

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition casually related to the accepted November 22, 2019 employment incident.

FACTUAL HISTORY

On November 27, 2019 appellant, then a 61-year-old registered nurse, filed a traumatic injury claim (Form CA-1) alleging that on November 22, 2019 she sustained injury to the left side of her neck and left upper extremity when she lowered an examination table and grabbed a handle in order to place the head of the table at 90 degrees, while in the performance of duty.³ She asserted that the handle was broken and did not spring up, thereby causing injury to her neck, left shoulder, and left arm. Appellant stopped work on November 25, 2019 and returned to work on November 27, 2019.

Appellant submitted a December 2, 2019 report from Dr. Paul R. Alongi, a Board-certified orthopedic surgeon, who indicated that appellant explained that on November 22, 2019 she injured her neck and shoulder when she reached to adjust a bed at work and the bed did not move. She presented with complaints of neck, left shoulder, and left arm pain, but did not report arm weakness. Dr. Alongi indicated that, upon physical examination, bilateral shoulder pain was elicited on motion, but not by impingement testing. He advised that December 2, 2019 cervical spine x-rays revealed loss of normal cervical lordosis and disc height. Dr. Alongi diagnosed cervicalgia, cervical radiculopathy, and left shoulder sprain, and recommended treatment with nonsteroidal anti-inflammatory medication, physical therapy, and home exercise.

OWCP also received a December 2, 2019 report from Robert Troiano, a physical therapist, who detailed his therapy session with appellant on that date.

In a January 16, 2020 development letter, OWCP notified appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted a November 29, 2019 report from Dr. Ioanis Siderias, a Board-certified emergency medicine specialist, who indicated that appellant reported a November 22, 2019 injury due to lifting an examination table at work. Dr. Siderias reported physical examination findings and diagnosed left shoulder pain and “work[-]related injury.” He indicated that appellant possibly had a left rotator cuff injury and noted that she had claimed that she was unable to work with the injury.

In a December 19, 2019 report, Dr. Alongi diagnosed cervicalgia, cervical radiculopathy, and left shoulder sprain and opined that appellant was 100 percent disabled from work. OWCP

³ Under a separate claim, assigned OWCP File No. xxxxxx822, OWCP accepted that appellant sustained a strain of muscle, fascia, and tendon of the lower back on October 29, 2018. This separate claim, which has not been combined with the present claim, concerns a different body region than the present claim and is not the subject of this appeal.

also received a January 15, 2020 report in which he referenced an October 29, 2018 fall from a chair at work and diagnosed lumbar strain, herniated intervertebral disc, and lower back pain. On January 16, 2020 Dr. Alongi provided the additional diagnosis of left shoulder impingement and again opined that appellant was 100 percent disabled from work. In a January 16, 2020 note, he certified that physical therapy was medically necessary to treat appellant's medical condition.

OWCP also received additional reports from Mr. Troiano and Christine Whiteman, another attending physical therapist, dated between December 2, 2019 and January 15, 2020.

By decision dated February 18, 2020, OWCP accepted the occurrence of the employment incident in the form of appellant's adjusting an examination table on November 22, 2019. However, it denied appellant's traumatic injury claim, finding that appellant failed to submit sufficient medical evidence to establish an injury causally related to the accepted November 22, 2019 employment incident.

On January 4, 2021 appellant, through counsel, requested reconsideration of the February 18, 2020 decision.

Appellant submitted a January 6, 2020 report from Dr. William A. Healy, a Board-certified orthopedic surgeon, who indicated that appellant reported she was "status post a work[-]related injury on [November 22, 2019]" and complained of continuing left shoulder pain. Dr. Healy diagnosed rotator cuff arthropathy of the left shoulder. In a February 10, 2020 report, Dr. Alongi advised that appellant was unable to work from February 10, 2020 until further notice.

In a June 1, 2020 report, Dr. Alongi indicated that appellant injured her neck and shoulder at work on November 22, 2019 when she felt a pull in the left side of her neck and left shoulder while pulling on a broken examination table. He described appellant's symptoms when he examined her on December 2, 2019, including those relating to the neck and left shoulder, and noted that he had diagnosed her at that time with cervicgia, cervical radiculopathy, and left shoulder sprain. Dr. Alongi further detailed appellant's symptoms when he examined her on subsequent dates, including her neck and left shoulder symptoms on December 17, 2019, January 15, 16, and February 10, 2020. He indicated that appellant continued to have persistent neck, left shoulder, and low back pain. Dr. Alongi noted, "[s]he injured her lower back in a work-related accident on October 29, 2018 and injured her neck and left shoulder in a work-related accident on November 22, 2019. It is my opinion, based upon reasonable medical probability, that there is a direct causal effect between the patient's work-related accidents and her subsequent neck, left shoulder and back injuries." Dr. Alongi advised that appellant required ongoing treatment in the form of physical therapy and pain management, and that she might require surgery in the future. He opined that appellant was unable to return to work as a registered nurse and that her disability was permanent in nature.

