

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.

FACTUAL HISTORY

On September 27, 2018 appellant, then a 58-year-old delivery barcode sorter clerk (DBSC), filed an occupational disease claim (Form CA-2) alleging that she developed biceps tendinitis, rotator cuff disease, and a bilateral shoulder injury due to factors of her federal employment, including repetitive motions, heavy lifting, pulling, and pushing. She noted that she first became aware of her conditions and their relation to factors of her federal employment on June 7, 2017. Appellant indicated that shoulder injuries were extremely common in her job.³ She did not stop work.

A March 5, 2018 duty status report (Form CA-17) with an illegible signature included a diagnosis of bilateral shoulder tendinitis and rotator cuff syndrome based on a February 26, 2018 examination. The form report indicated that appellant's conditions were caused by repetitive lifting, pulling, and side-to-side sweeping. Recommendations for her work restrictions were provided.

In a March 15, 2018 statement, appellant explained that she had been a mail processing clerk for 20 years and claimed that the activities of her employment were the cause of thousands of shoulder injuries. She made note of her previous claims for left shoulder injuries under OWCP File Nos. xxxxxx599 and xxxxxx760, which she asserted were caused while working the DBCS machines. Appellant indicated that her injuries were caused by the repetitive motions involved with operating the machines, including heavy lifting, above-head lifting, loading and unloading mail, moving large metal racks filled with mail, sweeping, loading mail, placing sleeves on trays of mail, as well as pushing and pulling cases of mail. She informed her supervisor multiple times that placing the sleeves on the mail aggravated her previous shoulder injuries and that it would be better to use the sleeving machines, but claimed that her complaints were ignored. Appellant asserted that the unnecessary manual sleeving, along with the other machine functions and repetitive motions, had caused her to reinjure her shoulders. She also described a February 7, 2018 incident in which she was working a DBCS machine and injured her left shoulder while pulling a full tray of mail that weighed about 15 pounds. Appellant received a second opinion, as well as an injection, from her doctor and on February 28, 2018 she reported severe pain that prevented her from completing her work.

In an undated medical report with no signature, appellant was evaluated for bilateral shoulder pain and received information explaining that repetitive motion was a cause of biceps tendinitis and rotator cuff disease, which was very consistent with her job. The medical report

³ Appellant previously filed a Form CA-2 on January 19, 2002 for a left shoulder injury under OWCP File No. xxxxxx599. On April 4, 2002 OWCP accepted her claim for left shoulder impingement syndrome. On August 29, 2011 appellant filed a Form CA-2 for a bilateral shoulder injury under OWCP File No. xxxxxx760. On November 7, 2011 OWCP accepted this claim for a disorder of bursae and tendons in the shoulder, region, unspecified, bilateral. Appellant's claims have not been administratively combined.

provided that rotator cuff disease was a spectrum of disorders ranging from rotator cuff tendinitis to full-thickness rotator cuff tears. Appellant underwent an injection and was referred to physical therapy.

In a development letter dated October 22, 2018, OWCP informed appellant of the deficiencies of her claim and advised her of the factual and medical evidence necessary to establish her claim. It afforded her 30 days to respond. No additional evidence was received.

By decision dated December 4, 2018, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed medical conditions and the accepted factors of her federal employment.

On October 18, 2019 appellant requested reconsideration of OWCP's December 4, 2018 decision and submitted additional evidence.

In a June 7, 2017 medical report, Dr. Reuben Gobezie, a Board-certified orthopedic surgeon, evaluated appellant for complaints of shoulder biceps pain that she had experienced for years. He diagnosed left shoulder biceps tendinitis, lumbar region radiculopathy, and right shoulder biceps tendinitis and administered injections to treat her symptoms.

On December 2, 2017 Dr. Gobezie evaluated appellant for bilateral shoulder pain. He diagnosed bicipital tendinitis, left shoulder and administered an injection to her left shoulder. Dr. Gobezie advised that appellant undergo a left shoulder magnetic resonance imaging (MRI) scan for further evaluation.

In medical reports dated from February 26, 2018 to and June 24, 2019, Dr. Robert Gillespie, a Board-certified orthopedic surgeon, and Dr. Gobezie evaluated appellant for left greater than right shoulder pain and noted that an MRI scan⁴ of her left shoulder did not reveal any evidence of a rotator cuff tear and that she was told that she had a torn biceps. They diagnosed chronic left shoulder pain and bilateral shoulder pain and explained that repetitive use was often the cause of biceps tendinitis and rotator cuff disease, which was very consistent with her job. Dr. Gobezie noted that rotator cuff disease was a spectrum of disorders ranging from rotator cuff tendinitis to full-thickness rotator cuff tears. Appellant underwent injections and was referred to physical therapy.

