



## **FACTUAL HISTORY**

On April 8, 2016 appellant, then a 51-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on April 1, 2016 she injured her right shoulder when lifting tubs of mail for two hours while in the performance of duty. The employing establishment provided her with modified work on April 8, 2016.

OWCP received an April 5, 2016 note from Stephanie M. Towers, a physician assistant, indicating that appellant was under his care for a medical problem.

In an April 7, 2016 work excuse, Dr. Jason A. Gennin, an osteopathic physician specializing in orthopedic surgery, noted that appellant could return to work with restrictions of no lifting over 10 pounds, and no overhead lifting. He also completed a duty status report (Form CA-17) in which he diagnosed osteoarthritis of the right shoulder and right shoulder muscle strain, and provided appellant's work restrictions. Dr. Gennin saw appellant on April 21, 2016 and indicated that he could return to work without restrictions on April 23, 2016.

OWCP also received a May 3, 2016 note by Julie W. Brasfield, a certified physician assistant, who noted that appellant had been examined by Dr. Farrow for her right shoulder and could return to work on May 4, 2016.

In a July 12, 2016 note, Dr. Lutul Farrow, an orthopedic surgeon, provided a work excuse and indicated that appellant had an expected return to work date of July 25, 2016. He completed a Form CA-17 on July 15, 2016 and advised that appellant had a right shoulder and elbow injury and indicated that appellant could not return to work.

Appellant stopped work on July 12, 2016. On July 25, 2016 he completed a claim for compensation (Form CA-7) for leave without pay from July 13 to 24, 2016.

Dr. Farrow indicated in a July 25, 2016 report that he was treating appellant for left elbow and right shoulder conditions.

In a July 27, 2016 development letter, OWCP noted that the case was administratively closed without a formal review based upon the minor nature of the reported injury. However, upon receipt of the wage-loss claim, it formally reopened the claim for adjudication. OWCP informed appellant of the type of factual and medical evidence needed to support her claim and afforded her 30 days to submit the necessary evidence.

In a July 26, 2016 report, Dr. Farrow advised that appellant could return to work on August 1, 2016 with restrictions. In an August 10, 2016 attending physician's report (Form CA-20), Dr. Farrow diagnosed right shoulder tendinitis based on a magnetic resonance imaging (MRI) scan. He replied "[not applicable] N/A" in response to whether he believed the condition was caused or aggravated by an employment activity.

By decision dated September 9, 2016, OWCP denied appellant's claim finding that the evidence of record was insufficient to establish causal relationship between the diagnosed right shoulder condition and the accepted employment incident.

On September 16, 2016 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

OWCP subsequently received an August 18, 2016 report. Dr. Dominic King, a Board-certified family practitioner, released appellant to unrestricted work. However, on October 31, 2016, he provided work restrictions.

OWCP also received a September 23, 2016 Form CA-17 duty status report from Dr. Farrow. He indicated that appellant had a right shoulder muscle strain. Dr. Farrow checked the box marked “no” in response to whether the history of injury given to her by the employee corresponded to that shown in item number 5 which indicated that appellant sustained right shoulder muscle strain. He diagnosed tendinitis and pain and recommended a return to work on September 25, 2016 with restrictions. Dr. Farrow saw appellant on September 27, October 24 and 25, 2016 and advised that she could work with restrictions.

In a November 2, 2016 report, Dr. Farrow completed another Form CA-17, indicating appellant had a right shoulder muscle strain with a date of injury of April 1, 2016. He diagnosed right shoulder tendinitis and unspecified elbow tendinitis. Dr. Farrow also completed a separate narrative report and indicated that the incident or work activity that caused the incident was related to “repetitive overhead activities and actions.” He noted that subjective complaints included pain with internal rotation and overhead activities, as well as decreased flexion and abduction. Dr. Farrow provided examination findings of rotator cuff tendinopathy and advised that an October 2016 MRI scan revealed shoulder tendinitis and severe elbow tendinitis. He opined: “In my medical opinion, the facts of injury are the direct and proximate cause of the diagnosis that I cited above. This is based on reasonable medical probability. There may be other causes for this medical problem, but one of the causes is clearly the activities of work described [by] the patient and described above.”

