

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

_____)	
L.S., Appellant)	
)	
and)	Docket No. 19-1769
)	Issued: July 10, 2020
U.S. POSTAL SERVICE, POST OFFICE,)	
Coppell, TX, Employer)	
_____)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 26, 2019 appellant filed a timely appeal from a March 1, 2019 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 his burden of proof to establish a cervical condition causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On July 12, 2018 appellant, then a 57-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he injured his neck due to factors of his federal employment, including the repetitive motions of casing and pulling down mail, carrying a mailbag weighing up to 35 pounds, pushing and pulling postal equipment, operating a postal vehicle, and "placing mail

¹ 5 U.S.C. § 8101 *et seq.*

in and taking it out of mailboxes.” He noted that he first became aware of his condition on December 30, 2014 and he first realized that his condition was caused or aggravated by his federal employment on June 27, 2018. On the reverse side of the claim form, the employing establishment indicated that appellant stopped work on May 16, 2016.

In an accompanying personal narrative statement dated June 28, 2018, appellant noted that he had been a letter carrier for 16 years, and that his duties consisted of casing mail, pulling down mail, delivering mail, loading and unloading mail and parcels into a postal vehicle, carrying a mailbag on his neck/shoulder weighing up to 35 pounds, pushing and pulling postal equipment, and placing mail in and taking it out of mailboxes. He noted that he performed these duties for a minimum of eight hours a day, five days a week, and that they affected his neck. Appellant indicated that in 2014 he began feeling pain, stiffness, and spasms in his neck, and since at the time he felt those same symptoms in his shoulders, he thought that all of his symptoms were caused by his shoulders. After his bilateral shoulder surgeries, however, he continued to experience symptoms in his neck. Appellant noted that in the past eight months his symptoms worsened, so he went to a physician and was diagnosed with cervical degenerative disc disease.

In a July 13, 2018 development letter, OWCP informed appellant that additional evidence was required to establish his claim and advised him of the type of factual and medical evidence required. It afforded him 30 days to submit the requested evidence.²

A May 14, 2018 x-ray of appellant’s cervical spine interpreted by Dr. Bruce Lowry, a Board-certified radiologist, revealed a mild reversal of normal lordotic curvature and prominent anterior osteophytes at C4-5 and C5-6 with left prominent anterior osteophytes at C3-4 and C6-7. Appellant’s bony spinal canal appeared widely patent, and his cervical spine had very limited range of motion in extension. Dr. Lowry’s impression included multilevel spondylosis most severe at C4-5 and C5-6 and a limited range of motion in extension.

A May 14, 2018 cervical spine magnetic resonance imaging (MRI) scan, interpreted by Dr. Lowry, demonstrated a straightening and mild reversal of the normal lordotic curvature. His impression included multilevel degenerative changes with significant multilevel recess and foraminal stenosis, with the most severe findings at C6-7 where there was an associated right central subarticular and foraminal disc protrusion.

A June 27, 2018 medical report by Dr. Lashondria Simpson-Camp, a Board-certified general surgeon, indicated that appellant complained of stiffness and pain in his neck. Appellant indicated that he had prior issues with his neck and upper extremities and thought all of his symptoms were caused by his bilateral shoulder injuries. After he had both shoulders repaired he still felt tightness and stiffness in his neck, which prompted him to seek further treatment. Dr. Simpson-Camp conducted a physical examination, which revealed tenderness in appellant’s cervical spine at C5 through C7. Appellant had a limited range of motion with pain in his cervical spine and decreased sensation to light touch in his left upper extremity.

² In a July 19, 2018 revised development letter, OWCP again informed appellant that additional evidence was required in support of his claim. It afforded him 30 days from the date of the revised letter to submit the requested evidence.

