



## ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment.

## FACTUAL HISTORY

On August 5, 2020 appellant, then a 38-year-old parcel post distribution machine worker, filed an occupational disease claim (Form CA-2) alleging that she sustained cervical disc deterioration, lower back bone “sparrowing,” and left-side numbness due to her factors of her federal employment; including lifting, pulling, bending, turning, and twisting. She noted that she first became aware of her condition on June 22, 2015 and realized its relation to her federal employment on January 30, 2020.

Medical evidence accompanying her claim included magnetic resonance imaging (MRI) scans dated March 24 and April 17, 2020, and a July 21, 2020 attending physician’s report (Form CA-20). On the July 21, 2020 Form CA-20 Dr. David Cummings, an osteopath Board-certified in family medicine, diagnosed cervical disc impingement and checked a box marked “Yes” indicating that the diagnosed condition had been caused or aggravated by employment activity. Dr. Cummings found that appellant was totally disabled from work for the period February 24, 2020 through January 1, 2021.

In a development letter dated August 11, 2020, OWCP informed appellant that the evidence of record was insufficient to establish her claim and advised her of the type of factual and medical evidence required to establish her claim. It allotted her 30 days to provide the necessary evidence.

In response, appellant submitted chart notes dated January 24, 2020 by Dr. Benjamin E. Bowman, a chiropractor, who detailed treatment provided and diagnosed cervicothoracic radiculopathy, cervicgia, back muscle spasm, low back pain, and segment and somatic dysfunction of the thoracic, lumbar, pelvic, and cervical regions. Dr. Bowman noted that appellant had related a gradual onset of pain since a motorcycle accident six years ago. He indicated that appellant’s recovery might take longer than an average patient with an uncomplicated case, based on her osteoarthritis, severity of initial injury episode, and history of more than one month duration of the current episode.

A March 3, 2020 form report signed by Dr. Cummings diagnosed shoulder pain and noted a period of total disability from March 1 through April 1, 2020.

A March 31, 2020 MRI scan of appellant’s cervical spine revealed C4-5, C5-6, and C6-7 disc bulges or disc protrusions, disc and facet degenerative changes, and mild left and mild/moderate right foraminal encroachment and relatively mild spinal canal encroachment.

A June 4, 2020 computerized tomography (CT) scan of appellant’s cervical spine demonstrated mild reversal of cervical lordosis and anterior C5-7 bony ridging, small C6-7 left lateral recess disc herniation, and no spinal canal stenosis or neural foraminal narrowing at any cervical level.

In a July 7, 2020 form report, Dr. Cummings diagnosed cervical disc disease with radiculopathy. He found appellant disabled from work for the period February 29 to October 1, 2020. Dr. Cummings also noted that she was able to return to classroom training only/light-duty work as of July 8, 2020.

Dr. Cummings, in an August 18, 2020 report, noted that appellant was first seen on February 28, 2020 and thereafter for diagnoses of C5-6 foraminal encroachment, C6-7 disc protrusion, and left shoulder infraspinatus tendinosis. He described her work duties, including transfer of mail bags and hampers greater than 10 pounds. Dr. Cummings advised that appellant would have pushing, bending, pulling, carrying, and lifting restrictions until cleared by her neurosurgeon.

OWCP received a September 15, 2020 report from Dr. Bowman, which was repetitive of his prior report.

In a letter dated September 22, 2020, OWCP requested that appellant provide additional information regarding her prior motorcycle accidents and/or other injuries.

On September 30, 2020 OWCP received statements from appellant describing her June 22, 2015 motorcycle accident and current activities. Appellant stated that she had severe cervical, arm, and shoulder weakness and had problems doing housework due to body pain. She also stated that, due to intense pain and headaches, she was unable to turn or lift her neck or shoulders on some days. With respect to her motorcycle accident, appellant stated that it occurred on June 22, 2015 and resulted in a broken ankle and bruised and scraped body. She stated that she was off work for six or more weeks following the motorcycle accident and then released to her usual job. Appellant attributed her current cervical condition to employment factors of repetitive heavy lifting, pulling, pushing, turning and bending.

By decision dated October 20, 2020, OWCP denied appellant's claim, finding that she had not established an injury or condition causally related to factors of her federal employment.

On October 22, 2020 appellant requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on February 19, 2021.