Dr. Farrow continued to treat appellant and recommended restrictions for the shoulder.

The requested hearing was held on May 17, 2017. During the hearing, appellant testified that, on April 1, 2016, instead of rotating assignments hourly, she was forced to work in the same position, loading mail onto the belt for two hours. Appellant denied any prior history of right shoulder complaints and testified that she was seen by Dr. Farrow and diagnosed with bursitis. Counsel noted that appellant was not claiming that her osteoarthritis was work related.

OWCP subsequently received an August 10, 2016 Form CA-20 attending physician’s report from Dr. Farrow, noting a history of right shoulder and muscle strain. He checked the box marked “no” that there was no history of preexisting injury or disease. Dr. Farrow advised that an MRI scan of appellant’s right shoulder showed shoulder tendinitis. He replied “N/A” in response to whether he believed appellant’s condition was caused or aggravated by employment activity.

By decision dated July 27, 2017, OWCP’s hearing representative affirmed the September 9, 2016 decision.

On September 22, 2017 appellant, through counsel, requested reconsideration and submitted additional medical evidence. In a September 19, 2017 report, Dr. Farrow noted that appellant was under his care for her right shoulder condition. He indicated that she first presented to his office for a visit on May 3, 2016 with a chief complaint of right shoulder pain, which she reported was caused by her work at the employing establishment. Dr. Farrow noted that appellant indicated that the pain had been present for over a month and that she had pain with overhead activities as well as night pain. He explained that she was on limited duty at work in the weeks

preceding the office visit. Dr. Farrow provided physical examination findings for the right shoulder. He also related appellant's description of her injury at work which included that on April 1, 2016 she was loading tubs weighing between 10 pounds and 25 pounds consistent for two hours. Additionally, appellant was sweeping which consisted of lifting and carrying tubs of mail to be placed in the appropriate containers. She also indicated that she was using a manual pallet jack to lift skids with Gaylord boxes filled with bulk mail (magazines, books, newspapers, etc.). Dr. Farrow opined that "certain[ly]" appellant's shoulder condition was directly related to the series of events on April 1, 2016. He also provided a new report dated September 21, 2017, which was an exact copy of his previous report dated November 2, 2016. Dr. Farrow repeated his opinion that appellant's activities at work caused the diagnosed conditions.

By decision dated December 4, 2017, OWCP denied modification of the July 27, 2017 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,<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. 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. Second component is whether the employment incident caused a personal injury and can be established only by medical evidence.<sup>6</sup>

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

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

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

<sup>5</sup> *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).

<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee) and 10.5(q) (traumatic injury and occupational disease defined, respectively).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>7</sup>

### ANALYSIS

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

In support of her claim, appellant submitted a work excuse note and Form CA-17 dated April 7, 2016, and treatment notes from Dr. Gennin dated April 21, 2016. Dr. King also provided treatment notes on August 18, 2016 releasing appellant to unrestricted work and on October 31, 2016 prescribing work restrictions. However, these reports merely noted diagnoses and work restrictions and did not provide an opinion on causal relationship. 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.<sup>8</sup>

OWCP also received several reports from Dr. Farrow dated July 12, 25 and 26, 2016. Dr. Farrow initially indicated on July 12 and 25, 2016 that appellant had a right shoulder and elbow injury, and provided work restrictions. In his July 26, 2016 report, he reviewed appellant's MRI scan and diagnosed right shoulder tendinitis. In response to a question as to whether appellant's condition was caused or aggravated by an employment activity, Dr. Farrow replied "N/A." However, none of these reports provided an opinion on the issue of causal relationship.<sup>9</sup> As such, they are therefore insufficient to establish causal relationship.

