United States Department of Labor
Employees' Compensation Appeals Board

A.V., Appellant	)	
and	)	**Docket No. 25-0682**
	)	**Issued: August 7, 2025**
U.S. POSTAL SERVICE, ALBANY POST OFFICE, Albany, NY, Employer	)	

Appearances:
Thomas S. Harkins, Esq., for the appellant[1]
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 July 10, 2025 appellant, through counsel, filed a timely appeal from a February 25, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id*. An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id*.; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the February 25, 2025 decision, OWCP received additional evidence. The Board's *Rules of Procedure* 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 her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On December 4, 2023 appellant, then a 46-year-old postmaster, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral rotator cuff tendinitis due to factors of her federal employment. She noted that she first became aware of her condition on November 29, 2023, and realized its relation to her federal employment on December 1, 2023. Appellant stopped work on December 6, 2023.

In a December 1, 2023 letter, Dr. Alan Schieier, a sports medicine physician, released appellant to return to sedentary-duty work.

OWCP also received an employing establishment position description for postmaster.

In a December 13, 2023 development letter, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP thereafter received a therapy order dated December 1, 2023 by Dr. Schieier, who diagnosed tendinitis of the shoulders.

In reports dated December 6 and 18, 2023, Dr. Gregory Soltanoff, a chiropractor, noted that he had been treating appellant for thoracic pain for 10 years and that she related "moderate to severe musculoskeletal exacerbation in the bilateral upper thoracic to the lower cervical region which began on November 28, 2023 and got progressively worse after working November 29, 2023." He documented physical examination findings and diagnosed thoracic instability, levator scapulae syndrome, and cervical radiculopathy at C6-C7 due to "repetitive strain injury from work." Dr. Soltanoff recommended that appellant remain off work.

In a medical report dated January 2, 2024, Alexis Jurewicz, a physician assistant, noted that appellant related complaints of bilateral shoulder pain, right worse than left, which she attributed to a work injury on November 29, 2023. She related that she was a postmaster, but had to deliver mail for two consecutive weeks in November 2023 and developed pain in her shoulders. Ms. Jurewicz performed a physical examination and observed tenderness to palpation of the right paraspinal and trapezius muscles and positive Hawkins' signs, bilaterally. She reviewed x-rays of the right and left shoulders, which were normal. Ms. Jurewicz diagnosed bilateral shoulder pain; tendinosis of right shoulder; tendinosis of left shoulder; strain of neck muscle; cervical radiculopathy; and trapezius muscle spasm. In a work note of even date, she diagnosed tendinosis of the right and left shoulders and recommended that appellant remain off work.

In a follow-up development letter dated January 17, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the December 13, 2023 letter to submit the 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 thereafter received an authorization for examination and/or treatment (Form CA-16), which the employing establishment issued on December 12, 2023, for treatment to the bilateral shoulders.

In a medical report dated January 29, 2024, Dr. Andrew M. Stewart, a Board-certified orthopedic surgeon, noted that appellant related complaints of pain in the superior aspect of both shoulders, which she attributed to a November 29, 2023 employment injury. He performed a physical examination and observed tenderness of the cervical paraspinal musculature, small spasm and tenderness in the trapezius musculature, mildly limited range of motion with side-to-side bending, limited rotator cuff strength due to pain on the right, and bilateral biceps tenderness. Dr. Stewart diagnosed tendinosis of right shoulder; tendinosis of left shoulder; cervical sprain/strain with bilateral upper extremity radiculopathy; right shoulder pain and weakness; and trapezius muscle spasm. He recommended magnetic resonance imaging (MRI) scans of the cervical spine and right shoulder. Dr. Stewart indicated that he believed appellant's symptoms were cervical in nature and released her to return to work with marked restrictions on rotating her neck, no lifting greater than 10 pounds, and no pushing greater than 20 pounds.

In a January 30, 2024 response to OWCP's development questionnaire, appellant indicated that she was a postmaster for the employing establishment but that she also delivered mail when her office was understaffed. She related that November was a "peak season month" and she delivered mail on a rural route from November 13 through 29, 2023, which required her to repeatedly lift 2,500 pieces, letters, and magazines overhead to place them into the correct slot in the case for hours at a time, and to handle 250 to 300 parcels and packages, weighing from one to 70 pounds.

A March 1, 2024 MRI scan of the cervical spine revealed disc bulges from C3 through C7 with impingement of the right C4 nerve root.

By decision dated March 8, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between a medical condition and the accepted employment factors.

OWCP continued to receive evidence.

In a July 29, 2024 medical report, Dr. Stewart noted an interim history that appellant had returned to work two months prior[4] and her symptoms worsened. He documented physical examination findings and reviewed the March 8, 2024 cervical MRI scan. Dr. Stewart diagnosed cervical disc disorder with radiculopathy and right rotator cuff strain and recommended an electromyography and nerve conduction velocity study. He opined that "based on the patient's report today of no prior history of neck or shoulder issues, the specific correlation of onset of symptoms with the change in activity on the job requiring marked increase in physical work including lifting and carrying, it is my professional medical opinion that her symptoms are the direct causal result of injuries sustained on the job."

[4] A report of work status (Form CA-3) indicated that appellant returned to full-time work with no restrictions on May 27, 2024.

On February 10, 2025 appellant, through counsel, requested reconsideration of OWCP's March 8, 2024 decision.