In a July 2, 2019 medical report, Dr. Irwin Mandel, a Board-certified orthopedic surgeon, evaluated appellant for left shoulder pain she had experienced from repetitive motions over the past two years. He diagnosed left long head biceps tendinitis and shoulder bursitis/tendinitis. Dr. Mandel observed that appellant's symptoms began in June 2017 when she was lifting at work and injured her shoulder and opined that her conditions were work related and causally related to her employment. He also provided home exercises to treat her associated symptoms.

⁴ Upon review of the MRI scan, Dr. Gobezie noted that it was a very poor quality and that visualization of the joint was not clear.

By decision dated November 1, 2019, OWCP denied modification of its December 4, 2018 decision.

On April 9, 2020 appellant, through counsel, requested reconsideration of OWCP's November 1, 2019 decision and submitted additional evidence.

In a December 18, 2017 diagnostic report, Dr. Tim Chen performed an MRI scan of appellant's left shoulder and found mild supraspinous tendinosis with a new intermediate grade articular-sided/interstitial tear at the anterior insertion, as well as mild acromioclavicular joint osteoarthritis.

In a December 6, 2019 diagnostic report, Dr. Daniel Paulson, a diagnostic radiologist, performed an MRI scan of appellant's left shoulder and found a full-thickness full width tears of the supraspinatus and infraspinatus with associated medial retraction.

In a December 12, 2019 medical report, Dr. Mandel reviewed appellant's December 6, 2019 MRI scan of her left shoulder and noted her history of repetitive trauma to the left shoulder with her work. He diagnosed a left full-thickness rotator cuff tear and biceps tear and dislocation.

In medical reports dated from January 2 to February 20, 2020, Dr. Timothy Nice, a Board-certified orthopedic surgeon, reviewed the history of appellant's left shoulder injury dating back to June 2017. He noted that she had two previous left shoulder injury claims as well as her 20 years of federal employment where she performed repetitive transfers of mail into baskets. Dr. Nice provided that over time appellant developed a chronic impingement syndrome and ongoing pathology in her shoulder. He also reviewed her history of treatment with Drs. Gobezie, Gillespie and Mandel. Dr. Nice indicated that appellant underwent an MRI scan on January 31, 2020 that revealed that she had sustained complete tears of the supraspinatus muscle and the infraspinatus tendons with associated significant muscle atrophy. He also found a complete tear of the biceps tendon and moderate osteoarthritis of the left glenohumeral joint as well as a joint effusion with leaking of the subacromial and subdeltoid bursas. Dr. Nice noted a significant change from appellant's 2017 diagnostic studies and her most recent studies. He opined that her chronic wear issues over the 20-year period with chronic impingement syndrome is the reason her shoulder was in its current condition.

By decision dated May 11, 2020, OWCP denied modification of its November 1, 2019 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,⁵ 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

⁵ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

to the employment injury.⁶ 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.⁷

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant 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 identified employment factors.⁸

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁹ 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.¹⁰ 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).¹¹

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.¹²

ANALYSIS

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

OWCP previously accepted on April 4, 2002 and November 7, 2011 that appellant sustained left shoulder impingement syndrome and a disorder of bursae and tendons in shoulder, region, unspecified, bilateral due to her employment duties as a DCBS clerk, under OWCP File Nos. xxxxxx599 and xxxxxx760, respectively. On September 27, 2018 appellant filed the current claim for various bilateral shoulder conditions caused by her repetitive duties as a DCBS clerk.

⁶ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *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).

⁸ *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).

⁹ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁰ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

¹¹ *Id.*; *Victor J. Woodhams*, *supra* note 8.

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

In support of her claim, appellant submitted multiple medical reports from Drs. Gobezie, Gillespie, Mandel and Nice in which they all noted appellant's previous left shoulder injuries and observed her federal employment duties that required her to perform multiple repetitive activities. Specifically, Dr. Nice opined that her chronic wear issues over her 20 years of federal employment with chronic impingement syndrome was the reason her shoulder was in its current condition.

OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.¹³ For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition of the same part of the body, doubling is required.¹⁴ OWCP had previously accepted that appellant had sustained shoulder conditions under OWCP File Nos. xxxxxx599 and xxxxxx760; however, these cases have not been administratively combined with the present file. As such, the Board is unable to review all of the factual and medical evidence under the present case file, which relates to a similar condition and the same bodily member that is contested in the present claim.

For a full and fair adjudication, the case must be remanded to OWCP to administratively combine OWCP File Nos. [xxxxxx599, xxxxxx760 and the present case file.¹⁵ Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000); *D.M.*, Docket No. 19-0340 (issued October 22, 2019).

¹⁴ *Id.*; *D.T.*, Docket No. 19-1375 (issued March 24, 2020); *D.L.*, Docket No. 17-1588 (issued January 28, 2019).

¹⁵ *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

ORDER

IT IS HEREBY ORDERED THAT the May 11, 2020 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: January 29, 2021
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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