

ISSUE

The issue is whether appellant has met her burden of proof to establish additional conditions causally related to her October 29, 2008 employment injury.

FACTUAL HISTORY

On October 30, 2008 appellant, then a 42-year-old nurse manager, filed a traumatic injury claim (Form CA-1) alleging that she sustained injury at work on October 29, 2008. She explained that she felt a sharp pain throughout her left breast when, in an attempt to turn a patient, she pulled a sheet that was beneath the patient.³ Appellant did not stop work, but began working in a light-duty position which limited her lifting, pushing, and pulling.

OWCP accepted appellant's claim for left shoulder/upper arm sprain.⁴ Initially, appellant primarily received medical treatment for her left shoulder/arm condition from the health unit of the employing establishment.

The findings of a December 8, 2008 magnetic resonance imaging (MRI) scan of appellant's left brachial plexus contained an impression of no evidence of acute or chronic brachial plexus injury.

On April 20, 2009 appellant returned to her regular employment duties without restrictions.

An August 28, 2009 MRI scan of appellant's left shoulder contained an impression of tendinosis/tendinopathy of the rotator cuff tendon complex with no discrete partial-thickness defect or complete rotator cuff tendon tear, degenerative stress-related change involving the acromioclavicular joint articulation with no significant undersurface osteophyte formation, subdeltoid bursal inflammation/bursitis, and fluid along the biceps tendon sheath which might represent reactive tenosynovitis.

An August 22, 2014 MRI scan of appellant's left shoulder contained an impression of insertional rotator cuff tendinitis with no evidence of high-grade partial or full-thickness rotator cuff tendon tear, mild degenerative changes of the acromioclavicular joint with minimal subdeltoid subacromial reactive bursal edema, focal cartilage thinning along the inferomedial margin humeral head, mild long head biceps tendinosis, and minimal tenosynovitis without tendon tear or subluxation.

In a November 5, 2014 report, Dr. Michelle Ferreira, an attending Board-certified neurologist, noted that, based on MRI scan testing, appellant's diagnosis should be changed to bursitis with tendinosis and tendinopathy of the left shoulder. She indicated, "This is job related."

³ OWCP assigned File No. xxxxxx244 to the present claim.

⁴ Under a separate occupational disease claim, assigned OWCP File No. xxxxxx210, OWCP accepted that appellant sustained post-traumatic stress disorder (unspecified) and adjustment disorder with mixed anxiety and depressed mood due to the circumstances surrounding her witnessing the death of a patient at work in 2013. The case records for OWCP File Nos. xxxxxx210 and xxxxxx244 have been administratively combined with OWCP File No. xxxxxx210 serving as the master file.

An August 11, 2015 MRI scan of appellant's cervical spine showed disc herniations at C3-4, C4-5, and C6-7.

In a January 17, 2017 report, Dr. Ferreira indicated that appellant reported she had left shoulder and armpit pain that began shortly after she had a work-related incident while moving a patient. She indicated that, upon physical examination, appellant had 5/5 strength throughout her extremities, normal range of motion in the extremities, and C4-5 hypoesthesia on the left. Dr. Ferreira noted the findings of appellant's recent cervical spine MRI scan. She diagnosed brachial plexitis, cervicgia, neuropathic pain, left shoulder pain, chronic pain, and complex regional pain syndrome (affecting unspecified site). Dr. Ferreira prescribed medication for appellant's left shoulder pain.

In a May 4, 2017 report, Dr. Ferreira again indicated that appellant reported having left shoulder and armpit pain that began shortly after she had a work-related incident while moving a patient. She provided physical examination findings similar to those contained in her January 17, 2017 report and again noted that a cervical spine MRI scan showed disc herniations at C3-4, C4-5, and C6-7. Dr. Ferreira diagnosed brachial plexitis, cervicgia, neuropathic pain, left shoulder pain, chronic pain, and complex regional pain syndrome (affecting unspecified site). She opined that appellant continued to have left shoulder pain from brachial plexitis and complex regional pain syndrome due to her October 29, 2008 employment injury. Dr. Ferreira noted, "Therefore, [appellant's] conditions need to be expanded."

