

ISSUE

The issue is whether appellant has met his burden of proof to establish a left shoulder condition causally related to the accepted February 21, 2020 employment incident.

FACTUAL HISTORY

On March 5, 2020 appellant, then a 58-year-old boiler operator, filed a traumatic injury claim (Form CA-1) alleging a left shoulder injury on February 21, 2020. He explained that beginning on the evening of February 19, 2020 he was lifting bags of salt weighing 50 pounds, however, the next day he could only lift 13 pounds and developed soreness in his left shoulder over the following two days until on February 21, 2020 he could no longer lift without experiencing sharp stabbing pain in his shoulder. Appellant explained that he developed a possible tear in the left shoulder and an inability to use his arm. He stopped work on February 25, 2020 and returned to work on March 10, 2020.

On April 22, 2020 Dr. Michael Bradley, a Board-certified orthopedic surgeon, noted that appellant had undergone magnetic resonance imaging of the left shoulder which revealed a superior labral tear extending anteriorly and posteriorly, tendinopathy of the distal supra- and infraspinatus tendons, and intra-articular long-head biceps tendinopathy with acromioclavicular (AC) joint hypertrophy. On examination of the left shoulder, he found tenderness over the AC joint, subacromial space, anterior triceps, and anterior joint line, moderate pain with forward flexion, abduction, and internal and external rotation, and positive Neer, Hawkins and cross-over testing. Dr. Bradley diagnosed a superior glenoid labrum lesion, rotator cuff tear and primary osteoarthritis of the left shoulder.

In a June 11, 2020 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

OWCP continued to receive medical evidence, including a March 4, 2020 medical report from Dr. Bradley, who noted that appellant related a history of left shoulder pain for the past year or two, which had worsened over the last six months. In a report of even date, Dr. Bradley also indicated that appellant injured his shoulder years ago and it had been wearing down through the years.

In a follow-up visit on March 20, 2020, Dr. Bradley noted that appellant continued to experience pain which interfered with his activities of daily living and was keeping him awake at night. He diagnosed a labral tear and recommended physical therapy, followed by surgery.

In a physical therapy initial evaluation report dated April 10, 2020, Benjamin Lowry, a licensed physical therapist, noted that appellant related a history of shoulder pain on and off for a few years, and that appellant was recently lifting heavy bags of salt and had significant pain which caused him to be unable to work.

By decision July 23, 2020, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish that his left shoulder condition was causally related to the accepted February 21, 2020 employment incident.

On August 7, 2020 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

In an August 12, 2020 report, Dr. Bradley noted that appellant related a history that his left shoulder problem began at work, but appellant's claim had been denied. He diagnosed pain, a rotator cuff tear, a superior glenoid labrum lesion, and primary osteoarthritis of the left shoulder. Dr. Bradley commented that "this happened back in March [2020]," but also noted that the original injury occurred on February 21, 2020 when, after three nights of lifting and pouring bags of salt into a water softening system, appellant could not lift his arm up due to severe pain. He indicated that the mechanism of injury, symptoms and diagnoses were consistent with appellant's description of the work incident.

A hearing was held on November 6, 2020. OWCP's hearing representative held the record open for 30 days for the submission of additional evidence.

In an October 16, 2020 follow-up visit, Dr. Bradley noted that appellant's pain was under control, and that he could return to work with no use of the left arm as of November 9, 2020.

By decision dated January 20, 2021, OWCP's hearing representative affirmed the July 23, 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 the fact that the individual is an employee of the United States within the meaning of FECA,³ that the claim was timely filed within the applicable time limitation period of FECA, 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 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. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the

³ *K.R.*, Docket No. 20-0995 (issued January 29, 2021); *A.W.*, Docket No. 19-0327 (issued July 19, 2019); *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 *J.B.*, Docket No. 20-1566 (issued August 31, 2021); *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).

employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁶

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁷ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.⁸

In a case in which 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.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left shoulder condition causally related to the accepted February 21, 2020 employment incident.

In his August 12, 2020 report, Dr. Bradley noted that appellant's left shoulder problem began at work on February 21, 2020 when, after lifting 50-pound bags of salt over three nights, appellant could no longer lift his arm up due to severe pain. He opined that the mechanism of injury, symptoms, and injury itself were consistent with the description of what happened at work. However, Dr. Bradley did not explain a pathophysiological process of how any of appellant's work duties contributed to his left shoulder condition.¹⁰ The Board has held that a medical opinion that does not offer a medically sound and rationalized explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions is of limited probative value.¹¹ Therefore, Dr. Bradley's August 12, 2020 report is insufficient to establish appellant's claim.

⁶ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *J.L.*, Docket No. 20-0717 (issued October 15, 2020).

¹⁰ *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *J.C.*, Docket No. 18-1474 (issued March 20, 2019); *M.M.*, Docket No. 15-0607 (issued May 15, 2015); *M.W.*, Docket No. 14-1664 (issued December 5, 2014).

¹¹ *J.B.*, Docket No. 21-0011 (issued April 20, 2021); *A.M.*, Docket No. 19-1394 (issued February 23, 2021);

In his March 4, 2020 report, Dr. Bradley noted that appellant related a history of left shoulder pain for the past year or two, which had worsened over the last six months. However, he did not provide an opinion as to the cause of appellant's left shoulder condition. Dr. Bradley, likewise, did not offer any opinion as to causation in his April 22 and October 16, 2020 reports or in the October 1, 2020 operative report. The Board has held that a medical report that does not render an opinion on causal relationship is of no probative value and, thus, is insufficient to establish the claim.¹² Thus, Dr. Bradley's additional reports are also insufficient to meet appellant's burden of proof.

The remainder of the medical evidence consists of physical therapy records and notes. These reports have no probative value, however, because physical therapists are not considered physicians as defined under FECA.¹³

As appellant has not submitted rationalized medical evidence to establish a left shoulder condition causally related to the accepted February 21, 2020 employment incident, the Board finds that he has not met his 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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a left shoulder condition causally related to the accepted February 21, 2020 employment incident.¹⁴

¹² *T.D.*, Docket No. 19-1779 (issued March 9, 2021).

¹³ Section 8102(2) of FECA provides as follows: (2) 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 supra* note 9 at 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); *E.W.*, Docket No. 20-0338 (issued October 9, 2020); *see also R.L.*, Docket No. 19-0440 (issued July 8, 2019) (a physical therapist is not a physician under FECA); *Jane White*, 34 ECAB 515, 518 (1983) (physical therapists are not considered physicians under FECA).

¹⁴ To the extent that appellant is alleging an injury occurring over more than one workday or work shift, he may file an occupational disease claim (Form CA-2).

ORDER

IT IS HEREBY ORDERED THAT the January 20, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 14, 2021
Washington, DC

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

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

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