

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted August 10, 2020 employment incident.

FACTUAL HISTORY

On August 20, 2020 appellant, then a 22-year-old postal collection and delivery person, filed a traumatic injury claim (Form CA-1) alleging that on August 10, 2020 she sustained right shoulder and neck pain while carrying mail in the performance of duty.

In an August 21, 2020 development letter, OWCP advised appellant that the evidence of record was insufficient to establish her claim. It informed 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 necessary evidence.

An August 12, 2020 hospital record noted that appellant was seen by clinicians that day and was released to return to work on August 15, 2020.

In prescription slips dated August 17, 24 and September 4, 2020, Dr. Aditya Chopra, an internist, prescribed bedrest.

In visit notes dated August 17, 2020, Nicholas A. Wolf, a certified registered nurse practitioner, noted that appellant was seen for complaints of right shoulder/upper arm and right neck pain. He noted an assessment of neck pain and neuropathy.

Mr. Wolf, in visit notes dated August 24, 2020, noted that appellant was seen in follow-up for neck pain complaints. Under assessment, he noted neck pain, muscle spasm, and neuropathy. In visit notes dated August 27, 2020, Mr. Wolf reported that appellant was seen for complaints of right shoulder pain. Under assessment, he noted muscle spasm and right shoulder and neck pain. Mr. Wolf recommended cervical and right shoulder magnetic resonance imaging (MRI) scans.

On August 28, 2020 OWCP received an undated attending physician's report (Form CA-20), wherein Mr. Wolfe noted that appellant injured her neck and shoulder while carrying a bag of mail. Mr. Wolf diagnosed pain of unknown etiology pending MRI scans. He found appellant totally disabled from work commencing August 10, 2020.

In visit notes dated August 31, September 4, 11 and 16, 2020, Mr. Wolf detailed examination findings. Diagnoses included muscle spasm, right shoulder pain and neck pain, radiculopathy, disc protrusion, tendinosis, and bulging disc.

A September 3, 2020 MRI scan of appellant's right shoulder demonstrated no labral or capsular abnormality, mild infraspinatus tendinosis, and adequate subacromial space. Appellant's cervical MRI scan of even date demonstrated C4-5 left paracentral radial annular tear and disc protrusion upon the thecal sac and C5-6 and C6-7 central radial annular tear and disc protrusion upon the thecal sac.

Dr. Chopra, in a September 18, 2020 report, detailed appellant's history of medical treatment. He noted that appellant was seen on August 17, 2020 for a right shoulder and neck injury she sustained on August 10, 2020, which she attributed to carrying a mailbag. Dr. Chopra's review of appellant's cervical MRI scan revealed tears and disc protrusion. He noted a diagnosis of tendinosis. As to the cause of the tendinosis, Dr. Chopra explained that it was possible that heavy lifting caused the muscle strain and protruding disc.

In a September 21, 2020 report, Dr. Emeka Nwodim, a Board-certified orthopedic surgeon, related appellant's physical examination findings and noted that her symptoms began at work on August 10, 2020. He diagnosed neck pain, cervicgia, and right shoulder joint pain.

By decision dated September 30, 2020, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a diagnosed condition causally related to the accepted August 10, 2020 employment incident.

OWCP continued to receive medical evidence.

Mr. Wolf, in an August 17, 2020 prescription slip, prescribed bedrest for the period August 17 to 24, 2020.

An August 17, 2020 duty status report (Form CA-17), from Dr. Stephen D. Brown, a Board-certified orthopedic surgeon, noted that on August 10, 2020 appellant developed pain in her shoulder while carrying mail. Diagnoses due to injury included muscle spasm and pain of unknown etiology.

In a September 29, 2020 report, Dr. Brown noted that appellant was seen for complaints of bilateral shoulder and neck pain which appellant had attributed to carrying mail on August 10, 2020. On physical examination, Dr. Brown reported bilateral bicipital groove tenderness; and positive right Hawkins and O'Brien's tests. He reviewed appellant's right shoulder and cervical spine MRI scans and diagnosed prolapsed cervical intervertebral disc, bilateral shoulder impingement syndrome, and right shoulder joint superior glenoid labrum injury.

Dr. Brown, in a progress note dated October 20, 2020, reported that appellant was seen for bilateral shoulder pain, which was aggravated by pushing, pulling, and lifting. He related appellant's physical examination findings, which were unchanged from his prior report. Dr. Brown diagnosed prolapsed cervical intervertebral disc, bilateral right shoulder impingement syndrome, and right shoulder joint superior glenoid labrum injury. He placed appellant off work for three weeks and attributed her right shoulder injury to her postal work.

In Form CA-17 dated November 4, 2020, Dr. Brown noted an injury date of August 10, 2020 and diagnoses of right shoulder impingement syndrome and prolapsed cervical disc due to the injury. He found appellant disabled from work.

In a November 5, 2020 progress note, Dr. Brown reported that appellant was seen for right shoulder pain which was caused by lifting. He noted an injury date of August 10, 2020. Physical examination findings were unchanged. Dr. Brown diagnosed prolapsed cervical intervertebral disc displacement, bilateral shoulder region impingement syndrome, and bilateral biceps tendinitis.

On November 11, 2020 appellant requested reconsideration.