In a May 11, 2017 statement, appellant requested that the accepted conditions in her traumatic injury claim be expanded to include the additional conditions recently diagnosed by Dr. Ferreira, *i.e.*, of brachial plexitis, cervicgia, neuropathic pain, left shoulder pain, chronic pain, and complex regional pain syndrome.

In a May 25, 2017 development letter, OWCP requested that appellant submit additional evidence in support of her claim for additional conditions, including a reasoned medical report relating the claimed conditions to her October 29, 2008 employment injury. It afforded her 30 days to submit the evidence. In response, appellant submitted reports that had previously been submitted.

In a June 7, 2017 letter, counsel asserted that bursitis with tendinosis and tendinopathy of the left shoulder should also be accepted as related to the October 29, 2008 employment injury.

By decision dated June 30, 2017, OWCP denied appellant's request for expansion of her claim to include additional conditions because the medical evidence of record was insufficient to establish causal relationship between those conditions and the October 29, 2008 employment injury.

On July 11, 2017 appellant, through counsel, requested a telephone hearing with a representative of OWCP's Branch of Hearings and Review. During the hearing, held on December 6, 2017, appellant testified regarding the multiple symptoms she attributed to her October 29, 2008 employment injury. Counsel argued that Dr. Ferreira's reports established appellant's claim for additional conditions related to the October 29, 2008 employment injury.

Appellant submitted a September 26, 2017 report from Dr. Ferreira who diagnosed brachial plexitis, right foot pain, and complex regional pain syndrome of the left upper extremity. Dr. Ferreira indicated that appellant continued to have brachial plexitis and complex regional pain syndrome of the left shoulder area due to the injury she sustained on October 29, 2008. In a November 1, 2017 report, she diagnosed brachial plexitis, neuropathic pain, left shoulder pain, other chronic pain, and right heel pain.

By decision dated March 1, 2018, OWCP's hearing representative affirmed OWCP's June 30, 2017 decision. He determined that none of the medical reports of record contained a rationalized medical opinion establishing causal relationship between the claimed additional conditions and the October 29, 2008 employment injury.

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 specific condition or disability for which compensation is claimed is causally related to the employment injury.⁶

The medical evidence required to establish causal relationship between a claimed specific condition or 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.⁷

The Board has held that where the medical evidence supports an aggravation or acceleration of an underlying condition precipitated by working conditions or injuries, such disability is compensable.⁸ However, the normal progression of untreated disease cannot be found to constitute "aggravation" of a condition merely because the performance of normal work duties reveals the underlying condition.⁹

⁵ *Supra* note 2.

⁶ *J.F.*, Docket No. 09-1061 (issued November 17, 2009). *See also J.T.*, Docket No. 17-0578 (issued December 6, 2017).

⁷ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

⁸ *C.H.*, Docket No. 17-0488 (issued September 12, 2017).

⁹ *Id.*

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he/she bears the burden of proof to establish that the condition is causally related to the employment injury.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish additional conditions causally related to her October 29, 2008 employment injury.

OWCP accepted that appellant sustained a left shoulder/upper arm sprain on October 29, 2008 due to pulling on a sheet that was beneath a patient. Appellant later requested that the accepted conditions in her traumatic injury claim be expanded to include the additional conditions of brachial plexitis, cervicgia, neuropathic pain, left shoulder pain, chronic pain, complex regional pain syndrome, left shoulder bursitis, and left shoulder bursitis tendinosis/tendinopathy.