In a March 2, 2021 report, Dr. Cummings attributed appellant's cervical injury to processing mail bags weighing more than 30 to 40 pounds and pushing bulk cages. He noted that she was diagnosed with cervical radiculopathy due to a cervical disc injury by her chiropractor and spinal specialist. Dr. Cummings concluded that appellant's "mechanism of injury of cumulative lifting and pulling of heavy weights, in association with an acute specific injury, provides a plausible cause and effect with some degree of medical certainty."

By decision dated April 22, 2021, OWCP's hearing representative affirmed the October 20, 2020 decision.

## 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, 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.<sup>7</sup>

Causal relationship is a question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 the specific employment factors identified by the claimant.<sup>9</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors, is sufficient to establish causal relationship.<sup>10</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> See *J.R.*, Docket No. 20-0903 (issued April 22, 2021); *S.M.*, Docket No. 19-1634 (issued August 25, 2020); *E.W.*, Docket No. 19-1393 (issued January 29, 2020); *J.P.*, 59 ECAB 178 (2007) *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *J.R.*, *id.*; *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> 20 C.F.R. § 10.115; *J.R.*, *id.*; *E.S.*, Docket No. 18-1580 (issued January 23, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> See *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>8</sup> *J.F.*, Docket No. 18-0492 (issued January 16, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>10</sup> *E.W.*, *supra* note 4; *Gary L. Fowler*, 45 ECAB 365 (1994).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment.

Appellant submitted a March 2, 2021 report from Dr. Cummings attributing her cervical condition to processing mail bags weighing more than 30 to 40 pounds and pushing bulk cages. In support of this conclusion, Dr. Cummings explained that the cumulative pulling and lifting heavy weights in association with an acute specific injury was the mechanism of injury. While he provided an affirmative opinion on causal relationship, he did not offer medical rationale sufficient to explain how or why he believes appellant's employment duties could have resulted in or contributed to her diagnosed condition. The Board held that medical opinion evidence should offer a medically-sound explanation of how the specific employment incident or work factors physiologically caused the injury.<sup>11</sup>

In a Form CA-20 dated July 24, 2020, Dr. Cummings diagnosed cervical disc impingement and checked a box marked "Yes," indicating that the condition was 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>12</sup>

Dr. Cummings, in March 3 and July 7, 2020 form reports, diagnosed cervical disc disease with radiculopathy and shoulder pain and noted periods of disability. In an August 18, 2020 report, he diagnosed C5-6 foraminal encroachment, C6-7 disc protrusion, and left shoulder infraspinatus tendinosis. Dr. Cummings also described her employment duties. However, he did not offer an opinion as to whether appellant's diagnosed condition was causally related to the accepted employment factors. 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.<sup>13</sup> Accordingly, these reports are insufficient to meet appellant's burden of proof to establish her claim.

The record also contains reports from Dr. Bowman, a chiropractor, dated January 24 to September 15, 2020. However, a chiropractor is only considered a physician for purposes of FECA if he or she diagnoses subluxation based upon x-ray evidence.<sup>14</sup> Dr. Bowman did not

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<sup>11</sup> See *T.W.I.*, Docket No. 20-0767 (issued January 13, 2021); *H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

<sup>12</sup> *C.G.*, Docket No. 20-1092 (issued September 22, 2021); *O.M.*, Docket No. 18-1055 (issued April 15, 2020); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>13</sup> *J.H.*, Docket No. 20-1645 (issued August 11, 2021); *P.C.*, Docket No. 20-0855 (issued November 23, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>14</sup> Section 8101(2) of FECA provides that the term physician includes chiropractors only if the treatment consists of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist. 5 U.S.C. § 8101(2). See *M.J.*, Docket No. 20-1263 (issued September 14, 2021); *T.T.*, Docket No. 18-0838 (issued September 19, 2019); *Thomas W. Stevens*, 50 ECAB 288 (1999); *George E. Williams*, 44 ECAB 530 (1993).

diagnose subluxation as demonstrated by x-ray to exist. Therefore, these reports do not constitute competent medical evidence.<sup>15</sup>

OWCP also received MRI scans of the cervical spine dated March 31 and June 4, 2020. 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 injury caused the diagnosed conditions.<sup>16</sup>

As the medical evidence of record is insufficient to establish causal relationship between a medical condition and the accepted factors of federal employment, the Board finds that appellant 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.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment.

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<sup>15</sup> *M.J., id.; C.S.*, Docket No. 19-1279 (issued December 30, 2019).

<sup>16</sup> *M.J., id.; J.P.*, Docket No. 19-0216 (issued December 13, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

**ORDER**

**IT IS HEREBY ORDERED THAT** April 22, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 24, 2022  
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