

<sup>3</sup> The Board notes that, following the August 2, 2024 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **ISSUE**

The issue is whether appellant has met his burden of proof to establish a right shoulder condition causally related to the accepted factors of his federal employment.

## **FACTUAL HISTORY**

On March 5, 2024 appellant, then a 41-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he developed a right shoulder condition due to factors of his federal employment, including sorting and filing mail, and opening and closing the postal truck door. He noted that he first became aware of his condition on December 6, 2023, and realized its relation to his federal employment on February 14, 2024. Appellant did not immediately stop work.

In a development letter dated March 12, 2024, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. In a separate development letter of even date, it requested that the employing establishment provide additional evidence, including comments from a knowledgeable supervisor. OWCP afforded the employing establishment 30 days to respond.

In a March 14, 2024 response to the development letter, appellant reported that his right shoulder condition has been present since December 6, 2023. He noted symptoms of right shoulder pain, soreness and weakness. Appellant indicated that he did not have any previous shoulder conditions.

On April 5, 2024 the employing establishment challenged appellant's claim and indicated that his condition was unrelated to performing his work duties as a city carrier. L.Y., appellant's supervisor, described his work duties as casing residual mail including spurs and flats, pulling down mail, conveying parcels to his vehicle, delivering mail, and opening and closing side-hinged doors to his vehicle, which does not require reaching over the shoulder. OWCP also received a job description for a city carrier.

In a follow-up development letter dated April 9, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the March 12, 2024 letter to submit the requested necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

OWCP received additional evidence. In support thereof, appellant submitted a March 26, 2024 report, wherein Dr. Guido Guidotti, a Board-certified physiatrist, noted his treatment of appellant for a work-related right shoulder injury. He provided a detailed description of appellant's city carrier duties. Dr. Guidotti diagnosed bicipital tendinitis of the right shoulder due to the repetitive nature of appellant's work duties over 18 years. He noted that bicipital tendinitis often occurs as a result of overuse or repetitive movements causing swelling around the front of the shoulder, weakness, and tenderness around the biceps. Dr. Guidotti opined that after reviewing the past medical records, patient's work history, physical examination and previous imaging, to a reasonable degree of medical certainty, the specific work factors stated above caused bicipital

tendinitis of the right shoulder. In a duty status report (Form CA-17) of even date, he diagnosed bicipital tendinitis of the right shoulder and noted that appellant was able to resume work full time.

A magnetic resonance imaging (MRI) scan of the right shoulder dated April 4, 2024 revealed supraspinatus and infraspinatus tendinosis, small high-grade partial-thickness articular surface insertional rotator cuff tear, and questionable small posterior labral tear.

By decision dated June 4, 2024, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish that his right shoulder condition was causally related to the accepted factors of his federal employment.

On June 27, 2024 appellant requested reconsideration. In support thereof, he submitted an April 23, 2024 report, wherein Dr. Jeffrey Klauser, a Board-certified orthopedist, treated appellant for a right shoulder injury that occurred at work as a result of repetitive use. Dr. Klauser diagnosed traumatic incomplete tear of the right rotator cuff and tear of the right glenoid labrum. He advised that appellant failed a lengthy course of conservative treatment and recommended a right shoulder arthroscopy. On May 10, 2024 Dr. Klauser performed an unauthorized right shoulder arthroscopy, posterior labral repair, biceps tenodesis, subacromial decompression, and arthroscopic rotator cuff repair. He diagnosed right shoulder partial rotator cuff tear. On June 19, 2024 Dr. Klauser treated appellant postoperatively and noted his symptoms were improving. He diagnosed tear of right glenoid labrum, and superior glenoid labrum lesion of the right shoulder. Dr. Klauser opined that the partial rotator cuff tear, labral tear, and bursitis were secondary to appellant's repetitive job duties as a mail carrier.

A May 7, 2024 MRI scan of the lumbar spine demonstrated lumbar spondylosis at L5-S1, stable shallow left paracentral disc protrusion causing minimal impingement of the left S1 nerve root, and stable shallow right paracentral disc protrusion at L3-4 contacting the right L4 nerve root.