Appellant submitted a November 5, 2014 report from Dr. Ferreira who noted that, based on an August 22, 2014 MRI scan, appellant's diagnosis should be changed to bursitis with tendinosis and tendinopathy of the left shoulder. Dr. Ferreira indicated, "This is job related." The Board notes that this report is of limited probative value with respect to appellant's expansion claim as Dr. Ferreira did not provide medical rationale in support of her opinion that the diagnosed conditions were causally related to appellant's work. Dr. Ferreira did not provide any indication of what employment factors she felt caused or aggravated these conditions. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹¹

In a January 17, 2017 report, Dr. Ferreira diagnosed brachial plexitis, cervicgia, neuropathic pain, left shoulder pain, chronic pain, and complex regional pain syndrome (affecting unspecified site). However, this report is of no probative value regarding appellant's expansion claim because Dr. Ferreira did not provide an opinion that the diagnosed conditions were related to the October 29, 2008 employment injury or some other employment factor. The Board has held that medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹² Moreover, with respect to appellant's request to have neuropathic pain, left shoulder pain, and other chronic pain added as employment-related conditions, the Board has held that pain alone is a symptom, not a medical diagnosis.¹³ Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination.¹⁴

¹⁰ *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

¹¹ *See Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹² *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *See F.U.*, Docket No. 18-0078 (issued June 6, 2018).

¹⁴ *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012).

In a May 4, 2017 report, Dr. Ferreira again diagnosed brachial plexitis, cervicalgia, neuropathic pain, left shoulder pain, chronic pain, and complex regional pain syndrome (affecting unspecified site). She opined that appellant continued to have left shoulder pain from brachial plexitis and complex regional pain syndrome due to her October 29, 2008 employment injury. Dr. Ferreira noted, “Therefore, her conditions need to be expanded.”

The Board finds that Dr. Ferreira’s May 4, 2017 report is of limited probative value with respect to appellant’s expansion claim because Dr. Ferreira again failed to provide adequate medical rationale in support of her opinion on causal relationship. Dr. Ferreira did not provide any notable discussion of the October 29, 2008 employment injury¹⁵ or explain the medical process of how the diagnosed conditions of brachial plexitis and complex regional pain syndrome were causally related to the October 29, 2008 employment injury, a soft-tissue injury which has only been accepted for left shoulder/arm sprain. While she included some discussion of physical examination and diagnostic test findings, Dr. Ferreira did not explain how these findings supported her opinion that appellant had brachial plexitis and complex regional pain syndrome causally related to the October 29, 2008 employment injury. She did not provide bridging evidence that would link the diagnoses of brachial plexitis and complex regional pain syndrome in 2017 to the October 29, 2008 employment injury that occurred approximately nine years earlier. As noted above, the Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹⁶

In her May 4, 2017 report, Dr. Ferreira did not provide any opinion on the cause of appellant’s neuropathic pain, left shoulder pain, and other chronic pain, nor did she associate any specific diagnosed conditions with these symptoms. Therefore, this report is of no probative value regarding appellant’s request to have the accepted conditions include neuropathic pain, left shoulder pain, and other chronic pain.¹⁷

In a September 26, 2017 report, Dr. Ferreira diagnosed brachial plexitis, right foot pain, and complex regional pain syndrome of the left upper extremity. She indicated that appellant continued to have brachial plexitis and complex regional pain syndrome of the left shoulder area due to the injury she sustained on October 29, 2008. However, this report is of limited probative value regarding appellant’s expansion claim because Dr. Ferreira failed to provide any medical rationale in support of her opinion on causal relationship.¹⁸

In a November 1, 2017 report, Dr. Ferreira diagnosed brachial plexitis, neuropathic pain, left shoulder pain, other chronic pain, and right heel pain. This report is of no probative value regarding

¹⁵ Dr. Ferreira only indicated that appellant reported her left shoulder and armpit pain began shortly after she had a work-related incident while moving a patient.

¹⁶ See *supra* note 10; see also *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

¹⁷ See *supra* note 12.

¹⁸ See *D.R.*, Docket No. 16-0528 (issued August 24, 2016) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining the relationship between a given employment activity and a diagnosed medical condition).

appellant's expansion claim because Dr. Ferreira did not provide an opinion that the diagnosed conditions were related to the October 29, 2008 employment injury or some other employment factor. As noted above, the Board has held that medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁹

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 additional conditions causally related to her October 29, 2008 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the March 1, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 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

¹⁹ See *supra* note 12.