

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

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<b>E.D., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 18-0138</b>
	)	<b>Issued: May 14, 2018</b>
<b>DEPARTMENT OF JUSTICE, BUREAU OF</b>	)	
<b>PRISONS, MEDICAL CENTER FOR FEDERAL</b>	)	
<b>PRISONERS, Springfield, MO, Employer</b>	)	
_____	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

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

**JURISDICTION**

On October 24, 2017 appellant filed a timely appeal from a May 31, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met his burden of proof to establish that his right shoulder conditions were causally related to the accepted May 26, 2016 employment incident.

On appeal appellant asserts that the medical evidence submitted is sufficient to establish causal relationship.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On May 26, 2016 appellant, then a 38-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that, on that date, he injured his right shoulder when setting down a box of detergent while in the performance of duty. He did not initially stop work.

A June 8, 2016 magnetic resonance imaging (MRI) scan of the right shoulder demonstrated mild acromioclavicular (AC) joint degenerative findings, a small amount of increased fluid in the subacromial bursal, and a potential tear of the posterior-superior glenoid labrum.

Dr. John A. Meaney, a Board-certified orthopedic surgeon, submitted treatment notes dated September 22, 2016 to March 7, 2017. The September 22, 2016 note indicated that appellant reported a history that he felt pain and a pop in his right shoulder while pushing boxes. Physical examination demonstrated almost full range of motion, tenderness over the AC joint, and mildly positive impingement. AC joint synovitis was identified as the main problem, and appellant's right shoulder AC joint was injected. Appellant had additional injections on December 13, 2016 and March 7, 2017.

On April 14, 2017 Dr. Meaney requested authorization for right shoulder surgery.

By development letter dated April 25, 2017, OWCP informed appellant that, when his claim was first received, it appeared to be a minor injury that resulted in minimal or no lost time from work, but it had been reopened because he had requested authorization for surgery, and the merits would now be formally adjudicated. It informed appellant of the type of medical evidence needed to support his claim. Appellant was afforded 30 days to provide the requested information.

In a treatment note dated May 26, 2017, Dr. Meaney indicated that appellant had another right shoulder injection.

By decision dated May 31, 2017, OWCP found the May 26, 2016 incident occurred as alleged, but denied the claim finding that the medical evidence of record was insufficient to establish that the diagnosed right shoulder conditions were causally related to the accepted employment incident.

## **LEGAL PRECEDENT**

An employee seeking compensation under FECA<sup>2</sup> has the burden of proof to establish the essential elements of his or her claim by the weight of reliable, probative, and substantial evidence,<sup>3</sup> including that he or she is an "employee" within the meaning of FECA, and that the claim was filed within the applicable time limitation.<sup>4</sup> The employee must also establish that he

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<sup>2</sup> *Supra* note 1.

<sup>3</sup> *J.P.*, 59 ECAB 178 (2007).

<sup>4</sup> *R.C.*, 59 ECAB 427 (2008).

or she sustained an injury in the performance of duty as alleged, and that disability from work, if any, was causally related to the employment injury.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. 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. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>6</sup>

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

### ANALYSIS

The Board finds that, although it is undisputed that the May 26, 2016 incident occurred as alleged, the medical evidence submitted by appellant is insufficient to establish that the incident caused appellant's diagnosed right shoulder conditions.

Medical evidence submitted to support a claim for compensation should reflect a correct history, and the physician should offer a medically sound explanation of how the claimed work event caused or aggravated the claimed condition.<sup>10</sup> The Board finds that no physician did so in this case.

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<sup>5</sup> *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989). OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift. 20 C.F.R. § 10.5(ee). OWCP 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." 20 C.F.R. § 10.5(q).

<sup>6</sup> *T.H.*, 59 ECAB 388 (2008).

<sup>7</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>8</sup> *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>9</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>10</sup> *D.D.*, Docket No. 13-1517 (issued April 14, 2014).

The August 26, 2016 MRI scan did not provide an opinion regarding cause of any diagnosed conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>11</sup>

Likewise, the reports from Dr. Meaney did not include an opinion as to the causal relationship of appellant's diagnosed condition. He treated appellant as of September 22, 2016 and diagnosed appellant's right shoulder condition as AC joint synovitis. Dr. Meaney described that appellant felt pain and a pop in his right shoulder while pushing boxes, however, he did not specifically address whether appellant's employment incident was sufficient to have caused or aggravated the diagnosed medical condition,<sup>12</sup> nor did he relate the date as to when appellant's alleged injury occurred. Additionally, his medical opinion is insufficient to establish the claim as he did not provide a proper history of injury.<sup>13</sup>

It is appellant's burden of proof to establish that a diagnosed condition is causally related to the May 26, 2016 employment incident. As he submitted insufficient evidence to establish an injury caused by this incident, appellant has failed to meet his burden of proof.

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 failed to establish a right shoulder condition causally related to the accepted May 26, 2016 employment incident.

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<sup>11</sup> *Willie M. Miller*, 53 ECAB 697 (2002).

<sup>12</sup> *Id.*; *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

<sup>13</sup> *J.G.*, Docket No. 17-1217 (issued February 16, 2018); *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 31, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 14, 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