By decision dated February 25, 2025, OWCP denied modification of its March 8, 2024 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[5] 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,[6] 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.[7] 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.[8]

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 casually related to the identified employment factors.[9]

The medical evidence required to establish causal relationship between a diagnosed condition and the accepted employment factors is rationalized medical opinion evidence.[10] 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 factors identified by the employee.[11] 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

[5] *Supra* note 1.

[6] *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).

[7] *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).

[8] *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).

[9] *S.R.,* Docket No. 24-0839 (issued October 30, 2024); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

[10] *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).

[11] *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).

caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[12]

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, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[13]

ANALYSIS

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

In a July 29, 2024 report, Dr. Stewart diagnosed cervical disc disorder with radiculopathy and right rotator cuff strain. He opined that the conditions were caused by appellant's work duties, noting that the onset of her symptoms correlated "with the change in activity on the job requiring marked increase in physical work including lifting and carrying." However, Dr. Stewart did not explain a pathophysiological process of how the accepted employment factors caused or contributed to the diagnosed conditions. The Board has held that a medical opinion should offer a medically-sound and rationalized explanation by the physician of how the specific employment factors physiologically caused or aggravated the diagnosed conditions.[14] Medical evidence, which does not explain the nature of the relationship between the diagnosed condition and the specific employment incident, is insufficient to meet the claimant's burden of proof.[15] As such, Dr. Stewart's July 29, 2024 report is insufficient to meet appellant's burden of proof.

In a medical report dated January 29, 2024, Dr. Stewart diagnosed tendinosis of right shoulder; tendinosis of left shoulder; cervical sprain/strain with bilateral upper extremity radiculopathy; right shoulder pain and weakness; and trapezius muscle spasm. He did not, however, offer an opinion regarding the cause of the diagnosed conditions. 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.[16] Dr. Stewart's January 29, 2024 report is, therefore, insufficient to establish appellant's claim.

Similarly, in a work letter and therapy order dated December 1, 2023, Dr. Schieier diagnosed tendinitis of right shoulder and tendinitis of left shoulder, but did not offer an opinion

[12] *L.W.,* Docket No. 24-0947 (issued January 31, 2025); *T.H.,* Docket No. 18-1736 (issued March 13, 2019); *Dennis M. Mascarenas,* 49 ECAB 215 (1997).

[13] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019).

[14] *See E.C.*, Docket No. 24-0668 (issued September 26, 2024); *S.B.,* Docket No. 24-0064 (issued February 28, 2024); *T.L.,* Docket No. 23-0073 (issued January 9, 2023); *V.D.,* Docket No. 20-0884 (issued February 12, 2021); *Y.D.,* Docket No. 16-1896 (issued February 10, 2017).

[15] *Id*.

[16] *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *J.H.*, Docket No. 19-0383 (issued October 1, 2019); *L.B.,* Docket No. 18-0533 (issued August 27, 2018); *D.K.,* Docket No. 17-1549 (issued July 6, 2018).

regarding the cause of the diagnosed conditions. This evidence is, therefore, also insufficient to establish appellant's claim.[17]

Appellant also submitted chiropractic treatment notes from Dr. Soltanoff. The Board notes that section 8101(2) of FECA provides that the term physician, as used therein, includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulations by the Secretary.[18] OWCP's implementing federal regulations at 20 C.F.R. § 10.5(bb) defines subluxation as an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae which must be demonstrated on x-ray.[19] The Board has reviewed the reports from Dr. Soltanoff and finds that the reports do not diagnose a subluxation as demonstrated by x-ray. As these reports did not diagnose subluxation as demonstrated by x-ray, they do not constitute competent medical evidence.[20]

Appellant also submitted a note from Ms. Jurewicz, a physician assistant. Certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered qualified physicians as defined under FECA.[21] Their medical findings, reports and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.[22]

The remaining evidence of record consists of a March 1, 2024 cervical MRI scan. The Board has long held that diagnostic studies, standing alone, lack probative value as they do not address whether the employment injury caused any of the diagnosed conditions or associated disability.[23] This evidence is therefore insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted employment factors, the Board finds that appellant has not met her burden of proof.

---

[17] *Id*.

[18] 5 U.S.C. § 8101(2).

[19] *Id*.; 20 C.F.R. § 10.311.

[20] *See G.L.*, Docket No. 24-0366 (issued May 17, 2024); *see also J.A.*, Docket No. 22-0869 (issued July 3, 2023); *L.M.*, Docket No. 22-0667 (issued November 1, 2022); *T.H.*, Docket No. 17-0833 (issued September 7, 2017); *George E. Williams*, 44 ECAB 533 (1993); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

[21] Section 8101(2) of FECA provides that 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). *Supra* note 13 at Chapter 2.805.3a(1) (May 2023); *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 C.G.*, Docket No. 20-0957 (issued January 27, 2021) (physician assistants are not considered physicians as defined under FECA.

[22] *See K.A.*, Docket No. 18-0999 (issued October 4, 2019); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, *id*.

[23] *See T.W.*, Docket No. 20-1669 (issued May 6, 2021); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

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 medical condition causally related to the accepted employment factors.[24]

ORDER

IT IS HEREBY ORDERED THAT the February 25, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 7, 2025
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

[24] The Board notes that the employing establishment issued 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); *J.J.*, Docket No. 24-0724 (issued July 20, 2024); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).