

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

N.E., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Corpus Christi, TX, Employer)

**Docket No. 18-0690
Issued: February 7, 2020**

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
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On February 12, 2018 appellant filed a timely appeal from a January 3, 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.

ISSUE

The issue is whether appellant has met her burden of proof to establish a right shoulder condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On March 1, 2017 appellant, then a 50-year-old rural carrier, filed an occupational disease claim (Form CA-2), alleging that she sustained a right upper extremity condition due to repetitive motion when casing mail with her dominant arm and when pulling down mail from above shoulder

¹ 5 U.S.C. § 8101 *et seq.*

level while in the performance of duty. She indicated that she first became aware of her condition on January 13, 2017 and first realized it was caused or aggravated by her federal employment on February 6, 2017. Appellant did not stop work.

In a March 14, 2017 development letter, OWCP advised appellant of the deficiencies of her claim and afforded her 30 days to submit the required factual and medical evidence.

In response, appellant submitted a narrative statement indicating that her federal duties required casing mail, flats, and magazines, many of which went to the upper right side of her case, then she had to pull it back down and get it ready for delivery. She stated that she had been performing these duties for 22 years and attributed her right shoulder condition to her federal duties.

By decision dated April 14, 2017, OWCP denied the claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted work injury and/or event(s). Thus, it found that appellant had not established fact of injury.

On October 11, 2017 appellant requested reconsideration and submitted two additional narrative statements reiterating the factual history of her claim.

In reports dated April 20 and June 9, 2017, Dr. Michael Montgomery, a Board-certified internist, diagnosed right shoulder pain, disorder of tendon of biceps, biceps tendinitis, and inflammation of rotator cuff tendon. He noted that appellant did a lot of work with her arms because she was a mail carrier and did a lot of sorting. Dr. Montgomery referred appellant to physical therapy.

A June 6, 2017 magnetic resonance imaging (MRI) scan of the right shoulder revealed mild superior subscapularis tendinopathy. There was no evidence of a full-thickness rotator cuff tear.

By decision dated January 3, 2018, OWCP found that appellant had established fact of injury, but denied the claim because the medical evidence of record failed to establish a causal relationship between her right shoulder condition and factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish the essential elements of his or her claim, including 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,³ 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

² *Id.*

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

employment injury.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁷ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment factors identified by the employee.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 factors of her federal employment.

In his reports dated April 20 and June 9, 2017, Dr. Montgomery diagnosed disorder of tendon of biceps, biceps tendinitis, and inflammation of rotator cuff tendon. He noted that appellant did a lot of work with her arms because she was a mail carrier and did a lot of sorting. However, such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how her physical activity actually caused the diagnosed conditions.⁹ The Board finds that Dr. Montgomery failed to provide sufficient medical rationale explaining how repetitive motions with her dominant arm at work either caused or contributed to the diagnosed right shoulder conditions. His opinion was based, in part, on temporal relationship. However, the Board has held that 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

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *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).

⁶ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

⁷ *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ *K.W.*, 59 ECAB 271, 279 (2007).

factors or incidents is sufficient to establish a causal relationship.¹⁰ Dr. Montgomery did not otherwise sufficiently explain the reasons why diagnostic testing and examination findings led him to conclude that appellant's employment factors caused or contributed to the diagnosed conditions. Thus, the Board finds that the reports from Dr. Montgomery are insufficient to establish that appellant sustained an employment-related injury.

The June 6, 2017 right shoulder MRI scan revealed mild superior subscapularis tendinopathy; however, this diagnostic study does not address the etiology of appellant's medical condition. The Board has held that diagnostic studies lack probative value on the issue of causal relationship as they do not address whether the employment incident caused any of the diagnosed conditions.¹¹

As appellant has not submitted rationalized medical evidence establishing that her right shoulder condition is causally related to the accepted factors of her federal employment, the Board finds that she has not met her burden of proof.¹²

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 factors of her federal employment.

¹⁰ *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

¹¹ *See C.D.*, Docket No. 17-2011 (issued November 6, 2018).

¹² *See K.K.*, Docket No. 19-1193 (issued October 21, 2019).

ORDER

IT IS HEREBY ORDERED THAT the January 3, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 7, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board