

ISSUE

The issue is whether appellant has met his burden of proof to establish a recurrence of the need for medical treatment, commencing March 1, 2023, causally related to his accepted right shoulder injury.

FACTUAL HISTORY

On January 23, 2012 appellant, then a 36-year-old special agent, filed an occupational disease claim (Form CA-2) alleging that he developed right shoulder rotator cuff impingement and tendinitis due to factors of his federal employment. He related that as a law enforcement officer, he was required to exercise regularly, which included weight training and cardiovascular exercises, and practice defensive tactics drills. Appellant noted that he first became aware of his condition on January 9, 2007, and realized its relationship to his federal employment on August 17, 2011. He did not stop work. OWCP assigned the claim OWCP File No. xxxxxx222 and accepted it for right shoulder rotator cuff impingement. It paid appellant wage-loss compensation on the supplemental rolls for loss of time from work to attend medical appointments.

Under OWCP File No. xxxxxx633, appellant has a previously accepted traumatic injury claim (Form CA-1) for other injuries of the right shoulder causally related to a January 9, 2007 employment injury when he slipped while descending steps on a bus while holding a guide rail with his right hand, thereby hyperextending his right shoulder. OWCP has administratively combined the current case, under OWCP File No. xxxxxx222, and OWCP File No. xxxxxx633, with the latter serving as the master file.

On September 11, 2012 appellant underwent OWCP-approved arthroscopic subacromial decompression, arthroscopic distal clavicle resection, and debridement of the glenohumeral joint of the right shoulder.

On March 29, 2023 appellant filed a notice of recurrence (Form CA-2a) alleging the recurrent need for additional medical treatment for his right shoulder conditions beginning March 1, 2023. He indicated that after he returned to work, he experienced recurring shoulder pain and was unable to lift weight overhead.

In a report dated March 22, 2023, Dr. Eric Padegimas, an orthopedic surgeon, indicated that he evaluated appellant for complaints of right shoulder pain. He noted that appellant sustained an injury in 2007 at work when he caught himself while falling out of a vehicle and heard a pop in his right shoulder. Dr. Padegimas reported that appellant had two surgeries, but did not have any reparative surgeries. On examination of the right shoulder, he observed pain with combined abduction/external rotation without apprehension and positive O'Brien's test. Sensation was intact to light touch distally. Dr. Padegimas indicated that a right shoulder x-ray scan revealed moderate degenerative changes with a large inferior humeral head osteophyte. He diagnosed right shoulder primary osteoarthritis. Dr. Padegimas reported that appellant had a work injury in 2007 where he had a "near dislocation event." He noted that appellant underwent two surgeries and subsequently developed arthritis. Dr. Padegimas opined that "this is an extractable [appellant] linked to his prior work injury." He recommended that appellant's treatment for arthritis be considered a part of his original injury.

In a development letter dated March 31, 2023, OWCP informed appellant of the deficiencies of his recurrence claim. It advised him of the type of medical evidence required to establish his claim and provided him with a questionnaire to complete. OWCP afforded appellant 30 days to provide the requested evidence.

In an April 23, 2023 response to OWCP's development letter, appellant explained that the recurrence occurred as a normal deterioration of the right shoulder and subsequent arthritic build-up inside the shoulder since the original 2007 employment injury. He indicated that his work activities involved desk work, physical activity when arresting and apprehending subjects, and annual physical fitness testing. Appellant alleged that his current claim for recurrence was directly related to his employment injury in 2007, because he had no additional traumatic event involving his shoulder. He indicated that his current pain and discomfort were identical in nature and location to the pain and discomfort experienced after his original injury. Appellant further noted that he did not have any injuries since the 2007 employment injury, and had not engaged in any hobbies or activities that would have caused damage to his shoulder.

By decision dated May 8, 2023, OWCP denied appellant's claim for a recurrence of the need for medical treatment, finding that the medical evidence of record was insufficient to establish that he required additional medical treatment due to a worsening of his accepted work-related conditions without intervening cause.

LEGAL PRECEDENT

A recurrence of a medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.³ An employee has the burden of proof to establish that he or she sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury without intervening cause.⁴

If a claim for recurrence of a medical condition is made more than 90 days after release from medical care, a claimant is responsible for submitting a medical report establishing causal relationship between the employee's current condition and the original injury in order to meet his or her burden of proof.⁵ To meet this burden the employee must submit medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, supports that

³ 20 C.F.R. § 10.5(y).

⁴ See *S.P.*, Docket No. 19-0573 (issued May 6, 2021); *M.P.*, Docket No. 19-0161 (issued August 16, 2019); *E.R.*, Docket No. 18-0202 (issued June 5, 2018).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.4b (June 2013); see also *J.M.*, Docket No. 09-2041 (issued May 6, 2010).

the condition is causally related and supports his or her conclusion with sound medical rationale.⁶ Where no such rationale is present, medical evidence is of diminished probative value.⁷

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a recurrence of the need for medical treatment, commencing March 1, 2023, causally related to his accepted right shoulder injury.

Appellant submitted a March 22, 2023 report by Dr. Padegimas who noted that appellant sustained an injury in 2007 at work when he caught himself while falling out of a vehicle and heard a pop in his right shoulder. Dr. Padegimas provided examination findings and diagnosed right shoulder primary osteoarthritis. He indicated that appellant underwent two surgeries after the 2007 employment injury and subsequently developed arthritis. Dr. Padegimas opined that “this is an extractable [appellant] linked to his prior work injury.” While he provided an opinion supportive of causal relationship between appellant’s current right shoulder symptoms and appellant’s original right shoulder injury, Dr. Padegimas failed to provide medical rationale in support of his opinion. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition or disability has an employment-related cause.⁸ Accordingly, this report is insufficient to establish appellant’s recurrence claim.

As the medical evidence of record does not contain a rationalized medical opinion establishing that appellant required further medical care on or after March 1, 2023 causally related to his accepted right shoulder injury, the Board finds that he has not met his 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 his burden of proof to establish a recurrence of the need for medical treatment, commencing March 1, 2023, causally related to his accepted right shoulder injury.

⁶ *T.B.*, Docket No. 18-0672 (issued November 2, 2018); *O.H.*, Docket No. 15-0778 (issued June 25, 2015).

⁷ *A.M.*, Docket No. 22-0322 (issued November 17, 2022); *R.C.*, Docket No. 20-1321 (issued July 7, 2021); *R.S.*, Docket No. 19-1774 (issued April 3, 2020).

⁸ *W.M.*, Docket No. 21-1217 (issued October 11, 2022); *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

ORDER

IT IS HEREBY ORDERED THAT the May 8, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 30, 2024
Washington, DC

Alec J. Koromilas, 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