Dr. Farrow also treated appellant on August 10 and September 23, 2016. In the August 10, 2016 report, he indicated that appellant had a right shoulder muscle strain. Dr. Farrow diagnosed right shoulder tendinitis and again replied "N/A" with regard to whether he believed the condition was caused or aggravated by an employment activity. In the September 23, 2016 report, he responded "no" in response to whether the history of injury given by the employee corresponded to the history of the alleged employment injury. Dr. Farrow continued to treat appellant on September 27, October 24 and 25, 2016. However, none of these reports offer an opinion on causal relationship and therefore are of no probative value.<sup>10</sup>

Dr. Farrow subsequently provided a November 2, 2016 report in which he indicated that appellant had a right shoulder muscle strain with a date of injury of April 1, 2016. He diagnosed right shoulder tendinitis. Dr. Farrow indicated that the incident or work activity that caused the incident was related to "repetitive overhead activities and actions." He opined that the alleged incident of April 1, 2016 was the direct and proximate cause of the diagnosis provided based upon reasonable medical probability. He explained that there may be other causes for this medical problem, but one of the causes was clearly the activities of work. The Board has held that a medical

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<sup>7</sup> A.W., Docket No. 19-0327 (issued July 19, 2019); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 45 ECAB 345 (1989).

<sup>8</sup> See *J.H.*, Docket No. 19-0838 (issued October 1, 2019); *S.G.*, Docket No. 19-0041 (issued May 2, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>9</sup> *Id.*

<sup>10</sup> *Supra* note 8.

opinion must provide an explanation of how the specific employment factors physiologically caused or aggravated the diagnosed conditions.<sup>11</sup> As Dr. Farrow's opinion regarding causal relationship was conclusory and unexplained, it is insufficient to meet appellant's burden of proof to establish her claim.<sup>12</sup>

Dr. Farrow reported on September 19, 2017 that appellant was under his care for her right shoulder condition. He opined that "certain[l]y" appellant's shoulder and elbow condition were directly related to the series of events on April 1, 2016. Dr. Farrow also provided a report dated September 21, 2017, which was verbatim of his previous report dated November 2, 2016. While he provided additional details regarding appellant's work activities on April 1, 2016, he did not explain how these work activities physiologically caused the diagnosed condition.<sup>13</sup> As noted, without the requisite rationale, these reports are of limited probative value.<sup>14</sup>

Appellant also submitted notes dated April 5 and May 3, 2016 from physician assistants. Health care providers such as nurses, acupuncturists, physician assistants, and physical therapists are not physicians under FECA.<sup>15</sup> Thus, their opinions on causal relationship do not constitute rationalized medical opinions and have no weight or probative value.<sup>16</sup>

OWCP also received diagnostic reports to include April 5, 2016 x-rays and a July 21, 2016 MRI scan. The Board has held that diagnostic test reports lack probative value as they do not provide an opinion on causal relationship between the accepted employment factors and a diagnosed condition.<sup>17</sup>

As the medical evidence of record does not contain a rationalized opinion on causal relationship, the Board finds that appellant has not met her burden of proof.

On appeal counsel argues that the treating physician explained causation. However, as explained above, the medical evidence of record does not explain, with medical rationale, how the April 1, 2016 work injury cause or aggravated a diagnosed condition. Appellant has, therefore, not met her burden of proof.

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.

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<sup>11</sup> *A.H.*, Docket No. 19-0270 (issued June 25, 2019); *M.W.*, Docket No. 18-1624 (issued April 3, 2019).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> 5 U.S.C. § 8102(2) of FECA provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. *See also K.C.*, Docket No. 19-0834 (issued October 28, 2019) and *E.T.*, Docket No. 17-0265 (issued May 25, 2018) (physician assistants are not considered physicians under FECA).

<sup>16</sup> *See A.A.*, Docket No. 19-0957 (issued October 22, 2019); *Jane A. White*, 34 ECAB 515, 518 (1983).

<sup>17</sup> *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *see R.M.*, Docket No. 18-0976 (issued January 3, 2019).

**CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish a right shoulder condition causally related to the accepted April 1, 2016 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 4, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 29, 2020  
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