United States Department of Labor
Employees' Compensation Appeals Board

S.D., Appellant	)	
and	)	**Docket No. 22-1082**
	)	**Issued: November 15, 2022**
U.S. POSTAL SERVICE, SEATTLE PROCESSING & DISTRIBUTION CENTER, Tukwila, WA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On July 8, 2022 appellant filed a timely appeal from March 28 and June 7, 2022 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a left shoulder condition causally related to the accepted June 17, 2021 employment incident.

FACTUAL HISTORY

On July 7, 2021 appellant, then a 56-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on June 17, 2021 she experienced pain in her shoulder when

[1] 5 U.S.C. § 8101 *et seq*.

sweeping mail into the top rack while in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that she was in the performance of duty at the time of the alleged incident.

On June 18, 2021 Dr. Anny Soon, a Board-certified internist, found that appellant should work light duty until July 2, 2021 due to an employment injury. She provided the date of injury as June 16, 2021.

In a June 30, 2021 form report, a physician assistant noted that appellant had loss of range of motion of the left shoulder and provided work restrictions.

In a statement dated July 2, 2021, H.C., a supervisor, related that appellant had informed her that she could not work due to an employment injury on June 18, 2021. She subsequently filed a claim on June 26, 2021 and began working in a modified position. Appellant advised that on June 30, 2021 she injured herself lifting the lid of a machine to clear a jam.

In a duty status report (Form CA-17) dated July 8, 2021, a physician diagnosed left shoulder strain and provided work restrictions.[2]

On July 9, 2021 appellant accepted a full-time, modified assignment at the employing establishment.

On July 21, 2021 Dr. Mark Lundquist, who specializes in occupational medicine, obtained a history of appellant experiencing a sharp pain in her shoulder radiating into the wrist sweeping mail into trays above her shoulder on June 17, 2021. He noted that her pain had increased on June 30, 2021 when she worked on a different machine. On examination, Dr. Lundquist found tenderness to palpation of the subdeltoid and posterior rotator cuff and lesser pain in the anterior humeral head. He diagnosed a left shoulder strain and "most likely also a subdeltoid bursitis." Dr. Lundquist advised that the mechanism of injury was "sweeping mail into trays" on June 17, 2021. He referred appellant for physical therapy and found that she could work modified duty.

Appellant submitted physical therapy notes dated from July 26, 2021.

In a July 27, 2021 progress report, Dr. Lundquist evaluated appellant for continued left shoulder pain that worsened with movement or sleeping. He noted the mechanism of injury as sweeping mail into trays and the date of onset as June 17, 2021. Dr. Lundquist diagnosed left shoulder strain.

In progress reports dated August 3 and 17, 2021, Dr. Lundquist diagnosed left shoulder strain, probable rotator cuff tendinopathy, and possible subdeltoid bursitis. He provided the mechanism of injury as sweeping mail into trays and noted that appellant had experienced sudden pain in her shoulder. Dr. Lundquist found that she could work modified duty. In duty status reports (Form CA-17) dated August 3, 10, and 17, 2021, he provided work restrictions.

[2] The name of the physician is not legible.

In a development letter dated September 9, 2021, OWCP informed appellant of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. It afforded her 30 days to provide the necessary evidence.

On August 24 and 31, 2021 Dr. Lundquist provided a recheck of appellant's previously-documented left shoulder injury. He noted that her pain had improved, but worsened with movement and woke her up at night. Dr. Lundquist provided the same diagnoses and findings as in his prior reports. In a Form CA-17 of even date, he provided work restrictions.

On July 1, 2021 appellant filed a notice of recurrence (Form CA-2a) of the need for medical treatment on June 30, 2021 causally related to her June 17, 2021 employment injury. She related that she was working with restrictions on that date when she used her left hand to open a machine and experienced pain in her shoulder and arm. Appellant provided a witness statement.

In a progress report dated September 14, 2021, Dr. Lundquist noted that appellant had sustained her injury on June 17, 2021, but had waited until after her symptoms increased after working a machine on June 30, 2021 to file a claim. He diagnosed a left shoulder strain. Dr. Lundquist indicated that appellant had given him a letter from OWCP for review.

In progress reports dated September 20 and 28, 2021, Dr. Lundquist found gradual improvement of left shoulder strain, probable rotator cuff tendinopathy, and possible subdeltoid bursitis. On September 28, 2021 he treated appellant with a steroid injection to the subacromial region of the left shoulder. Dr. Lundquist continued to provide CA-17 forms listing work restrictions.

