

ISSUE

The issue is whether appellant has met her burden of proof to establish a right shoulder condition causally related to the accepted November 30, 2017 employment incident.

FACTUAL HISTORY

On December 5, 2017 appellant, then a 66-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that, on November 30, 2017, she sprained her right shoulder when delivering a 50-pound bag of dog food, which slipped from her grasp and fell in a driveway while in the performance of duty. She stopped work on December 4, 2017.

In a statement dated December 2, 2017, appellant described the events of November 30, 2017. She stated that she continued to work, but that she believed it had not helped the situation.

In a prescription note dated December 4, 2017, Dr. Justin Zenner, a Board-certified orthopedic surgeon, diagnosed right shoulder pain and recommended a magnetic resonance imaging (MRI) scan of appellant's right shoulder. In a letter of even date, Dr. Zenner recommended that appellant not return to work until after her MRI scan.

In a report dated December 4, 2017, Dr. Zenner examined appellant's right shoulder, which she claimed to have injured while lifting a package on November 30, 2017. On examination, he noted limited abduction and forward elevation of her right shoulder due to discomfort, as well as a grossly positive painful arc of motion. Dr. Zenner found a positive Neer impingement test, Hawkins impingement sign, and pain over the biceps tendon. He stated that appellant had no obvious mechanical symptoms, but the pain was apparent. X-rays of the right shoulder demonstrated no obvious acute fracture, dislocation, or subluxation, but appellant had signs of glenohumeral arthrosis and acromioclavicular joint arthrosis. Dr. Zenner diagnosed significant right shoulder pain with an abrupt onset of symptoms. He recommended rest, ice, activity modification, physical therapy, anti-inflammatory medications, and an MRI scan.

In a development letter dated January 8, 2018, OWCP informed appellant that she had not submitted sufficient factual or medical evidence to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

An MRI scan of the right shoulder dated December 28, 2017 demonstrated a complete rotator cuff tear of the right shoulder in the anterolateral aspect of the right supraspinatus tendon and the superior aspect of the right subscapularis tendon, medial subluxation of the biceps tendon of the right shoulder, degenerative arthritis in the right glenohumeral joint, and moderate right acromioclavicular joint arthrosis.

In a work excuse note dated January 8, 2018, Dr. Zenner opined that appellant could return to work with restrictions of no lifting over two pounds with the right upper extremity and no overhead reaching. In a report of the same date, Dr. Zenner noted his evaluation of appellant and his review of the December 28, 2017 MRI scan. On examination, he noted weakness of

supraspinatus strength testing with pain, a positive Neer impingement test and Hawkins impingement sign, pain over the biceps tendon, and a grossly positive O'Brien's test. Dr. Zenner diagnosed rotator cuff pathology of the right shoulder, with medialization of the biceps and known arthrosis of the shoulder, degenerative arthritis, and rheumatoid arthritis. He recommended anti-inflammatory treatments and physical therapy.

In a note dated January 15, 2018, a physical therapist noted that appellant was injured at work on November 20, 2017 when she unloaded a 50-pound bag of dog food and felt immediate right shoulder pain. Appellant continued to submit physical therapy notes through January 31, 2018.

On February 5, 2018 Dr. Zenner advised that appellant could return to light-duty work with restrictions of no overhead activity.

By decision dated February 12, 2018, OWCP denied appellant's claim, finding that she had not submitted sufficient evidence to establish that the incident of November 30, 2017 occurred as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

Appellant continued to submit physical therapy notes dated February 2 through 9, 2018.

On February 22, 2018 appellant responded to OWCP's development letter. She stated that she sustained her claimed injury when she was delivering a 50-pound package of dog food and it fell onto a driveway. Thereafter, appellant had trouble lifting, reaching, and sleeping. She noted that she did not have any similar disability or symptoms prior to the claimed injury.

