

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

M.G., Appellant)	
)	
and)	Docket No. 19-0581
)	Issued: August 21, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Tallahassee, FL, Employer)	
)	

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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 18, 2019 appellant filed a timely appeal from a December 12, 2018 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 his burden of proof to establish a right shoulder condition causally related to the accepted October 23, 2018 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the December 12, 2018 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On October 31, 2018 appellant, then a 54-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 23, 2018 he sustained a right shoulder strain while in the performance of duty. He stopped work on October 24, 2018.

On October 24, 2018 the employing establishment issued appellant a completed authorization for examination and/or treatment (Form CA-16).

In October 25, 2018 state workers' compensation form report, Dr. Aida Winter, an osteopath Board-certified in family medicine, diagnosed a right shoulder strain. The form noted an injury date of October 23, 2018. Dr. Winter opined that the diagnosed condition was employment related.

In an October 25, 2018 duty status report (Form CA-17), Dr. Winter diagnosed right shoulder strain, and noted the injury date as October 23, 2018. She released appellant to return to work on October 25, 2018 with restrictions.

In a November 7, 2018 development letter, OWCP informed appellant that the documentation received to date was insufficient to establish his claim. It advised him of the type of factual and medical evidence needed, including a narrative medical report from a qualified physician explaining causal relationship between his diagnosed conditions and the alleged October 23, 2018 incident. OWCP provided a factual questionnaire for appellant's completion and afforded him 30 days to submit the necessary evidence.

A November 7, 2018 magnetic resonance imaging (MRI) scan of the right shoulder reported moderate biceps tendinosis and interstitial tearing, diffuse superior labral extending into the posterior inferior labrum, moderate supraspinatus tendinosis, and moderate subscapularis tendinosis, all of indeterminate age.

By decision dated December 12, 2018, OWCP denied appellant's traumatic injury claim. It found that he failed to submit medical evidence establishing that his right shoulder condition was causally related to the accepted October 23, 2018 employment incident.

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,⁴ 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

³ *Id.*

⁴ *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

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

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

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.¹⁰ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹¹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right shoulder condition causally related to the accepted October 23, 2018 employment incident.

OWCP received an October 25, 2018 state workers' compensation form report from Dr. Winter which noted a diagnosis of right shoulder strain and indicated that appellant sustained an injury to his right shoulder on October 23, 2018. Dr. Winter opined that the condition was a result of the employment incident, but she did not provide medical rationale explaining how appellant's work activity on October 23, 2018 caused or aggravated the diagnosed condition.¹² Medical evidence that states a conclusion, but does not offer a rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal

⁵ *J.N.*, Docket No. 19-0215 (issued July 15, 2019); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *D.W.*, Docket No. 18-1256 (issued January 3, 2019); *B.F.*, Docket No. 09-0060 (issued March 17, 2009).

⁸ *S.F.*, Docket No. 18-0296 (issued July 26, 2018); *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁹ *A.D.*, Docket No. 17-1855 (issued February 26, 2018); *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008).

¹⁰ *A.D., id.; I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹¹ *S.H.*, Docket No. 17-1660 (issued March 27, 2018); *James Mack*, 43 ECAB 321 (1991).

¹² *M.E.*, Docket No. 18-0940 (issued June 11, 2019).

relationship.¹³ As Dr. Winter did not provide a rationalized medical opinion regarding causal relationship, her report is of limited probative value.¹⁴

OWCP also received an October 25, 2018 duty status report (Form CA-17) from Dr. Winter diagnosing a right shoulder strain and noting an injury date of October 23, 2018. While Dr. Winter provided a firm medical diagnosis, she offered no opinion as to the cause of the diagnosed condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁵ Thus, the Board finds this evidence insufficient to establish appellant's claim.

OWCP also received a November 7, 2018 MRI scan. However, diagnostic reports lack probative value as they do provide an opinion as to whether the employment incident caused any of the diagnosed condition.¹⁶ The Board finds, therefore, that this evidence is insufficient to establish appellant's claim.

As the case record lacks rationalized medical evidence establishing causal relationship between appellant's right shoulder condition and the October 23, 2018 employment incident, the Board finds that he has not met his burden of proof.¹⁷

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 his burden of proof to establish a right shoulder condition causally related to the accepted October 23, 2018 employment incident.

¹³ *S.H.*, Docket No. 17-1447 (issued January 11, 2018).

¹⁴ *Id.*

¹⁵ *S.G.*, Docket No. 18-1373 (issued February 12, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁶ *P.Y.*, Docket No. 18-1136 (issued January 7, 2019).

¹⁷ The record contains a Form CA-16 signed by the employing establishment official on October 24, 2018 for treatment pertaining to the employment injury. When the employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. See 20 C.F.R. § 10.300(c); *S.G.*, *supra* note 15; *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 12, 2018 is affirmed.

Issued: August 21, 2019
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board