

turning to the right and left. She noted that she first became aware of her condition on August 14, 2019 and realized its relation to her federal employment on December 23, 2020.

By letter dated January 4, 2021, the employing establishment controverted appellant's claim and indicated that she had been performing modified duty in relation to her condition under OWCP File No. xxxxxx773.²

In a development letter dated January 7, 2021, OWCP informed appellant that additional factual and medical evidence was necessary to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. By separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor regarding appellant's allegations. It afforded both parties 30 days to respond.

OWCP received a magnetic resonance imaging (MRI) report dated January 4, 2021 from Dr. Tuong Huu Le, a Board-certified diagnostic radiology and neuroradiology specialist. Dr. Le diagnosed appellant with anterolisthesis of C7 on T1, retrolisthesis of C4 on C5 and C5 on C6, multilevel spondylosis with disc space narrowing, multilevel neural foraminal narrowing, and bilateral thyroid nodules.

Appellant submitted a response to OWCP's questionnaire dated January 19, 2021. She attested that she performed the alleged work activities up to eight hours a day.

The employing establishment submitted a response to OWCP's questionnaire dated February 1, 2021 which related that appellant had been performing modified duty which required sorting a handful of letters at a time, which on average did not weigh more than a pound. It explained that appellant pulled letters from a case and placed them on a tray, but that she was not required to do any heavy lifting, pushing or pulling.

By decision dated February 9, 2021, OWCP accepted the identified work factors, but denied appellant's claim finding that she had not submitted medical evidence containing a medical diagnosis in connection with the accepted employment factors. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP received a medical report dated December 23, 2020 from Dr. Christopher R. Mann, an osteopath specializing in occupational medicine. Dr. Mann diagnosed cervical disc disorder with radiculopathy at C5-6 and C6-7 as well as other spondylosis, cervical region. He related that appellant performed modified duties at work which still included six to eight hours of high-repetition casing, reaching, pushing, and pulling which required her to constantly turn her neck back and forth. Dr. Mann opined that the employment factors of having to turn her neck back and forth hundreds of times while simultaneously reaching with weight of mail had, within a reasonable medical certainty, caused the injuries to her cervical spine.

² OWCP File No. xxxxxx773 pertains to a May 31, 2014 traumatic injury (Form CA-1) which OWCP accepted for left shoulder rotator cuff tear, bilateral epicondylitis, and bilateral lesion of the ulnar nerve.

On March 17, 2021 appellant requested reconsideration of OWCP's February 9, 2021 decision.

By decision dated March 30, 2021, OWCP modified the February 9, 2021 decision to find that a medical diagnosis had been established. However, the claim remained denied as appellant had not established that the diagnosed conditions were causally related to the accepted identified work factors.

In a letter dated August 11, 2021, Dr. Mann responded to OWCP's March 30 2021 decision. He stated that appellant's high repetition lifting, pushing, pulling, reaching, and tossing activities during her first eight years as an employing establishment mail clerk would establish a significant overuse syndrome that was now starting to manifest in more severe pathology. Dr. Mann related that she had no preexisting cervical or lumbar conditions. He explained that appellant's high repetition work activities continued to progress with constant pressure into a much more severe injury. Dr. Mann cited from a medical text that a cervical strain is chiefly the result of a stretch injury to the musculoligamentous elements of the cervical spine which can occur over time. He also explained that appellant previously injured both shoulders which resulted in weak shoulders and overuse of her neck to complete work tasks. Dr. Mann cited from another text describing that tissues adapt to stresses placed on them over time. Mechanical fatigue within tendons, ligaments, neural tissue, and other soft tissues results in characteristic changes. For overuse injuries, the rate of injury simply exceeds the rate of adaption and healing. Dr. Mann again cited from another medical text describing that capsular ligament laxity can occur instantaneously as a single macro trauma or can develop slowly as a cumulative micro trauma, such as from repetitive forward or bent head postures. In either case, injury occurred through similar mechanisms, leading to capsular ligament laxity. When ligament laxity occurred over time, it elongated the ligament under constant or repetitive stress and could progress to subsequent sub failure tears in the ligament fibers or to laxity in the capsular ligaments, leading to instability at the level of the cervical facet joints, which induced irritation to the nerves, possible structural deformation, and incapacitating pain. Dr. Mann opined that appellant "has presented with a consistent history, abnormal physical findings presented in the [i]nitial [e]xamination report, including diagnostic MRI study that showed advanced degenerative changes that were consistent within reasonable medical certainty could have been caused by the heavier-than-normal physical requirements of [appellant] over the last 34 years."

