

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

T.J., Appellant)	
)	
and)	Docket No. 23-0237
)	Issued: June 26, 2023
)	
U.S. POSTAL SERVICE, POST OFFICE,)	
Chester, NY, 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 December 6, 2022 appellant filed a timely appeal from a November 29, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 September 13, 2022 employment incident.

FACTUAL HISTORY

On September 16, 2022 appellant, then a 46-year-old postal window clerk, filed a traumatic injury claim (Form CA-1) alleging that on September 13, 2022 she sustained a left shoulder injury

¹ 5 U.S.C. § 8101 *et seq.*

when pushing a heavy metal bulk mail container (BMC) to the dock while in the performance of duty.² She stopped work on September 14, 2022.

In a note dated September 13, 2022, Dr. Keith Cartmill, an emergency medicine specialist, recommended that appellant not return to work until she was seen by an orthopedic physician and medically cleared to return to work. He attached a duty status report (Form CA-17) to this effect, which noted a diagnosis of acromioclavicular (AC) sprain/dislocation and that appellant alleged the injury occurred when pushing a cart.

In a development letter dated October 3, 2022, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and afforded her 30 days to respond.

Appellant submitted Form CA-17 duty status reports and notes dated October 1 and 5, 2022 from Dr. Orsuville Cabatu, a physical medicine and rehabilitation specialist, holding appellant off work until November 14, 2022 due to left shoulder strain. On November 14, 2022 Dr. Cabatu continued to hold appellant off work through December 14, 2022.

By decision dated November 15, 2022, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted September 13, 2022 employment incident.

On November 23, 2022 appellant requested reconsideration.

In a report dated September 17, 2022, Dr. Cabatu diagnosed left shoulder strain/sprain. On physical examination, he observed tenderness along the left cervical trapezius on palpation, tenderness and pain on flexion at 80 degrees and internal rotation at 40 degrees, tenderness and pain to the bilateral elbows and left wrist and reduced gross motor strength of the left upper extremity with decreased sensation along the left C6 dermatome. Dr. Cabatu opined that the incident described by appellant was the competent medical cause of her injury or illness, as her complaints were consistent with the history of the injury/illness. He noted that she had sustained previous work-related injuries to the shoulders and right wrist. Dr. Cabatu also indicated that appellant's left shoulder pain was exacerbated by the current employment incident.

In an attending physician's report (Form CA-20) dated November 16, 2022, Dr. Cabatu explained that appellant's claimed employment injury occurred on September 13, 2022 when she pushed a container and experienced left shoulder pain. He checked a box indicating that appellant had a history of preexisting injury or disease. Dr. Cabatu diagnosed strain/sprain of the left shoulder. He checked a box marked "Yes" indicating his belief that this condition was caused or aggravated by the September 13, 2022 employment incident.

² OWCP assigned the present claim OWCP File No. xxxxxx300. Appellant has a prior traumatic injury claim (Form CA-1) accepted under OWCP File No. xxxxxx761 for a left shoulder sprain sustained on August 10, 2020. Appellant also has a prior traumatic injury claim (Form CA-1) accepted under OWCP File No. xxxxxx766 for left shoulder sprain. Appellant's claims have been administratively combined by OWCP with OWCP File No. xxxxxx761 serving as the master file.

By decision dated November 29, 2022, OWCP denied modification of its prior 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. 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.⁷

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident 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 by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.⁹

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation,

³ *Supra* note 1.

⁴ *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 *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 *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.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).

⁸ *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).

⁹ *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).

the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left shoulder condition causally related to the accepted September 13, 2022 employment incident.

In support of her claim, appellant submitted reports from Dr. Cabatu. On September 17, 2022 Dr. Cabatu diagnosed left shoulder strain/sprain. He opined that the incident described by appellant was the competent medical cause of her injury or illness, as the complaints were consistent with the history of the injury/illness. Dr. Cabatu noted that appellant was involved in previous work-related injuries to the bilateral shoulders and right wrist. However, he did not support his medical opinion with sufficient rationale differentiating appellant's preexisting conditions from the current condition. The Board has explained that such rationale is especially important in a case involving a preexisting condition.¹¹ Therefore, Dr. Cabatu's September 17, 2022 report is insufficient to establish appellant's claim.¹²

In a Form CA-20 dated November 16, 2022, Dr. Cabatu explained that appellant's employment injury occurred on September 13, 2022 when she pushed a container and experienced left shoulder pain. Dr. Cabatu diagnosed strain/sprain of the left shoulder. He checked a box marked "Yes" indicating his belief that this condition was caused or aggravated by the incident of September 13, 2022. The Board has held that when a physician's opinion on causal relationship consists only of an affirmative checkmark on a form, without further explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹³ This report is, therefore, insufficient to establish the claim.

Appellant submitted work excuse notes and Form CA-17 duty status reports from Drs. Cabatu and Cartmill. However, these notes and form reports did not contain an opinion on causal relationship. The Board has held that medical evidence 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.¹⁴

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); see *L.C.*, *supra* note 5; *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹¹ *Id.*

¹² *B.S.*, Docket No. 22-0102 (issued May 19, 2022); *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D'Wayne Avila*, 57 ECAB 642, 649 (2006).

¹³ *O.M.*, Docket No. 18-1055 (issued April 15, 2020); *Gary J. Watling*, 52 ECAB 278 (2001); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

¹⁴ See *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

As the medical evidence of record is insufficient to establish a left shoulder condition causally related to the accepted September 13, 2022 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(a) 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 September 13, 2022 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the November 29, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 26, 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