

**United States Department of Labor
Employees' Compensation Appeals Board**

M.F., Appellant)	
)	
and)	Docket No. 21-0533
)	Issued: January 31, 2023
U.S. POSTAL SERVICE, JACKSON POST)	
OFFICE, Jackson, GA, Employer)	
)	

Appearances: *Case Submitted on the Record*
Wayne Johnson, Esq., for the appellant¹
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 23, 2021 appellant, through counsel, filed a timely appeal from an August 28, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted July 17, 2017 employment incident.

FACTUAL HISTORY

On May 24, 2018 appellant, then a 52-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 17, 2017 she injured her right arm, hand, and shoulder while in the performance of duty. She explained that she was exiting her postal vehicle when she overextended her left foot and missed a step on the van, causing her to grab the door with her right hand. Appellant alleged that her right arm, hand, and shoulder bent back behind her head. On the reverse side of the claim form, the employing establishment controverted her claim, noting that she reported her injury 10 months after it occurred and did not provide any witnesses to support her claim. Appellant did not stop work.

In a July 18, 2017 statement, appellant recounted the July 17, 2017 incident, explaining that she missed a step on her van when exiting the vehicle and caught herself with her right arm. In the process, her right arm and shoulder was under stress. Appellant indicated that, as of that day, she experienced pain and tenderness in her right shoulder.

In a May 25, 2018 statement, the employing establishment controverted appellant's claim, asserting that at the time of her injury she did not elect to file a claim or seek medical treatment.

Appellant also submitted a position description of her duties as a rural carrier.

In a development letter dated May 31, 2018, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In a June 1, 2018 medical report Dr. Jehangir Pirzada, Board-certified in emergency medicine, evaluated appellant for right shoulder pain she experienced approximately 11 months prior when she had a fall at work. Appellant indicated that the onset of her pain had been gradual. Dr. Pirzada diagnosed right rotator cuff tendinitis and acute pain of the right shoulder. He advised that appellant remain out of work until she could be evaluated by an orthopedic physician. In a medical note of even date, Dr. Pirzada estimated that she would be able to return to work on June 18, 2018.

In a June 6, 2018 diagnostic report, Dr. Steven Manzi, a Board-certified diagnostic radiologist, performed an x-ray scan of appellant's right shoulder, observing very mild degenerative joint disease.

In a June 6, 2018 medical report, Dr. Peter Izzo, Board-certified in family medicine, evaluated appellant for a right shoulder injury and recounted the events of the alleged July 17, 2017 employment incident in which her right arm, shoulder and hand bent behind her after missing a step on her postal van and catching herself on the door with her right hand to prevent herself from falling. Appellant reported experiencing pain in her right arm and numbness in her fingers. She explained that she had been able to continue working following her injury, but the pain had

gotten worse over the past month. Dr. Izzo diagnosed an injury of the right shoulder, acute pain of the right shoulder, neuropathy and right shoulder tendinitis. In a medical note of even date, he indicated that appellant was disabled from work and referred her to neuropathy for further evaluation.

In a June 6, 2018 attending physician's report (Form CA-20) Dr. Izzo diagnosed neuropathy, acute right shoulder pain and right shoulder tendinitis due to the July 17, 2017 employment incident. He checked a box marked "Yes" to indicate his opinion that appellant's conditions were caused or aggravated by her employment activity and advised that she would be able to resume work on July 10, 2018. In a duty status report (Form CA-17) of even date, Dr. Izzo diagnosed acute right shoulder pain, right shoulder tendinitis and neuropathy due to the July 17, 2017 employment incident. He checked a box marked "No" to advise that appellant was unable to return to work.

In a June 7, 2018 response to OWCP's questionnaire, appellant indicated that, although there were no witnesses who observed the alleged July 17, 2017 employment incident, she immediately informed J.D., a supervisor, of her injury as he was present in the parking lot that day. She also made note of a July 18, 2017 statement where she described the employment incident and elected not to seek medical attention at that time. Appellant had since used ice and heat to treat her symptoms and asserted that she had not sustained any other injuries since her original injury occurred.

By decision dated July 13, 2018, OWCP denied appellant's traumatic injury claim, finding that she had failed to submit contemporaneous medical evidence signed by a qualifying physician containing a diagnosis in connection with her claimed injury. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