On September 1, 2021 appellant requested reconsideration of OWCP's March 30, 2021 decision.

On September 15, 2021 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

³ *Id.*

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 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 establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁸ 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 factors identified by the claimant.⁹ 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 employment factors, is sufficient to establish causal relationship.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a cervical condition causally related to the accepted factors of her federal employment.

In a medical report dated December 23, 2020 and a letter dated August 11, 2021, Dr. Mann diagnosed cervical disc disorder with radiculopathy at C5-6 and C6-7 as well as other spondylosis, cervical region. He attempted to address causal relationship in his December 23, 2020 report by explaining that appellant was performing modified duties at work which included casing, reaching, pushing, and pulling which required her to constantly turn her neck back and forth. Dr. Mann

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 *See T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *J.F.*, Docket No. 18-0492 (issued January 16, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹⁰ *E.W.*, Docket No. 19-1393 (issued January 29, 2020); *Gary L. Fowler*, 45 ECAB 365 (1994).

opined that the employment factors of having to turn her neck back and forth hundreds of times while simultaneously reaching with weight of mail, have with a reasonable medical certainty caused the injuries to her cervical spine. While he provided an opinion on causal relationship, he did not offer any medical rationale to explain how the accepted employment factors would have physiologically caused appellant's diagnosed condition.¹¹ The Board has held that a medical opinion must provide an explanation of how the specific employment factors physiologically caused the diagnosed conditions.¹² Lacking such explanation, the Board finds that Dr. Mann's December 23, 2020 report was of limited probative value and insufficient to establish appellant's burden of proof.

In his August 11, 2021 report, Dr. Mann also related that appellant had experienced an overuse syndrome which led to advanced degenerative changes, and he attempted to further explain causal relationship. He cited in length from medical literature which addressed cervical strain, mechanical failure of tendons, ligaments and tissues, and capsular ligament joint laxity. The Board has held that reliance on medical literature has little probative value in resolving medical questions unless a physician shows the applicability of the general medical principles discussed in the articles to the specific factual situation at issue in the case.¹³ Dr. Mann did not, however, specifically address appellant's diagnosed cervical disc disorder with radiculopathy at C5-6 and C6-7 as well as other spondylosis, cervical region was due to the accepted employment factors. His August 11, 2021 report again did not explain with medical rationale how the accepted factors of appellant's employment physiologically caused her diagnosed cervical conditions.¹⁴ As such, this report was also insufficient to establish causal relationship.

Appellant also submitted an MRI scan report dated January 4, 2021 which diagnosed: anterolisthesis of C7 on T1; retrolisthesis of C4 on C5 and C5 on C6; multilevel spondylosis with disc space narrowing; multilevel neural foraminal narrowing; and bilateral thyroid nodules. The Board has held that diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between the accepted employment factors and a diagnosed condition.¹⁵ For this reason, Dr. Le's report is insufficient to meet appellant's burden of proof.

¹¹ *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *see H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

¹² *See A.P.*, Docket No. 20-1668 (issued March 2, 2022); *see also R.P.*, Docket No. 20-0661 (issued April 14, 2021); *R.L.*, Docket No. 21-0397 (issued September 7, 2021); *B.S.*, Docket No. 20-0927 (issued January 29, 2021); *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹³ *S.J.*, Docket No. 20-0896 (issued January 11, 2021); *R.G.*, Docket No. 18-0917 (issued March 9, 2020); *T.S.*, Docket No. 18-1518 (issued April 17, 2019); *K.U.*, Docket No. 15-1771 (issued August 26, 2016); *Roger D. Payne*, 55 ECAB 535 (2004).

¹⁴ *Supra* note 11.

¹⁵ *See W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

As the medical evidence of record is insufficient to establish a diagnosed cervical condition causally related to the accepted employment factors, the Board finds that appellant 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a cervical condition causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the September 15, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 1, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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