Dr. Guidotti continued to treat appellant and on May 21, 2024 requested expansion of her claim to include strain of muscles and tendons of the rotator cuff of the right shoulder and superior glenoid labrum lesion of the right shoulder. He explained that the glenoid labrum was a fibrocartilaginous structure that provides stability to the shoulder joint, and repetitive stress and overuse can lead to microtrauma and eventual tearing of the labrum. Dr. Guidotti noted that appellant's job as a letter carrier involved frequent and repetitive shoulder movements, and the superior glenoid labrum lesion was consistent with the repetitive and strenuous nature of appellant's occupational duties including lifting and carrying heavy loads. He opined that based on appellant's occupational history, clinical presentation, and diagnostic findings, the strain/partial-thickness rotator cuff tear and superior labrum anterior and posterior (SLAP) lesion of the right shoulder was work related and caused by repetitive and physically demanding nature of appellant's job as a letter carrier. On June 18, 2024 Dr. Guidotti diagnosed bicipital tendinitis, right shoulder, strain of the muscles and tendons of the right rotator cuff, and superior glenoid labrum lesion of the right shoulder. He opined that appellant's repetitive job duties as a city carrier were the cause of bicipital tendinitis of the right shoulder, partial-thickness rotator cuff tear, and SLAP lesion. Dr. Guidotti noted that appellant was temporarily totally disabled after surgery on May 10, 2024.

By decision dated August 2, 2024, OWCP denied modification of the June 4, 2024 decision.

## **LEGAL PRECEDENT**

A claimant seeking benefits under FECA<sup>4</sup> 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,<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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.

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> The opinion of the physician must be based upon a complete factual and medical background, 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.<sup>9</sup>

## **ANALYSIS**

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

In a report dated March 26, 2024, Dr. Guidotti provided a detailed description of appellant's city carrier duties. He diagnosed bicipital tendinitis of the right shoulder due to the repetitive nature of appellant's work duties. Dr. Guidotti explained that bicipital tendinitis often occurs as a result of overuse or repetitive movements causing swelling around the front of the shoulder, weakness, and tenderness around the biceps. After reviewing appellant's medical record, work history, and physical examination, he opined that the specific work factors caused bicipital tendinitis of the right shoulder. Similarly, in a May 21, 2024 report, Dr. Guidotti explained that appellant's job as a letter carrier involved frequent and repetitive shoulder movements, and the

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<sup>4</sup> *Id.*

<sup>5</sup> *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

superior glenoid labrum lesion was consistent with the repetitive and strenuous nature of appellant's occupational duties including lifting and carrying heavy loads. He opined that based on appellant's occupational history, clinical presentation, and diagnostic findings, the strain/partial-thickness rotator cuff tear and SLAP lesion of the right shoulder was work related and caused by repetitive and physically demanding nature of appellant's job as a letter carrier.

The Board finds that, while March 26 and May 21, 2024 reports from Dr. Guidotti are insufficiently rationalized to establish appellant's claim, they are sufficient to require further development of the medical evidence.<sup>10</sup>

It is well established that, proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.<sup>11</sup> OWCP has an obligation to see that justice is done.<sup>12</sup>

This case must, therefore, be remanded for further development. On remand OWCP shall refer appellant, along with the case record and a statement of accepted facts, to a specialist in the appropriate field of medicine for a second opinion examination and report regarding whether he has a right shoulder condition causally related to the accepted employment factors. If the referral physician disagrees with the opinion of Dr. Guidotti, he or she must provide a fully-rationalized opinion explaining why their opinion differs from that of Dr. Guidotti. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

### **CONCLUSION**

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

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<sup>10</sup> *B.S.*, Docket No. 22-1289 (issued August 20, 2024); *J.L.*, Docket No. 23-0733 (issued October 12, 2023); *C.S.*, Docket No. 22-1087 (issued May 1, 2023); *D.V.*, Docket No. 21-0383 (issued October 4, 2021); *K.S.*, Docket No. 19-0506 (issued July 23, 2019); *H.T.*, Docket No. 18-0979 (issued February 4, 2019); *D.W.*, Docket No. 17-1884 (issued November 8, 2018); *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>11</sup> *See C.C.*, Docket No. 18-1453 (issued January 28, 2020); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

<sup>12</sup> *See B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J. supra* note 10; *John J. Carlone, supra* note 10.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 2, 2024 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: April 2, 2025  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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