

ISSUE

The issue is whether appellant has met his burden of proof to establish a left shoulder condition causally related to the accepted October 13, 2018 employment incident.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances set forth in the Board's prior order are incorporated herein by reference. The relevant facts are as follows.

On October 13, 2018 appellant, then a 44-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his left shoulder when he lifted a tub of mail while in the performance of duty. He stopped work on October 15, 2018.⁴

On October 13, 2018 appellant was seen in the Oswego Hospital emergency room by Dr. Michael F. Boyle, a Board-certified emergency physician, for left shoulder pain. Under history of injury, Dr. Boyle noted that appellant had sustained a left shoulder fracture at work in January 2018 and had received physical therapy for nine months following the injury. Under clinical impression, he diagnosed left shoulder impingement syndrome. Dr. Boyle explained that he found it a bit unusual that appellant had a reinjury considering his limited activity following rehabilitation. On physical examination he reported limited left shoulder range of motion (ROM), decreased left shoulder abduction, and positive empty cup test. In a work/physical activity form of even date, Dr. Boyle placed appellant off work that day with a release to light-duty work the following week. He provided work restrictions of no lifting more than 10 pounds. Dr. Boyle also completed a duty status report (Form CA-17), wherein he noted that on October 13, 2018 appellant stated he felt a sharp pain in his left shoulder after picking up a tub while at work. He diagnosed shoulder impingement and advised that appellant was capable of performing light-duty work. In an attending physician's report (Form CA-20) dated October 13, 2018, Dr. Boyle noted that appellant had recently undergone shoulder injury and was disabled from work beginning October 13, 2018.

In an October 30, 2018 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

In reports dated October 2 and 18, 2018, Dr. Nathan Everding, a Board-certified orthopedic surgeon, noted that appellant was not working at that time due to left shoulder pain. He noted that appellant sustained a left shoulder fracture due to a fall on January 24, 2018, which had healed. In the October 18, 2018 report, Dr. Everding related that appellant reported difficulty performing his job following his return to work, noting difficulty holding mail due to progressive pain and that he

³ *Order Remanding Case*, Docket No. 19-1773 (issued March 18, 2021).

⁴ OWCP assigned the present claim OWCP File No. xxxxxx503. The record reflects that a appellant has a prior claim accepted under OWCP File No. xxxxxx253 for a January 24, 2018 left shoulder displaced fracture of glenoid cavity of scapula and nondisplaced fracture of greater tuberosity of left humerus. On May 25, 2021 OWCP administratively combined OWCP File Nos. xxxxxx253 and xxxxxx503, with the latter serving as the master file.

developed sharp pain while lifting a 30-pound tub of mail. He attributed appellant's left shoulder condition to his January 24, 2018 work injury.

By decision dated December 3, 2018, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed left shoulder condition and the accepted October 13, 2018 employment incident.

OWCP subsequently received a November 15, 2018 report, wherein Dr. Everding noted appellant's history of January 24 and October 13, 2018 injuries. He detailed appellant's physical examination findings and reviewed diagnostic tests. Dr. Everding noted that appellant was receiving treatment for nondisplaced fracture of greater left humerus tuberosity, subsequent encounter for left fracture. Regarding causation, he opined that appellant's left shoulder fracture and subsequent treatment were attributable to the January fall. Dr. Everding noted that appellant had filed a new claim for his left shoulder condition due to an aggravation sustained on October 13, 2018, but opined that appellant did not sustain a new injury on October 13, 2018. He noted that appellant did have increasing symptoms following a return to work.

In a report dated November 30, 2018, Dr. Everding noted that appellant sustained a left closed-displaced glenoid fracture and left nondisplaced greater tuberosity fracture as the result of a fall on January 24, 2018. He reported that appellant was currently working light/partial duty. On examination Dr. Everding reported tenderness on palpation at the greater tuberosity, mild global ROM loss, and positive Hawkins impingement. He diagnosed left shoulder pain and provided work restrictions.

OWCP received duty status reports (Form CA-17) dated December 4 and 31, 2018 from Dr. Everding. He noted an injury date of January 24, 2018 and diagnosed left shoulder sprain/fracture due to the injury. Work restrictions for an eight-hour workday were provided.

On January 29, 2019 appellant requested reconsideration. In support of his request, he submitted progress reports from Dr. Everding covering the period October 18 to December 19, 2018 and magnetic resonance imaging (MRI) scans dated June 22 and December 18, 2018.

A June 22, 2018 MRI scan of appellant's left shoulder demonstrated nondisplaced fracture greater tuberosity with moderate marrow edema, incompletely united anterior inferior glenoid fracture, and mild displaced anterior labrum tear. An MRI scan dated December 18, 2018 demonstrated interval healing of the greater tuberosity fracture, anterior inferior glenoid fracture healed with articular deformity and mild juxta-articular marrow edema, unchanged blunted and irregular anterior inferior labrum, supraspinatus tendinosis, and no rotator cuff tear.

