with a negative straight leg raising. Dr. Rozman diagnosed bilateral shoulder tendinitis/rule out tear of the tendons/rotator cuff tear, bilateral epicondylitis, right cubital tunnel syndrome, right trochanteric bursitis, sacroiliac joint sprain on the right, thoracalgia, right knee osteoarthritis, and patellofemoral syndrome on the right. He opined that the diagnoses were related to appellant's job duties as a mail handler.

By development letter dated June 13, 2017, OWCP informed appellant that Dr. Rozman's report was insufficient to establish her claim and informed her of the type of evidence needed to establish her claim.

On July 10, 2017 appellant indicated that she was claiming an occupational disease rather than a traumatic injury. She also indicated that, while wrapping and lifting heavy packages on April 21, 2017, she began to feel pain in her neck and right shoulder, with radiating pain and tingling into the fingers, right knee pain, and pain on the left.

On July 21, 2017 OWCP informed appellant that her claim would be adjudicated as an occupational disease.

Dr. Rozman completed a duty status report (Form CA-17) on June 12, 2017. He noted that appellant was working and described clinical findings in the neck, left shoulder, elbow, and knee for diagnoses of osteoarthritis and carpal tunnel syndrome. Dr. Rozman provided physical restrictions, including lifting of 25 pounds for four hours daily. A July 10, 2017 electromyogram and nerve conduction velocity (EMG/NCV) study performed by Dr. Rozman demonstrated bilateral carpal tunnel syndrome and cubital tunnel syndrome.

³ Dr. Rozman indicated that appellant's job duties included heavy pushing, lifting, handling materials, sorting mail, and lifting parcels up to 30 pounds occasionally.

By report dated July 12, 2017, Dr. Rozman noted that appellant had been under his care since June 29, 2011 and continued to have significant problems with persistent pain at multiple points including right hip, low back pain radiating to the right lower extremity, bilateral shoulder pain, and bilateral wrist pain. He discussed physical examination findings and additionally diagnosed right carpal tunnel syndrome. Dr. Rozman indicated that the diagnosed conditions were causally related to appellant's work activities and that she was having a flare-up which required physical therapy and medications. On July 29, 2017 he indicated that appellant had no change in her physical examination.

By decision dated September 1, 2017, OWCP denied appellant's claim. It found that the medical evidence of record did not establish that the diagnosed conditions were causally related to the accepted employment factors. OWCP found Dr. Rozman's reports insufficient because he did not describe specific work activities that caused the claimed conditions, nor did he describe the mechanism of injury which resulted in the diagnosed conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 are causally related to the employment injury.⁵ 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.⁶

OWCP's regulations define the term "occupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift."⁷ 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) a 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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.⁸

⁴ *Supra* note 1.

⁵ *Gary J. Watling*, 52 ECAB 278 (2001).

⁶ *Michael E. Smith*, 50 ECAB 313 (1999).

⁷ 20 C.F.R. § 10.5(ee).

⁸ *Roy L. Humphrey*, 57 ECAB 238 (2005).

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁹ 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 employee.¹⁰ Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹¹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that her diagnosed conditions were causally related to her accepted employment factors.

To establish causal relationship, a claimant must submit a physician's report in which the physician reviews the employment factors identified as causing the claimed condition and, taking these factors into consideration as well as findings upon examination, opines whether the employment injury caused or aggravated the diagnosed conditions and presents medical rationale in support of his or her opinion.¹²

While the record contains several reports from Dr. Rozman, the Board finds that he did not provide sufficient explanation regarding whether the conditions he diagnosed were caused or aggravated by appellant's work duties. A mere conclusion without the necessary rationale explaining how and why specific duties resulted in a diagnosed condition is not sufficient to meet a claimant's burden of proof.¹³ Dr. Rozman only generally described appellant's work duties. He expressed no knowledge of the amount of time appellant spent performing the work activities he listed, and he provided no explanation as to the mechanics of how the listed work duties resulted in appellant's diagnosed conditions. Thus, Dr. Rozman's reports are insufficient to meet appellant's burden of proof.¹⁴

As the record is devoid of rationalized medical opinion evidence explaining how or why appellant's employment duties either caused or contributed to her diagnosed conditions, appellant has not met her burden of proof to establish causal relationship.

⁹ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹⁰ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹¹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹² *J.M.*, 58 ECAB 303 (2007).

¹³ *Y.R.*, Docket No. 17-1521 (issued December 28, 2017).

¹⁴ *See M.R.*, Docket No. 16-1851 (issued January 19, 2018).

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 an injury causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the September 1, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 8, 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