

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

H.K., Appellant)	
)	
and)	Docket No. 23-0739
)	Issued: September 27, 2023
U.S. POSTAL SERVICE, POST OFFICE, Manorville, 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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 28, 2023 appellant filed a timely appeal from an April 4, 2023 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 right upper extremity condition causally related to the accepted October 17, 2022 employment incident.

FACTUAL HISTORY

On October 18, 2022 appellant, then a 52-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on October 17, 2022 she sustained injuries to her right

¹ 5 U.S.C. § 8101 *et seq.*

shoulder and upper arm delivering mail while in the performance of duty. She stopped work on October 18, 2022.

In an October 18, 2022 note, Dr. Maria Vesey, a family medicine specialist, noted an October 17, 2022 date of injury and diagnosed bursitis of right shoulder. She replied “Yes” to the question of whether the incident was the probable medical cause of the injury.

In an undated attending physician’s report, Part B of an authorization for examination and/or treatment (Form CA-16), Dr. Syed Maqsood, an osteopath and internal medicine specialist, reported that he examined appellant on October 18, 2022 for pain in right shoulder after repetitive motion of delivering packages and mail. He diagnosed subacromial bursitis of right shoulder and indicated with a checkmark “Yes” that the diagnosed condition was caused or aggravated by the described employment activity. In an October 21, 2022 duty status report (Form CA-17), Dr. Maqsood noted a date of injury of October 17, 2022 and diagnosed subacromial bursitis of right shoulder. He opined that appellant was temporarily totally disabled. In an October 21, 2022 note, Dr. Maqsood held her off work for three days for the diagnosed right shoulder bursitis.

In an October 24, 2022 report, Dr. Rasel Rana, an osteopathic physician and Board-certified orthopedic surgeon, noted the history of the October 17, 2022 work injury and her medical course. He noted examination findings and provided assessments of right shoulder conditions of calcific tendinitis, bursitis, impingement syndrome, and rotator cuff tear arthropathy. Dr. Rana opined that appellant was totally disabled. In separate notes dated October 24, 2022, he referred her to physical therapy and for a right shoulder magnetic resonance imaging (MRI) scan. Dr. Rana also opined that appellant was temporarily disabled for two months.

Physical therapy reports were also received.

An October 31, 2022 MRI scan of appellant’s right shoulder indicated prominent full-thickness tear involving the majority of supraspinatus insertion, mild-to-moderate infraspinatus tendinosis with shallow articular-sided tearing anteriorly, and moderate acromial joint arthrosis and mild subacromial/subdeltoid bursitis.

In a November 14, 2022 report, Dr. Rana reviewed the MRI scan report and presented examination findings. He continued to provide right shoulder assessments of bursitis, calcific tendinitis, impingement syndrome, and rotator cuff tear arthropathy of right shoulder and opine that appellant was totally disabled. Dr. Rana recommended surgical treatment as she failed conservative care.

In a December 17, 2022 attending physician’s report (Form CA-20), Dr. Rana opined, after checking a box marked “Yes,” that the diagnosed rotator cuff tear, bursitis, impingement syndrome and calcific tendinitis of right shoulder were causally related to the October 17, 2022 work injury as carrying and delivering mail can cause shoulder issues. He further opined that appellant had been totally disabled since October 24, 2022 pending surgery authorization and postoperation reevaluation.

In a December 23, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

On January 5, 2023 appellant responded to OWCP's development questionnaire, describing her history of injury and treatment. She reported that she had not sustained any other injury and had no history of prior right arm/shoulder pain.

On January 5, 2023 OWCP received Dr. Rana's November 16, 2022 addendum report. Dr. Rana opined that appellant's history, physical examination and radiographic findings were compatible with shoulder injuries sustained after repetitive lifting, overhead reaching, *etc.*

In a January 4, 2023 Form CA-20, Dr. Rana checked a box marked "Yes" and opined that the diagnoses of rotator cuff tear, bursitis, impingement syndrome and calcific tendinitis of right shoulder were causally related to the October 17, 2022 work injury as heavy lifting/carrying (such as in delivering mail/packages) could cause the shoulder issues. He continued to note that appellant has been totally disabled since October 24, 2022 pending surgery authorization and postoperation reevaluation.

In a January 16, 2023 duty status report (Form CA-17), Dr. Rana diagnosed right rotator cuff tear due to the October 17, 2022 injury. He opined that appellant could resume part-time work for four hours per day. In a separate note, Dr. Rana referred her to physical therapy.

By decision dated January 24, 2023, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that her medical condition was causally related to the accepted October 17, 2022 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury and/or medical condition.