OWCP continued to receive evidence. In a January 2, 2019 medical report, appellant informed Dr. Fitz Harper, Board-certified in pain medicine, of her right shoulder pain related to the July 17, 2017 employment incident and described her subsequent symptoms after she did not immediately seek medical attention. She alleged that she continued to work through "great pain" until it became unbearable on May 31, 2018 and she subsequently visited the emergency room on June 1, 2018. Dr. Harper indicated that a July 27, 2018 magnetic resonance imaging (MRI) scan of her right shoulder revealed moderate supraspinatus and infraspinatus tendinitis and that an August 21, 2018 MRI scan of her right shoulder showed a focal full-thickness tear involving the posterior half of the mid to distal supraspinatus tendon. Appellant also complained of pain in her left hip, radicular pain in her left lower extremity, bilateral back pain and neck pain. Dr. Harper explained that when she used her right hand to grab her door and break her fall during the July 17, 2017 employment incident, her right shoulder, arm and back twisted behind her head. He observed that she did not have the symptoms of pain prior to the employment incident. Dr. Harper opined that appellant's initial right shoulder pain was directly related to the July 17, 2017 employment incident and that the repetitive nature of her employment duties as a rural carrier worsened her conditions. He also reasoned that her complaints of pain in her cervical spine, lumbar spine and sacroiliac joints were incompletely evaluated and not managed by a medical provider because she waited months to seek medical treatment.

In a March 15, 2019 diagnostic report, Dr. Daniel Russell, a Board-certified radiologist, performed an MRI scan of appellant's cervical spine, finding multilevel cervical degenerative disc disease with grade one retrolisthesis of C4 on C5 and C5 on C6, multilevel mild spinal canal stenosis, multilevel foraminal stenosis and multilevel facet atrophy. In a separate diagnostic report of even date, Dr. Jason Oppenheimer, a Board-certified radiologist, conducted an MRI scan of appellant's pelvis, observing mild bilateral sacroiliac joint osteoarthritis.

On April 3, 2019 appellant, through counsel, requested reconsideration of OWCP's July 13, 2018 decision.

In an unsigned July 27, 2018 diagnostic report, appellant underwent an MRI scan of her right shoulder, revealing moderate supraspinatus and infraspinatus tendinosis, subacromial/subdeltoid bursitis, biceps tendinosis and a suspected anterior inferior glenoid labral tear.

In an August 21, 2018 diagnostic report, Dr. Alex Morin, a Board-certified radiologist, performed an MRI scan of appellant's right shoulder, observing a focal full-thickness tear involving the posterior half of the mid to distal supraspinatus tendon.

In a February 20, 2019 medical report, Dr. Harper observed appellant's diagnoses of right shoulder pain, a right rotator cuff injury, a cervical sprain and strain with myofascial pain syndrome, cervical radiculopathy with myelopathy, cervical facet syndrome, a lumbar sprain and strain with myofascial pain syndrome, lumbar radiculopathy with myelopathy, bilateral sacroiliitis and anxiety. He noted that she had been undergoing therapy for her right shoulder since February, reporting mild improvement in her symptoms. Dr. Harper recounted the events of the July 17, 2017 employment incident where appellant twisted her right shoulder when she grabbed the door of her postal vehicle to prevent herself from falling, hitting her left hip and knee in the process. On examination, he diagnosed a right rotator cuff injury, a cervical sprain and strain with myofascial pain syndrome, cervical radiculopathy with myelopathy, cervical facet syndrome, a lumbar sprain and strain with myofascial pain syndrome, lumbar radiculopathy with myelopathy, bilateral sacroiliitis and anxiety. Dr. Harper repeated the opinion in his January 2, 2019 medical report that within a fair amount of medical certainty appellant's initial right shoulder pain was directly related to the July 17, 2017 employment incident and that the repetitive nature of her employment duties as a rural carrier worsened her conditions.

By decision dated June 4, 2019, OWCP modified the July 13, 2018 decision to find that that the evidence submitted by appellant was sufficient to establish a medical diagnosis in connection with the accepted employment incident. The claim remained denied, however, because appellant failed to submit a rationalized opinion from her treating physician explaining how her diagnosed conditions were causally related to the accepted July 17, 2017 employment incident.

On June 4, 2020 appellant, through counsel, requested reconsideration of OWCP's June 4, 2019 decision and submitted additional medical evidence.

In medical reports dated June 21 and August 5, 2019, Dr. Harper reviewed appellant's complaints of right shoulder pain, neck pain with right arm numbness, low back pain and lumbar radicular pain. His reports contained a copy of his previous evaluations as they related to the July 17, 2017 employment incident and notes from his previous review of her diagnostic reports

and examinations. Dr. Harper diagnosed right shoulder pain, a right rotator cuff injury, a cervical sprain and strain with myofascial pain syndrome, cervical radiculopathy with myelopathy, cervical facet syndrome, a lumbar sprain and strain with myofascial pain syndrome, lumbar radiculopathy with myelopathy, bilateral sacroiliitis and anxiety. His reports also contained a copy of his previous medical opinion in which he opined that appellant's conditions were directly and solely related to the July 17, 2017 employment incident and further exacerbated by appellant's repetitive employment duties.

By decision dated August 28, 2020, OWCP denied modification of its June 4, 2019 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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.⁵ 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.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. First, 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. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.⁷

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁸ 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

³ *Id.*

⁴ *V.L.*, Docket No. 20-0884 (issued February 12, 2021); *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *C.H.*, Docket No. 20-1212 (issued February 12, 2021); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *V.L.*, *supra* note 4; *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).