In a June 30, 2020 report, Dr. Sara J. Johnson, a Board-certified rheumatologist, indicated that she had been treating appellant since 1998 for rheumatoid arthritis and that she had been diagnosed with seropositive erosive rheumatoid arthritis, cervical and lumbar spondylosis with radiculopathies, and left shoulder rotator cuff tear with permanent limitation of movement. She advised that the recent rotator cuff rupture of the left shoulder had rendered appellant unable to lift

her left arm greater than 50 degrees. Dr. Johnson opined that appellant was disabled from all employment due to her physical limitations, chronic pain, and fatigue.

A September 16, 2020 magnetic resonance imaging (MRI) scan of the left shoulder contained an impression of full-thickness tear of the anterior supraspinatus tendon with severe atrophy, interstitial tearing of the infraspinatus at the myotendinous junction with low-grade articular surface partial tearing and moderate atrophy, and Hill-Sachs deformity likely related to remote shoulder dislocation.

In a November 20, 2020 report, Dr. Alongi noted that appellant injured her neck and shoulder while at work on November 22, 2019 when she reached to adjust a bed and the bed did not move. He indicated that appellant's symptoms from the injury persisted and that she underwent left shoulder surgery on November 4, 2020.⁴ Dr. Alongi diagnosed cervicalgia, cervical radiculopathy, left shoulder sprain, and left shoulder impingement, and found that appellant was 100 percent disabled from work.

In a December 16, 2020 report, Dr. Timothy G. Reish, a Board-certified orthopedic surgeon, noted that he first examined appellant on September 8, 2020 at which time she reported that she had injured her left shoulder at work in November 2019 when she moved a broken examination table. He described the left shoulder symptoms elicited during the September 8, 2020 physical examination and during follow-up visits on September 22 and October 8, 2020. Dr. Reish advised that on November 4, 2020 appellant underwent left shoulder surgery, including arthroscopic supraspinatus tendon repair, subacromial decompression, distal clavicle excision, open subpectoralis biceps tenodesis, major synovectomy, debridement, and synovial biopsy. He described post-surgery visits on November 17, December 8 and 15, 2020 and noted, "[appellant] is a patient who suffered from a supraspinatus tendon tear as a result of an injury from work." Dr. Reish indicated that appellant clearly suffered from rheumatoid arthritis, a chronic degenerative condition, but did not complain of shoulder pain prior to "the accident" and continued to suffer from pain from a rotator cuff tear after her injury. He noted, "[t]here is clearly causality between her rotator cuff tear and the accident that required surgical intervention and would certainly require more physical therapy going forward."

By decision dated April 2, 2021, OWCP denied modification of its February 18, 2020 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 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.⁵ These are the essential elements of each and every

⁴ The Board notes that the case record does not contain a report of left shoulder surgery.

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁷ The second component is whether the employment incident caused a personal injury.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 accepted medical employment incident must be based on a complete factual and medical background. 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 the specific employment incident.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition casually related to the accepted November 22, 2019 employment incident.

Appellant submitted a June 1, 2020 report from Dr. Alongi who indicated that appellant injured her neck and left shoulder at work on November 22, 2019 due to pulling on a broken examination table. Dr. Alongi described appellant's symptoms when he examined her on various dates and indicated that appellant continued to have persistent neck, left shoulder, and low back pain. He noted, "[s]he injured her lower back in a work-related accident on October 29, 2018 and injured her neck and left shoulder in a work-related accident on November 22, 2019. It is my opinion based upon reasonable medical probability that there is a direct causal effect between the patient's work-related accidents and her subsequent neck, left shoulder and back injuries." In a November 20, 2020 report, Dr. Alongi indicated that appellant injured her neck and left shoulder while at work on November 22, 2019 and noted that appellant's symptoms from the injury persisted. He diagnosed cervicalgia, cervical radiculopathy, left shoulder sprain, and left shoulder impingement.

The Board finds, however, that these reports are of limited probative value regarding appellant's claim for a November 22, 2019 traumatic injury claim as Dr. Alongi did not provide

⁶ *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).

⁷ *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *L.S.*, Docket No. 19-1769 (issued July 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹⁰ *B.C.*, Docket No. 20-0221 (issued July 10, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

medical rationale in support of his opinion on causal relationship. Dr. Alongi did not describe the November 22, 2019 injury in detail or explain how it would have been competent to cause the diagnosed conditions. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition has an employment-related cause.¹¹ Therefore, these reports are insufficient to establish appellant's traumatic injury claim.