OWCP subsequently received additional reports from Dr. Rana. In his January 16, 2023 report, Dr. Rana indicated that appellant could return to part-time, light-duty work with restrictions on June 23, 2023. On February 6, 2023 he reported that she could return to full-duty work, with no restrictions as of February 7, 2023. In a February 17, 2023 report, Dr. Rana indicated that appellant presented to his office on October 24, 2022 and reported onset of her right shoulder symptoms on October 17, 2022 following work as a rural carrier. He presented examination findings and diagnosed right shoulder rotator cuff tear, right shoulder impingement syndrome, right shoulder subacromial and subdeltoid bursitis, right shoulder AC joint arthrosis, and right shoulder calcific tendinitis. Dr. Rana opined that appellant's history, physical examination, and radiographic findings were compatible with work-related injury and that her right shoulder injuries/conditions were causally related and/or aggravated by the October 17, 2022 work injury. He noted that she did not report a specific injury or trauma to her right shoulder and indicated that repetitive lifting can injure and damage rotator cuff tendon.

On February 21, 2023 appellant requested reconsideration.

By decision dated April 4, 2023, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 timely filed within the applicable time limitation period of FECA,³ 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.⁴ 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.⁵

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 at the time and place, and in the manner alleged.⁶ The second component is whether the employment incident caused a personal injury.⁷

The medical evidence required to establish 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,

² *Id.*

³ *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

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

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 *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 right upper extremity condition causally related to the accepted October 17, 2022 employment incident.

Dr. Vesey and Dr. Maqsood reported an October 17, 2022 date of injury and diagnosed right shoulder bursitis. While both physicians indicated with a checkmark “Yes” that there was causal relationship, they did not explain how the right shoulder bursitis was physiologically related to the October 17, 2022 incident. Rather, they failed to explain the physiological process by which the October 17, 2022 work incident caused or aggravated the diagnosed conditions. Medical conclusions lacking rationale are of diminished probative value.¹¹ As such, the reports from Dr. Vesey and Dr. Maqsood fail to establish appellant’s claim.

Appellant submitted several reports from Dr. Rana. Dr. Rana noted the history of the October 17, 2022 work injury and provided assessments of right shoulder conditions of calcific tendinitis, bursitis, impingement syndrome, and rotator cuff tear arthropathy. In his reports of October 24 and November 14, 2022 and January 16 and February 6, 2023, he did not provide an opinion regarding causal relationship between the accepted employment incident and appellant’s diagnosed conditions. The Board has held that a report is of no probative value if it does not provide an opinion on causal relationship.¹² As such, these reports from Dr. Rana are insufficient to establish appellant’s claim.

In a November 16, 2022 addendum report, and in reports dated December 17, 2022 and January 4 and February 17, 2023, Dr. Rana opined that carrying/delivering mail and repetitive lifting “can cause” or “could cause” the shoulder conditions. He noted, in his February 17, 2023 report, that appellant did not report a specific injury or trauma to her right shoulder and indicated that repetitive lifting can injure and damage rotator cuff tendon. However, Dr. Rana did not explain which diagnoses related to the October 17, 2022 work incident and which were preexisting conditions. A rationalized medical opinion is especially necessary in light of appellant’s preexisting condition of calcific tendinitis.¹³ Dr. Rana provided only a conclusory opinion regarding causal relationship and failed to explain the physiological process by which the October 17, 2022 work incident caused or aggravated the diagnosed conditions. Medical

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹¹ *See H.L.*, Docket N. 22-1058 (issued January 18, 2023); *F.C.*, Docket No. 19-1267 (issued December 20, 2019); *T.A.*, Docket No. 18-0431 (issued November 7, 2018).

¹² *See G.D.*, Docket No. 20-0966 (issued July 21, 2022); *A.H.*, Docket No. 18-1632 (issued June 1, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *See H.L.*, *supra* note 11; *J.H.*, Docket No. 19-0838 (issued October 1, 2019); *D.M.*, Docket No. 19-0389 (issued July 16, 2019).

conclusions lacking rationale are of diminished probative value.¹⁴ As such, Dr. Rana's additional reports are insufficient to establish appellant's claim.

Appellant also submitted an October 31, 2022 right shoulder MRI scan report which diagnosed several right shoulder conditions. 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, the MRI scan report is insufficient to meet appellant's burden of proof.

OWCP also received reports from a physical therapist. Certain healthcare providers such as physical therapists, nurses, physician assistants, and social workers are not considered physicians as defined under FECA. Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁶

As the medical evidence of record is insufficient to establish causal relationship between a diagnosed condition and the accepted October 17, 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 right upper extremity condition causally related to the accepted October 17, 2022 employment incident.¹⁷

¹⁴ See *F.C.*, Docket No. 19-1267 (issued December 20, 2019); *T.A.*, Docket No. 18-0431 (issued November 7, 2018).

¹⁵ See *L.S.*, Docket No. 22-0023 (issued March 1, 2023); *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

¹⁶ 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 *supra* note 10 at 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 *T.S.*, Docket No. 20-1229 (issued August 6, 2021); *F.H.*, Docket No. 18-0160 (issued August 23, 2019) (physical therapists are not considered physicians as defined under FECA); *J.L.*, Docket No. 17-1207 (issued December 8, 2017) (physical therapists are not considered physicians under FECA).

¹⁷ 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); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the April 4, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 27, 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