⁷ *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *C.H.*, *supra* note 5; *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).

by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment incidents identified by the employee.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted July 17, 2017 employment incident.

In his medical reports dated from January 2 to August 5, 2019, Dr. Harper observed appellant's complaints of pain in her right shoulder, neck, left hip, left lower extremity and back, which she attributed to the July 17, 2017 employment incident. On review of her diagnostic studies and examination, he diagnosed moderate supraspinatus and infraspinatus tendinitis of the right shoulder, a right rotator cuff full-thickness tear, a cervical sprain and strain with myofascial pain syndrome, cervical radiculopathy with myelopathy, cervical facet syndrome, a lumbar sprain and strain with myofascial pain syndrome, lumbar radiculopathy with myelopathy, bilateral sacroiliitis and anxiety. Dr. Harper explained that when appellant used her right hand to grab the postal vehicle door and break her fall during the July 17, 2017 employment incident, her right shoulder, arm, and back twisted behind her head and observed that she did not have the symptoms of pain prior to the employment incident. He noted that she did not have any symptoms in her right shoulder prior to the employment incident and opined that her initial right shoulder injury was directly related to the July 17, 2017 employment incident. Dr. Harper opined that the repetitive nature of her employment duties as a rural carrier worsened her conditions. Although he generally supported causal relationship in his reports, he did not provide sufficient medical rationale explaining how the accepted July 17, 2017 employment incident caused or contributed to appellant's diagnosed medical conditions. The Board has held that a mere conclusion without the necessary rationale explaining how the accepted work factors could result in the diagnosed condition or period of disability is of limited probative value and insufficient to meet a claimant's burden of proof.¹⁰ Additionally, the Board has long held that the mere fact that a condition manifests itself during a period of employment, nor the belief that the condition was caused or aggravated by employment factors, is sufficient to establish causal relationship.¹¹ Further, Dr. Harper did not explain which conditions he attributed to the July 17, 2017 employment incident and to appellant's repetitive employment duties. For these reasons, the Board finds that his medical reports are of limited probative value as he did not provide adequate medical rationale, based on a complete factual background in support of an opinion on causal relationship.¹²

In his June 6, 2018 medical report, Dr. Izzo noted appellant's explanation of the July 17, 2017 employment incident in which her right arm, shoulder and hand bent behind her after missing a step on her postal van and catching herself on the door with her right hand to prevent herself from falling. He diagnosed an injury of the right shoulder, acute pain of the right shoulder,

⁹ *V.L.*, *supra* note 4; *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).

¹⁰ *See A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹¹ *E.W.*, Docket No. 19-1393 (issued January 29, 2020); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹² *Supra* notes 9 and 10.

neuropathy and right shoulder tendinitis. As stated above, medical evidence without the necessary rationale explaining how the accepted work factors could result in the diagnosed condition is insufficient to meet appellant's burden of proof.¹³ Therefore, this report is insufficient to establish the claim.

Dr. Izzo's remaining medical evidence consisted of a Form CA-17 and Form CA-20 dated June 6, 2018. In his Form CA-17, he diagnosed acute right shoulder pain, right shoulder tendinitis and neuropathy due to the July 17, 2017 employment incident. However, as Dr. Izzo did not provide an opinion on causal relationship.¹⁴ In his Form CA-20, he checked a box marked "Yes" to indicate his opinion that her right shoulder conditions were caused or aggravated by the July 17, 2017 employment incident. The Board has held that an opinion on causal relationship with an affirmative check mark, without more by the way of medical rationale, is insufficient to establish the claim.¹⁵ As such, this evidence is insufficient to establish the claim.

Dr. Pirzada, in his June 1, 2018 medical report, evaluated appellant for right shoulder pain she experienced approximately 11 months prior when she fell at work and diagnosed right rotator cuff tendinitis and acute pain of the right shoulder. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employment condition is of no probative value on the issue of causal relationship.¹⁶ Consequently, Dr. Pirzada's June 1, 2018 medical report is insufficient to establish the claim.

The remaining medical evidence of record consisted of multiple diagnostic studies dated from June 6, 2018 to March 15, 2019. The Board has held, however, that diagnostic test reports, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between accepted employment factors and a diagnosed condition.¹⁷ For this reason, appellant's remaining medical evidence is insufficient to establish causal relationship.

As appellant has not submitted rationalized medical evidence establishing a medical condition causally related to the accepted July 17, 2017 employment incident, the Board finds that she has not met her burden of proof to establish her claim.

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.

¹³ *Supra* note 11.

¹⁴ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ *See C.S.*, Docket No. 18-1633 (issued December 30, 2019); *D.S.*, Docket No. 17-1566 (issued December 31, 2018).

¹⁶ *Supra* note 14.

¹⁷ *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted July 17, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the August 28, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 31, 2023
Washington, DC

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

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

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