Dr. Simpson-Camp reviewed appellant's May 14, 2018 cervical spine x-ray and MRI scan and diagnosed cervical degenerative disc disease. She opined that his cervical degenerative disc disease was a direct result of his factors of federal employment, including carrying a mailbag around his neck weighing up to 35 pounds, lifting trays of mail, and reaching and lifting overhead. Dr. Simpson-Camp explained that appellant turned his head from side to side when in his truck to place mail into mailboxes and while pushing and pulling heavy equipment, and that this excessive amount of repetitive abnormal mechanics and pressure on the cervical spine can cause injury overtime due to the amount of stress and strain that is placed on the area while performing his employment duties. She suggested that he would greatly benefit from physical therapy and other interventions to improve his overall function.

On August 2, 2018 appellant submitted an OWCP questionnaire and provided more details regarding the factors of his federal employment and his cervical symptoms.

By decision dated September 13, 2018, OWCP denied appellant's occupational disease claim finding that the evidence of record failed to establish a causal relationship between his diagnosed condition and the accepted factors of his federal employment.

On October 11, 2018 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated March 1, 2019, an OWCP hearing representative affirmed the September 13, 2018 decision.

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 period 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 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, an employee must submit the following: (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

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

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).

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 employee.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background.⁸ 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 factors.⁹

ANALYSIS

The Board finds that the case is not in posture for decision.

In support of his claim, appellant submitted a June 27, 2018 medical report by Dr. Simpson-Camp which indicated that he complained of stiffness and pain in his neck. Dr. Simpson-Camp noted his medical history of bilateral shoulder injuries, conducted a physical examination, reviewed his x-ray and MRI scan of his cervical spine, and diagnosed cervical degenerative disc disease. She opined that appellant's cervical degenerative disc disease was a direct result of the factors of his federal employment, including carrying a mailbag around his neck weighing up to 35 pounds, lifting trays of mail, and reaching and lifting overhead. Dr. Simpson-Camp indicated that he turned his head from side to side when in his truck to place mail into mailboxes and while pushing and pulling heavy equipment, and that this excessive amount of repetitive abnormal mechanics and pressure on the cervical spine can cause injury due to the amount of stress and strain that is placed on the area.

The Board finds that, while Dr. Simpson-Camp's June 27, 2018 medical report is not fully rationalized, it does provide an explanation of the physiological process by which appellant's accepted factors of federal employment could have resulted in the claimed cervical condition.¹⁰ It is unnecessary that the evidence of record in a case be so conclusive as to suggest causal connection beyond all possible doubt. Rather, the evidence required is only that which is necessary to convince the adjudicator that the conclusion drawn is rational, sound, and logical.¹¹ Dr. Simpson-Camp's report provided a physiological explanation as to how the factors of appellant's employment as a city letter carrier caused his cervical condition.

⁶ *R.G.*, Docket No. 19-0233 (issued July 16, 2019). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *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).

⁹ *Id.*; *Victor J. Woodhams*, *supra* note 6.

¹⁰ *K.P.*, Docket No. 18-0056 (issued January 27, 2020).

¹¹ *C.C.*, Docket No. 19-1631 (issued February 12, 2020).

The Board notes that proceedings under FECA are not adversarial in nature, and OWCP is not a disinterested arbiter.¹² Although the medical report by Dr. Simpson-Camp is alone insufficient to meet appellant's burden of proof to establish his claim, it does raise an uncontroverted inference between the diagnosed cervical condition and the accepted employment factors of his federal employment sufficient to require OWCP to further develop the claim.¹³

On remand OWCP shall prepare a statement of accepted facts and refer appellant to an appropriate Board-certified specialist for a second opinion examination and an evaluation regarding whether he sustained a medical condition due to the accepted factors of his federal employment. Following any necessary further development deemed necessary, it shall issue a *de novo* decision.

CONCLUSION

The Board finds that the case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the March 1, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 10, 2020
Washington, DC

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

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

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

¹² See *B.B.*, Docket No. 18-1321 (issued April 5, 2019).

¹³ *E.G.*, Docket No. 19-1296 (issued December 19, 2019).