

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

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**V.P., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Rockford, IL, Employer**

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**Docket No. 20-0288  
Issued: October 21, 2020**

*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  
JANICE B. ASKIN, Judge

**JURISDICTION**

On November 21, 2019 appellant filed a timely appeal from an October 30, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

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

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that following the October 30, 2019 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 June 28, 2019 appellant, then a 48-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging bilateral shoulder conditions due to factors of her federal employment including repetitive pushing, pulling, and lifting of her arms while casing and delivering mail. She indicated that she first became aware of her condition and its relationship to her employment on June 19, 2019. Appellant did not stop work.

In a development letter dated August 19, 2019, OWCP noted no evidence had been submitted with appellant's claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the requested evidence.

On September 9, 2019 OWCP received the May 30, 2019 computerized tomography (CT) scans of appellant's bilateral shoulders. The right shoulder CT scan was unremarkable with no clear etiology for right shoulder pain. The left shoulder CT scan revealed no evidence of acute osseous shoulder abnormality and mild-to-moderate coronary artery atherosclerotic calcifications. OWCP also received June 19, 2019 magnetic resonance imaging (MRI) scans. Appellant's left shoulder MRI scan revealed mild supraspinatus tendinopathy, mild degenerative arthritis, and possible small SLAP tear within the labrum. The right shoulder MRI scan revealed no cuff tear, right cuff tendinosis/tendinopathy, a suggested small superior labrum tear, and biceps tendon superior labrum expansive signal changes, and tendinosis versus partial thickness tear.

In an August 6, 2019 report, Dr. Howard Freedburg, a Board-certified orthopedic surgeon, provided a history of appellant's bilateral shoulder problems and summarized her medical history. Appellant attributed her bilateral shoulder pain to 18 years of repetitive work at the employing establishment including lifting heavy boxes. Physical examination findings were set forth and diagnostic testing was noted to have been reviewed. Dr. Freedburg diagnosed bilateral shoulder bicipital tenosynovitis and partial shoulder rotator cuff tear. He opined that appellant's constant pushing, pulling, carrying, and lifting up to 70 pounds, and constant overhead work while casing mail caused her bilateral shoulder conditions. Dr. Freedburg explained that the constant repetitive use mechanism of her work was the cause of her bilateral shoulder conditions.

OWCP also received work status reports dated August 6 and September 3, 2019 from Dr. Freedburg indicating that appellant was capable of working without restrictions. Dr. Freedburg diagnosed bilateral shoulder bicipital tenosynovitis and partial shoulder rotator cuff tear and indicated by check mark that the conditions were employment related.

In a September 3, 2019 narrative statement, appellant noted that her work duties consisted of casing mail, carrying two foot long trays of mail, sorting packages, loading mail onto her vehicle, repetitive reaching, pulling, and lifting, and leaving large packages at customer doors.

By decision dated October 30, 2019, OWCP denied appellant's occupational disease claim finding that the medical evidence of record failed to establish that her bilateral shoulder conditions were causally related to the accepted factors of her federal employment.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</sup> 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>4</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>5</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>6</sup>

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 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.<sup>7</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish bilateral shoulder conditions causally related to the accepted factors of his federal employment.

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *D.C.*, Docket No. 19-0354 (issued May 27, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *C.G.*, Docket No. 20-0139 (issued June 26, 2020); *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>6</sup> *D.C.*, *supra* note 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).

<sup>7</sup> *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).

<sup>8</sup> *D.C.*, *supra* note 4; *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *C.G.*, *supra* note 5; *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

<sup>10</sup> *Id.*; *Victor J. Woodhams*, *supra* note 7.

In support of her claim, appellant submitted an August 6, 2019 report from Dr. Freedburg diagnosing bilateral shoulder bicipital tenosynovitis and partial shoulder rotator cuff tear. Dr. Freedburg opined that the diagnosed shoulder conditions were causally related to the 18 years of constant repetitive activity required by appellant's casing mail. The Board finds that, although Dr. Freedburg noted that appellant's injury was work related, his report is of limited probative value because it does not include medical rationale explaining the basis of his conclusory opinion regarding causal relationship between appellant's bilateral shoulder conditions and the accepted factors of employment.<sup>11</sup> Dr. Freedburg concluded that appellant's bilateral shoulder conditions were due to the constant pushing, pulling, carrying, lifting up to 70 pounds, and constant overhead work while casing mail caused her bilateral shoulder conditions. While he described her work activities, he did not explain how the accepted employment factors physiologically caused, contributed to, or aggravated appellant's diagnosed conditions.<sup>12</sup> While Dr. Freedburg's report offered an opinion on causal relationship, it merely stated a conclusion, without supporting medical rationale, and therefore this report is insufficient to establish her claim.<sup>13</sup>

The record also contains work status reports dated August 6 and September 3, 2019 from Dr. Freedburg diagnosing bilateral shoulder bicipital tenosynovitis and partial shoulder rotator cuff tear and indicating by checkmark that the diagnosed conditions were employment related. The Board has held however that when a physician's opinion on causal relationship consists only of a checkmark on a form, without further explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.<sup>14</sup>

Appellant also submitted bilateral shoulder CT scans dated May 30, 2019 and MRI scans dated June 19, 2019. The Board has held, however, that diagnostic studies standing alone lack probative value on the issue of causal relationship as they do not address whether the accepted employment factors caused any of the diagnosed conditions.<sup>15</sup> These reports are therefore also insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence establishing that her bilateral shoulder conditions are causally related to the accepted factors of her federal employment, the Board finds that she has 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> *N.M.*, Docket No. 19-0258 (issued May 8, 2020); *L.G.*, Docket No. 19-0142 (issued August 8, 2019).

<sup>12</sup> *A.M.*, Docket No. 19-1138 (issued February 18, 2020); *S.H.*, Docket No. 19-0631 (issued September 5, 2019); *M.S.*, Docket No. 19-0189 (issued May 14, 2019).

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

<sup>14</sup> *O.M.*, Docket No. 18-1055 (issued April 15, 2020); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>15</sup> *A.M.*, Docket No. 19-1138 (issued February 18, 2020); *R.Z.*, Docket No. 19-0408 (issued June 26, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish bilateral shoulder conditions causally related to the accepted factors of her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 30, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 21, 2020  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board