In a December 16, 2020 report, Dr. Reish noted that appellant reported that she had injured her left shoulder at work in November 2019 when she moved a broken examination table. He described the left shoulder symptoms elicited during several physical examinations and discussed her November 4, 2020 left shoulder surgery. Dr. Reish noted, "[appellant] is a patient who suffered from a supraspinatus tendon tear as a result of an injury from work." He indicated that appellant clearly suffered from rheumatoid arthritis, a chronic degenerative condition, but advised that she did not complain of shoulder pain prior to "the accident" and continued to suffer from pain from a rotator cuff tear after her injury. Dr. Reish noted, "[t]here is clearly causality between her rotator cuff tear and the accident that required surgical intervention and would certainly require more physical therapy going forward." The Board finds, however, that this report also is of limited probative value regarding appellant's claim for a November 22, 2019 traumatic injury claim as Dr. Reish did not provide adequate medical rationale in support of his opinion on causal relationship. As noted above, a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition has an employment-related cause.¹² Therefore, this report is insufficient to establish appellant's traumatic injury claim.

Appellant submitted a November 29, 2019 report from Dr. Siderias who indicated that appellant reported a November 22, 2019 injury due to lifting an examination table at work. Dr. Siderias diagnosed left shoulder pain and "work[-]related injury." He indicated that appellant possibly had a left rotator cuff injury. While Dr. Siderias indicated that appellant sustained an employment injury he did not clearly identify the nature of the injury and his report is of limited probative value on the underlying issue of the case because he did not provide medical rationale explaining how a given specific medical condition has an employment-related cause.¹³ Therefore, this report is insufficient to establish appellant's traumatic injury claim.

Appellant submitted a December 2, 2019 report from Dr. Alongi in which he diagnosed cervicalgia, cervical radiculopathy, and left shoulder sprain, and recommended treatment with nonsteroidal anti-inflammatory medication, physical therapy, and home exercise. In reports dated December 19, 2019 and January 16, 2020, Dr. Alongi provided similar diagnoses and, in reports dated December 2, 2019 and January 16, 2020, he certified that physical therapy was medically necessary to treat appellant's medical condition. In a February 10, 2020 report, Dr. Alongi advised that appellant was unable to work from February 10, 2020 until further notice. In a January 6, 2020 report, Dr. Healy diagnosed rotator cuff arthropathy of the left shoulder. In a January 21,

¹¹ See *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹² See *id.*

¹³ *Id.*

2020 form report, Dr. Siderias listed the services he provided to appellant on November 29, 2019. On June 30, 2020 Dr. Johnson indicated that appellant had been diagnosed with seropositive erosive rheumatoid arthritis, cervical and lumbar spondylosis with radiculopathies, and left shoulder rotator cuff tear with permanent limitation of movement. These reports describe appellant's cervical and shoulder conditions, but are of no probative value regarding her traumatic injury claim as they do not contain an opinion on causal relationship. The Board has held that 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.¹⁴ Given their lack of an opinion on causal relationship, these reports are insufficient to establish appellant's traumatic injury claim.

Appellant submitted reports of attending physical therapists, Mr. Troiano and Ms. Whiteman, dated between December 2019 and January 2020. However, certain healthcare providers such as physician assistants, nurses, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.¹⁵ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits. Appellant also submitted the findings of diagnostic testing, including a September 16, 2020 MRI scan. However, such evidence is of no probative value on the underlying issue of the case. The Board has held that diagnostic studies lack probative value on causal relationship as they do not address whether employment factors caused the diagnosed condition.¹⁶ Therefore, this evidence is insufficient to establish appellant's claim.

On appeal counsel argues that appellant submitted sufficient medical evidence to establish an injury due to the accepted November 22, 2019 employment incident. However, the Board has explained that appellant failed to submit probative medical evidence establishing such a work-related injury.

As appellant has not submitted rationalized medical evidence establishing causal relationship between her diagnosed conditions and the accepted factors of her federal employment, 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.

¹⁴ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ Section 8101(2) provides that under FECA 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. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); see also *S.T.*, Docket No. 17-0913 (issued June 23, 2017) (physical therapists are not considered physicians under FECA); *R.S.*, Docket No. 16-1303 (issued December 2, 2016) (physician assistants and physical therapists are not considered physicians under FECA).

¹⁶ *C.S.*, Docket No. 19-1279 (issued December 30, 2019).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition casually related to the accepted November 22, 2019 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 2, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 3, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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