

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted April 26, 2022 employment incident.

FACTUAL HISTORY

On April 26, 2022 appellant, then a 36-year-old firefighter, filed a traumatic injury claim (Form CA-1) alleging that on that date he sprained his right shoulder due to lifting a large box from the top compartment of a truck to conduct a safety inspection while in the performance of duty. He stopped work that day.

In support of his claim, appellant submitted a position description for a firefighter, a notification of personnel action (Standard Form (SF)50) dated February 13, 2022, and an April 16, 2022 statement from J.N.

In a development letter dated May 2, 2022, OWCP advised appellant of the deficiencies in his claim. It requested that he submit supporting factual and medical evidence and attached a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence. No response was received.

By decision dated June 6, 2022, OWCP found that the claimed April 26, 2022 employment incident occurred as alleged, but denied appellant's traumatic injury claim, finding that he had not submitted medical, evidence signed by a qualified physician, containing a diagnosis in connection with his claimed injury. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

OWCP thereafter received an authorization for examination and/or treatment (Form CA-16) dated April 26, 2022 authorizing appellant's medical treatment. In Part B of the Form CA-16, attending physician's report, Crystal Vasquez, a physician assistant, diagnosed right shoulder sprain, and indicated that the incident occurred at work. She also checked a box marked "Yes" to indicate her belief that the condition was caused or aggravated by an employment activity. OWCP also received a work excuse note of even date from Ms. Vasquez, holding appellant off work until May 3, 2022; a duty status report (Form CA-17) of even date from Ms. Vasquez noting a date of injury of April 26, 2022, diagnosis of right shoulder sprain, and holding appellant off work until May 3, 2022; an attending physician's report (Form CA-20) of even date from Ms. Vasquez noting a date of injury of April 26, 2022 and diagnosis of right shoulder sprain; and emergency room after visit summary instructions for right shoulder sprain.

Appellant also submitted an April 26, 2022 note from Jalayne L. Faulhaber, a nurse practitioner, noting that appellant had been seen and treated in an emergency room on April 26, 2022.

An April 26, 2022 x-ray interpretation noted mild right shoulder degenerative changes without acute fracture or dislocation and small proximal humeral/exostosis/enchondroma.

In a May 3, 2022 note, Holly Johnson, a physician assistant related an assessment of right biceps tendinitis and noted that she had discussed with appellant that his symptoms seemed to be more related to the biceps tendon than the rotator cuff.

Appellant submitted work status notes from Lynn Devlin, a physician assistant. Ms. Devlin, in a May 10, 2022 work status note, noted an April 20, 2022 date of injury, diagnosed right biceps tendinitis and right shoulder sprain and held him off work until May 30, 2022.

OWCP also received a May 27, 2022 clinic note and return to work forms dated May 27 and June 7, 2022 from Dr. Gehron P. Treme, an orthopedic surgeon. Dr. Treme, in a May 27, 2022 clinic note, noted an injury history of lifting a heavy package at work about a month ago which resulted in immediate right shoulder pain. He detailed physical examination findings and reviewed x-ray interpretations. Dr. Treme provided an assessment of right shoulder pain with concern for rotator cuff tear given the location of the pain and nature of the injury. He ordered a magnetic resonance imaging scan to evaluate the condition of the rotator cuff.

In a May 27, 2022 return to work form, Dr. Treme advised that appellant was disabled from work and diagnosed a right shoulder injury. On a June 7, 2022 return-to-work form he diagnosed right shoulder rotator cuff tear and held appellant off work.

OWCP also received a June 7, 2022 return-to-work form and rehabilitative services referral form of even date from Dr. Cesar Cardenas, an orthopedic resident. In the form reports dated June 7, 2022, Dr. Cardenas diagnosed right shoulder rotator cuff repair, which he indicated appellant would undergo on July 7, 2022.

On June 28, 2022 appellant requested reconsideration.

In an August 23, 2022 return-to-work form, Dr. Treme diagnosed rotator cuff repair and released appellant to return to work effective that day.

By decision dated October 6, 2022, OWCP denied modification.

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 period 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

³ *Supra* note 1.

⁴ *B.B.*, Docket No. 21-0284 (issued October 5, 2022); *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).

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 an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. 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, place, and in the manner alleged.⁷ The second component is whether the employment incident caused a personal injury.⁸

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁹ 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 incident identified by the claimant.¹⁰ 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 an employment incident, is sufficient to establish causal relationship.¹¹

ANALYSIS

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

OWCP denied appellant's claim based on a finding that he had not submitted medical evidence from a physician diagnosing a medical condition. In support of his claim, appellant submitted several reports from Dr. Treme. Dr. Treme, in a June 7, 2022 form report, diagnosed right shoulder cuff tear and held appellant off work. The Board finds that this evidence from Dr. Treme is sufficient to establish a diagnosis of right rotator cuff tear.

As the medical evidence of record establishes a diagnosed medical condition of right rotator cuff tear, the case must be remanded for consideration of the medical evidence with regard

⁵ *B.B., 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).

⁶ *B.B., id.; 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 *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *J.F.*, Docket No. 18-0492 (issued January 16, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹⁰ *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

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

to the issue of causal relationship.¹² Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.¹³

CONCLUSION

The Board finds that appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted April 26, 2022 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the October 6, 2022 decision of the Office of Workers' Compensation Programs is reversed and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 10, 2023
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

¹² See *S.R.*, Docket No. 22-0421 (issued July 15, 2022); *S.A.*, Docket No. 20-1498 (issued March 11, 2021).

¹³ The Board notes that the employing establishment executed a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).