On February 26, 2018 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

In a report dated February 5, 2018, Dr. Zenner noted that appellant was taking steroids for rheumatoid arthritis, which seemed to help significantly. On examination, he noted that she demonstrated good abduction and forward elevation, weakness with supraspinatus strength testing, a biceps tendon which was medialized into her subscapularis rotator cuff tendon tear and an asymptomatic sulcus. Dr. Zenner diagnosed acute rotator cuff tendon tear of the right shoulder and medialization of appellant's biceps tendon. He advised that she could return to light-duty work with restrictions of no overhead activities.

By decision dated July 19, 2018, the hearing representative affirmed OWCP's February 12, 2018 decision as modified. She found that appellant had submitted sufficient evidence to establish that the incident of November 30, 2017 occurred as alleged, but denied the claim because she had not submitted medical evidence containing a specific diagnosis and a rationalized opinion explaining how her diagnosed conditions were causally related to the accepted November 30, 2017 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁵ The second component is whether the employment incident caused a personal injury.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue. A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background. Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).⁷

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.⁸

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right shoulder condition causally related to the accepted November 30, 2017 employment incident.

In support of her claim, appellant submitted medical evidence from Dr. Zenner. On December 4, 2017 Dr. Zenner indicated that she injured her shoulder while lifting a 50-pound package of dog food on November 30, 2017. He diagnosed significant right shoulder pain with an

³ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁵ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *N.S.*, Docket No. 19-0167 (issued June 21, 2019).

abrupt onset of symptoms. While Dr. Zenner recounted the history of injury as communicated by appellant to him, such a generalized statement does not establish causal relationship because it merely repeats appellant's allegations and is unsupported by adequate medical rationale explaining how the incident of November 30, 2017 actually caused the diagnosed condition.⁹ The Board further notes that pain and/or discomfort is only considered a symptom, not a firm medical diagnosis.¹⁰ As such, the report of December 4, 2017 is insufficient to meet appellant's burden of proof with respect to causal relationship.¹¹

In a December 4, 2017 letter, Dr. Zenner advised that appellant was unable to return to work until after her MRI scan. Appellant submitted an MRI scan report dated December 28, 2017. On January 8, 2018 Dr. Zenner stated that appellant could return to work with restrictions. On the same day, he diagnosed rotator cuff pathology of the right shoulder, with medialization of the biceps and known arthrosis of the shoulder, degenerative arthritis, and rheumatoid arthritis. On February 5, 2018 Dr. Zenner recommended that appellant could return to light-duty work. In a report of the same date, he diagnosed acute rotator cuff tendon tear of the right shoulder and medialization of her biceps tendon. The Board has held that a medical report is of no probative value on the issue of causal relationship if it does not provide an opinion on causal relationship.¹² The Board has also held that reports of diagnostic testing lack probative value as they do not provide an opinion on causal relationship between appellant's employment duties and a diagnosed condition.¹³ As these reports did not contain an opinion on causal relationship, they are insufficient to establish the claim.¹⁴

The treatment records from physical therapists dated from January 15 through February 9, 2018 are also insufficient to meet appellant's burden of proof, as physical therapists are not considered physicians as defined under FECA and, as such, their reports are of not probative value.¹⁵

On appeal counsel contends that appellant has established that her right rotator cuff tear was causally related to the accepted November 30, 2017 employment incident. However, as the medical evidence of record does not contain a rationalized explanation sufficient to establish causal relationship, the Board finds that appellant has not met her burden of proof.

⁹ See *J.B.*, Docket No. 18-1006 (issued May 3, 2019); *K.W.*, 59 ECAB 271, 279 (2007).

¹⁰ Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012); *J.A.*, Docket No. 18-0882 (issued December 31, 2018).

¹¹ *Id.*

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

¹³ See *J.M.*, Docket No. 17-1688 (issued December 13, 2018).

¹⁴ *Id.* See *L.S.*, Docket No. 19-0135 (issued April 25, 2019).

¹⁵ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t); *D.F.*, Docket No. 19-0108 (issued April 16, 2019); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

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 a right shoulder condition causally related to the accepted November 30, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the July 19, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 26, 2019
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