In a report dated December 4, 2020, Dr Brown diagnosed bilateral rotator cuff tendinitis. He noted that appellant reported that her pain was attributed to carrying her mailbag. Dr. Brown concluded that appellant's pain was causally related to her federal employment duties based on her symptoms, physical examination, and injury history.

By decision dated February 3, 2021, OWCP denied modification.

On July 15, 2021 appellant, through counsel, requested reconsideration and submitted additional evidence.

Dr. Brown, in an undated report, provided diagnostic test findings. He reported that a May 11, 2021 electromyogram/nerve conduction velocity (EMG/NCV) study, demonstrated right carpal tunnel syndrome and mild elbow neuropathy and no evidence of cervical radiculopathy. Dr. Brown concluded that appellant sustained cervical and right shoulder injuries due to an August 10, 2020 work incident.

By decision dated July 26, 2021, OWCP denied modification.

On September 20, 2021 appellant, through counsel, requested reconsideration and submitted additional evidence.

In an undated report, Dr. Brown noted that appellant, while carrying mail on August 10, 2020, felt right shoulder/neck area discomfort. Appellant noted that her satchel strap would get uncomfortable being on the shoulder for hours. She also related that the mail volume was high that day so that she placed both mail and packages into her satchel. The following day appellant stated that she could barely move her neck to the right. Dr. Brown reported that it was not uncommon for cervical and shoulder pathology to result from routine work demands. He further explained that the weight of the heavy satchel placed excess pressure on the cervical spine and trapezius. This in turn placed increased pressure on the anterior shoulder capsule and increased anterior displacement of the humeral head on external rotation and glenoid due to the position of the satchel when it is thrown onto the shoulder. The end result was labral tears and deterioration from the undue anterior translocation and subluxation of the humeral head.

Appellant also submitted a January 25, 2021 initial evaluation/plan of care by Stephen Sullivan, a physician assistant, noting an injury date of August 10, 2020 and primary/rehabilitation diagnoses of right cervical radiculopathy, bilateral shoulder pain, and generalized weakness. Mr. Sullivan reported that appellant was injured at work in August. He prescribed physical therapy three times a week for six weeks.

By decision dated October 18, 2021, OWCP denied modification.

On October 22, 2021 appellant, through counsel, requested reconsideration, noting that the definition of a traumatic injury does include injuries that occurred within a single shift or workday. She asserted that Dr. Brown's report provided a biomechanical explanation as to how carrying a mailbag on August 10, 2020 caused appellant's neck and shoulder conditions.

By decision dated October 29, 2021, OWCP denied modification.

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 employment incident at the time and 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

ANALYSIS

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

³ *D.A.*, Docket No. 21-0478 (issued October 14, 2021); *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 *D.A.*, *id.*; *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).

⁶ *D.A.*, *supra* note 4; *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 *D.A.*, *id.*; *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 *D.A.*, *id.*; *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).

In a September 29, 2020 report, Dr. Brown noted history of injury, provided examination findings and diagnosed prolapsed cervical intervertebral disc, bilateral shoulder impingement syndrome, and right shoulder joint superior glenoid labrum injury. In a report received on September 20, 2021, he opined that the accepted August 10, 2020 employment incident caused appellant's humeral head translocation and subluxation and labral tears and deterioration from carrying mail. Dr. Brown explained that the mechanism of injury was the excess pressure placed on the cervical spine and trapezius from the heavy satchel which caused increased pressure on the anterior shoulder capsule and increased anterior displacement of the humeral head on external rotation and glenoid resulting labral tears and deterioration from the undue anterior translocation and subluxation of the humeral head. He noted that the following day appellant could barely move her neck to the right. Dr. Brown concluded it was not uncommon for cervical and spinal pathology to result from routine work demands.

The Board finds that, while the report from Dr. Brown was not fully rationalized, it did provide a physiologic medical explanation indicating that appellant sustained a prolapsed cervical intervertebral disc, bilateral shoulder impingement syndrome, and right shoulder joint superior glenoid labrum injury conditions on August 10, 2020. Although the report is insufficient to meet appellant's burden of proof to establish the claim, it raises an uncontroverted inference between appellant's accepted conditions and August 10, 2020 incident and, thus, it is sufficient to require OWCP to further develop the medical evidence.⁹

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While it is appellant's burden of proof to establish the claim, OWCP shares responsibility in the development of the evidence.¹⁰ It has the obligation to see that justice is done.¹¹

The Board will, therefore, remand the case to OWCP for further development of the medical evidence. On remand, OWCP shall refer appellant, a statement of accepted facts, and the medical evidence of record to a physician in the appropriate field of medicine. The chosen physician shall provide a rationalized opinion on whether the diagnosed conditions are causally related to the accepted employment incident. If the physician opines that the diagnosed conditions are not causally related, he or she must explain with rationale how or why his or her opinion differs from that of Dr. Brown. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's claim.

CONCLUSION

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

⁹ *M.R.*, Docket No. 20-0101 (issued September 14, 2021), *Richard E. Simpson*, 55 ECAB 490, 500 (2004); *John J. Carlone*, 41 ECAB 354, 360 (1989).

¹⁰ *Id.*

¹¹ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the October 29, 2021 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: July 29, 2022
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board