By decision dated October 13, 2021, OWCP denied appellant's traumatic injury claim. It found that she had not established a medical condition causally related to the accepted June 17, 2021 employment incident.

Thereafter, OWCP received a June 22, 2021 report from Dr. Brian D. Cameron, a Board-certified orthopedic surgeon. Dr. Cameron described appellant's complaints of left shoulder pain over the past six months. He noted that she had received chiropractic treatment for her left shoulder in March and April. Dr. Cameron diagnosed adhesive capsulitis of the left shoulder.

In a progress report dated October 5, 2021, Dr. Lundquist diagnosed left shoulder strain, subdeltoid bursitis, and adhesive capsulitis. He provided the mechanism of injury as sweeping mail into trays. In a CA-17 form of even date, Dr. Lundquist found that appellant could work with restrictions.

In an October 12, 2021 progress report, Dr. Lundquist advised that appellant had left shoulder strain, probable rotator cuff tendinopathy, and possible subdeltoid bursitis. He related, "Arguably, she may have some adhesive capsulitis as previously documented. If so, all that remains of her capsular movement pattern is mildly limited external rotation." Dr. Lundquist again noted that the mechanism of injury was sweeping mail into trays and provided work restrictions in an accompanying CA-17 form.

On October 28, 2021 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

On November 2, 2021 Dr. Lundquist related that he had treated appellant since July 21, 2021 for a "non-traumatic shoulder injury." He indicated that she had described her job as involving some repetitiveness and intermittent mild-to-moderate shoulder joint loading performing overhead work. Dr. Lundquist found that it was reasonable on a more probable than not basis that appellant's sudden onset of shoulder pain while performing this activity with her shoulder and arm in an awkward position had caused an acute injury such as a rotator cuff strain due to the employment activity. He found that her short stature may have also contributed. Dr. Lundquist noted that appellant may have had some degeneration of the rotator cuff due to age but indicated it was previously asymptomatic. He found a repetitive and moderately stressful work increased the risk of degenerative rotator cuff symptoms and that if that had occurred it "would be considered to represent a work-related temporary exacerbation of preexisting disease." Dr. Lundquist opined that appellant should find a job that was less strenuous and repetitive to avoid a recurrence or reinjury.

A telephonic hearing was held on February 16, 2022.

On March 1, 2022 Dr. Bich-Khanh Nguyen, a Board-certified internist, advised that she had treated appellant in June 2021 for "acute left shoulder pain due to her job in the mail room." She noted that appellant's job required "repetitive overhead reaching and sweeping mail daily which injured her left shoulder."

By decision dated March 28, 2022, OWCP's hearing representative affirmed the October 13, 2021 decision. He noted that the current case should be administratively combined with OWCP File No. xxxxxx589, which was created for a June 30, 2021 incident.

In a report dated April 18, 2022, Dr. Cameron advised that he had incorrectly found that appellant had received previous left shoulder treatment. He noted that her prior treatment was for a 2016 right shoulder condition.

On May 19, 2022 appellant, through a representative, requested reconsideration.

By decision dated June 7, 2022, OWCP denied modification of its March 28, 2022 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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 filed within the applicable time limitation of FECA,[4] that an injury was sustained while in the performance of duty as alleged; and that any disability or specific condition for which compensation is claimed is causally related to

[3] *Supra* note 1.

[4] *C.B.*, Docket No. 21-1291 (issued April 28, 2022); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

the employment injury.[5] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[6]

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.[7] 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 at the time and place, and in the manner alleged.[8] The second component is whether employment incident caused a personal injury.[9]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[10] A physician's opinion on whether there is a causal relationship between the diagnosed condition and the accepted employment incident must be based on a complete factual and medical background.[11] 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.[12]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left shoulder condition causally related to the accepted June 17, 2021 employment incident.

In a report dated July 21, 2021, Dr. Lundquist described appellant's history of left shoulder pain on June 17, 2021 extending to her wrist after sweeping mail into trays while performing overhead reaching. He noted that her pain increased on June 30, 2021 when she worked on another machine. Dr. Lundquist diagnosed a left shoulder strain and probable subdeltoid bursitis. He indicated that the mechanism of injury was appellant sweeping mail into trays on June 17, 2021. Dr. Lundquist provided progress reports throughout 2021 in which he also diagnosed probable

[5] *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

[6] *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[7] *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

[8] *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

[9] *Id*.

[10] *S.K.*, Docket No. 22-0432 (issued June 27, 2022); *E.G.*, Docket No. 20-1184 (issued March 1, 2021); *T.H.*, 59 ECAB 388 (2008).