In a December 13, 2018 report, Dr. Everding noted that appellant was seen for complaints of left shoulder pain/dysfunction. He related that appellant sustained a left shoulder fracture due to a January 2018 work incident, which has healed well. On physical examination Dr. Everding reported tenderness on palpation of the left shoulder, greater tuberosity, no effusion, and positive Neer and Hawkins impingement. He diagnosed left shoulder pain and noted that appellant was currently working light/partial duty.

Dr. Everding, in a December 19, 2018 report, noted appellant's January 24, 2018 injury. He reviewed a December 17, 2018 MRI scan, detailed examination findings, and diagnosed left shoulder pain, left shoulder status post closed minimally displaced greater tuberosity proximal humerus fracture, and left shoulder status post closed displaced glenoid fracture. Dr. Everding attributed appellant's current left shoulder complaints to the January 24, 2018 injury.

By decision dated April 19, 2019, OWCP denied modification.

In a May 21, 2019 report, Dr. Walter Kantor, a Board-certified emergency room physician, noted that appellant had been seen in the emergency room for complaints of left shoulder pain. He reported that, in January 2018, appellant sustained a left shoulder fracture. Physical examination findings included limited left shoulder range of motion and tenderness on palpation over the lateral and posterior left shoulder aspect. Dr. Kantor diagnosed left arm paresthesia.

A computerized tomography (CT) scan of even date demonstrated irregularity of the superior aspect of the left humerus greater tuberosity and left bony glenoid are thought to represent sequelae of remote anterior shoulder dislocation and no evidence of fracture or malalignment.

On August 21, 2019 appellant, through counsel, appealed to the Board. By order dated March 18, 2021, the Board set aside the April 19, 2019 decision and remanded the case for OWCP to administratively combine OWCP File Nos. xxxxxx253 and xxxxx503.⁵

In a May 27, 2021 decision, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between a diagnosed left shoulder condition and the accepted October 13, 2018 employment incident.

On June 3, 2021 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review, which was held on October 7, 2021.

By decision dated December 3, 2021, OWCP's hearing representative affirmed the May 27, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁶ has the burden of proof to establish the essential elements of his or her claim, including 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 of FECA,⁷ 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

⁵ *Supra* note 3.

⁶ *Supra* note 2.

⁷ *D.M.*, Docket No. 21-1244 (issued March 25, 2022); *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

employment injury.⁸ 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.⁹

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 whether the employee 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.¹⁰

The evidence required to establish causal relationship is rationalized medical opinion evidence.¹¹ 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 incident identified by the employee.¹²

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left shoulder condition causally related to the accepted October 13, 2018 employment incident.

In support of his claim, appellant submitted reports from Dr. Everding, who indicated that he had treated appellant for his left shoulder fracture. In reports dated October 2, 18, November 15 30, and December 13 and 19, 2018, Dr. Everding noted that appellant sustained a left shoulder fracture on January 24, 2018. In his November 15, 2018 report, he noted, while appellant had increasing symptoms after his return to work, he opined that appellant did not sustain a new injury on October 13, 2018. In Form CA-17s dated December 4 and 31, 2018 and, in a report dated December 19, 2018, Dr. Everding diagnosed left shoulder sprain/fracture, which he attributed to a January 24, 2018 injury. As Dr. Everding failed to relate the diagnosed left shoulder condition to the October 13, 2018 employment injury, his reports are insufficient to meet appellant's burden of proof.¹³

⁸ *D.M., id.*; *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁹ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

¹⁰ *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).

¹¹ *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).

¹² *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).

¹³ *T.S.*, Docket No. 18-1501 (issued March 4, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

The record also contains October 13, 2018 reports from Dr. Boyle, wherein he noted appellant's October 13, 2018 employment incident, provided work restrictions, and diagnosed left shoulder impingement syndrome on May 21, 2019. However, Dr. Boyle offered no opinion as to the cause of the diagnosed condition beyond noting on October 13, 2018 that it was unusual for a reinjury to occur with limited activity following rehabilitation. The Board has held that medical evidence offering no opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁴ Therefore, these reports are insufficient to establish appellant's claim.

Similarly, Dr. Kantor's May 21, 2019 report is also insufficient to establish appellant's claim. Dr. Kantor noted a January 2018 left shoulder injury, provided examination findings, and diagnosed left arm paresthesia. No opinion was given as to the cause of the diagnosed left arm paresthesia. As noted above, medical evidence offering no opinion on the cause of a diagnosed condition is of no probative value on the issue of causal relationship.¹⁵ Thus, this report is insufficient to establish appellant's claim.

Appellant also submitted diagnostic testing reports. However, diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment incident caused the diagnosed condition.¹⁶

As there is no rationalized medical evidence of record explaining how, physiologically, appellant's left shoulder condition was causally related to the accepted October 13, 2018 employment incident, the Board finds that appellant 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 October 13, 2018 employment incident.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *C.A.*, Docket No. 21-0601 (issued November 15, 2021); *K.R.*, Docket No. 20-1103 (issued January 5, 2021); *F.S.*, Docket No. 19-0205 (issued June 19, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

ORDER

IT IS HEREBY ORDERED THAT December 3, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 22, 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