[11] *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

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

rotator cuff tendinopathy and, on October 5 and 12, 2021, adhesive capsulitis. He continued to provide the mechanism of injury as sweeping mail into trays. The Board has held, however, that a report is of limited probative value regarding causal relationship if it does not contain sufficient medical rationale explaining how a given medical condition/disability was related to employment factors.[13] Thus, this evidence is insufficient to meet appellant's burden of proof.

On November 2, 2021 Dr. Lundquist related that he had treated appellant since July 21, 2021 for a shoulder injury that was not traumatic in nature. He noted that her work duties required repetitive motion and intermittent shoulder joint loading while performing overhead work. Dr. Lundquist found that it was reasonable on a more probable than not basis that appellant's sudden onset of shoulder pain while performing this activity had caused an acute injury such as a rotator cuff strain. He found that her short stature may have also contributed. Dr. Lundquist noted that appellant may have had some degeneration of the rotator cuff due to age, but indicated it was previously asymptomatic. He opined that repetitive and moderately stressful work duties increased the risk of degenerative rotator cuff symptoms and that if that had occurred it "would be considered to represent a work-related temporary exacerbation of preexisting disease." Dr. Lundquist opined that appellant should find a job that was less strenuous and repetitive to avoid a recurrence or reinjury. As noted above, the Board has held that a report is of limited probative value regarding causal relationship if it does not contain sufficient medical rationale explaining how a given medical condition/disability was related to employment factors.[14]

In a March 1, 2022 report, Dr. Nguyen discussed her treatment of appellant in June 2021 for left shoulder pain as a result of her job working in the mail room. She noted that appellant's position required repetitive overhead reaching and sweeping mail each day, which had injured her left shoulder. As noted above, the Board has held that a report is of limited probative value regarding causal relationship if it does not contain sufficient medical rationale explaining how a given medical condition/disability was related to employment factors.[15] Thus, this report is insufficient to establish appellant's claim.

On June 18, 2021 Dr. Anny advised that appellant should perform light duty as the result of an employment injury. She did not, however, provide an opinion on causal relationship. The Board has long held that a medical report which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[16] Therefore, this medical evidence is insufficient to establish appellant's traumatic injury claim.

[13] *See Y.D.*, Docket No. 16-1896 (issued February 10, 2017) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale describing the relation between work factors and a diagnosed condition/disability).

[14] *Id*.

[15] *Id*.

[16] *See R.P.*, Docket No. 22-0621 (issued July 20, 2022); *S.S.*, Docket No. 21-0837 (issued November 23, 2021); *L.D.*, Docket No. 20-0894 (issued January 26, 2021); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

In a report dated June 22, 2021, Dr. Cameron evaluated appellant for left shoulder pain and noted that she had previously received chiropractic treatment for the left shoulder. He diagnosed left shoulder adhesive capsulitis. On April 18, 2022 Dr. Cameron clarified that appellant's prior shoulder treatment was for the right rather than left shoulder. He did not, however, address whether the diagnosed condition of adhesive capsulitis was causally related to the accepted employment incident. 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.[17] Therefore, Dr. Cameron's reports are insufficient to establish appellant's claim.

The record contains CA-17 forms dated July through October 2021 providing work restrictions. However, these Form CA-17 reports do not contain an opinion as to whether the accepted employment injury caused a diagnosed condition, and thus are of no probative value on the issue of causal relationship.[18]

OWCP also received reports from a physical therapist and a physician assistant. However, physician assistants and physical therapists are not considered physicians as defined under FECA.[19] Consequently, this evidence is of no probative value and insufficient to establish the claim.

As the medical evidence of record is insufficient to establish causal relationship between a left shoulder condition and the accepted employment incident, 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 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 left shoulder condition causally related to the accepted June 17, 2021 employment incident.

[17] *Id*.

[18] *Id*. *See also D.S.*, Docket No. 20-0377 (issued November 9, 2020); *D.O.*, Docket No. 20-0307 (issued June 26, 2020).

[19] Section 8101(2) of FECA provides that 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 P.D.*, Docket No. 21-0920 (issued January 12, 2022) (a physical therapist is not a physician under FECA); *R.K.*, Docket No. 20-0049 (issued April 10, 2020) (a physician assistant is not considered a physician as defined under FECA).

ORDER

IT IS HEREBY ORDERED THAT the March 28 and June 7, 2022 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 15, 2022
Washington, DC

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

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

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