

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

of his condition on July 18, 2024, and its relationship to his federal employment on September 26, 2024. Appellant stopped work on September 19, 2024, and returned to work on September 23, 2024.<sup>2</sup>

In an undated statement received by OWCP on October 20, 2024, appellant related that he had come to realize that his right shoulder rotator cuff tear was related to physical demands of his job.

A magnetic resonance imaging (MRI) scan of appellant's right shoulder obtained on September 19, 2024 demonstrated a full-thickness non-retracted right rotator cuff tear involving the lateral aspect of the right supraspinatus tendon at its insertion site, with a secondary fluid signal present within the right subacromial-subdeltoid bursa and signal changes of mild tendinopathy involving the right supraspinatus tendon. It further demonstrated inferior osteophyte formation at the level of the right acromioclavicular joint and the lateral aspect of the acromion process of the right scapula slopes inferiorly, narrowing the right supraspinatus outlet; mild degenerative changes involving the right glenohumeral joint; mild subluxation of the right humeral head posteriorly in relation to the glenoid portion of the right scapula, suggestive of some degree of instability of the right glenohumeral joint; and moderate right shoulder effusion.

In a report dated September 26, 2024, Dr. Anton P. Lacap, a Board-certified orthopedic surgeon, diagnosed a right shoulder rotator cuff tear and right shoulder bicipital tendinitis. He reviewed the September 19, 2024 MRI scan results and recommended surgical intervention.

In a report dated October 21, 2024, Dr. Mark Brenner, a Board-certified orthopedic surgeon, noted that appellant was seen for complaints of right shoulder pain. He diagnosed a traumatic complete tear of the right rotator cuff and right shoulder joint pain. Dr. Brenner recounted that appellant was a postal worker who performed a significant amount of pushing, pulling, and lifting. On physical examination, he observed moderate limitation of motion, abduction to 80 degrees, forward flexion to 80 degrees, internal rotation to the ilium, and external rotation 30 degrees, as well as pain and crepitus associated with motion. Dr. Brenner recommended surgical intervention and light-duty status.

In a development letter dated October 28, 2024, OWCP informed appellant of the deficiencies of the claim. It provided a questionnaire for his completion, advised him of the type of factual and medical evidence necessary to establish his claim, and afforded him 60 days to submit the requested evidence.

In a note dated October 29, 2024, Dr. Brenner indicated that he evaluated appellant on October 21, 2024 for significant shoulder pain and associated loss of motion. He stated that appellant was employed at the employing establishment for many years and described vocational activity requiring repetitive pushing, pulling, and lifting activities. Dr. Brenner noted symptoms including exertional pain, loss of motion, and discomfort at night. He opined that if a specific episode of trauma could be documented after which appellant's shoulder pain was clinically

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<sup>2</sup> The records reveals that appellant had filed a claim for a traumatic injury (CA-1) under OWCP File No. xxxxxx573 for a right shoulder/arm injury on September 4, 2012, which has been in closed status since October 25, 2012. OWCP did not administratively combine this claim with the current claim, OWCP File No. xxxxxx563.

problematic, then he could conclude that the shoulder pain was causally related to vocational activity. Dr. Brenner stated that this opinion would need to be supported by a specifically documented episode of trauma.

In a follow-up letter dated November 27, 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 October 28, 2024 letter to submit the requested supporting 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. No additional evidence was received.

By decision dated January 7, 2025, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between medical diagnoses and the accepted employment factors.

On January 9, 2025, appellant requested reconsideration.

By decision dated January 13, 2025, OWCP denied appellant's request for reconsideration of the merits of his claim.

Appellant requested reconsideration on January 21, 2025.

In a report dated January 14, 2025, Dr. James Patton, a Board-certified neurologist, examined appellant for complaints of decreased range of motion, discomfort with movement, and inability to raise his right arm over his shoulder. He noted that appellant had worked at the employing establishment for the past 25 years as a city carrier. On July 18, 2024 appellant stated that he reached up to case mail when he noticed that he could no longer reach above his shoulder. He noted that over the past several months, he noticed that his right arm became more difficult to move, and that he could no longer get comfortable in order to sleep at night. Duties of appellant's employment included repetitive lifting, carrying, pushing/pulling, and reaching with packages weighing seventy or more pounds. On physical examination of the right shoulder, Dr. Patton observed positive Dugas, Apley's, Hawkins, Codman's, O'Brien's, and Speed's tests, as well as a positive test involving circumduction for labral tear. He also observed reduced range of motion with pain on flexion, extension, abduction, adduction, and internal and external rotation. Dr. Patton diagnosed a complete rotator cuff tear of the right shoulder.

Dr. Patton opined that appellant's complete rotator cuff tear of the right shoulder was the direct result of duties of appellant's employment over the past 25 years. He described the mechanism of injury as intricately linked to repetitive and strenuous physical demands of his role as a city carrier, stating that the repetitive motions involved in that position placed significant stress on the shoulder joint, particularly the rotator cuff. Dr. Patton stated that repetitive overhead reaching required to case mail, as well as frequent lifting and carrying of heavy parcels, subjected appellant's shoulder to chronic mechanical stress. This stress led to microtrauma of the rotator cuff tendons, causing them to fray and weaken over time. Dr. Patton noted that as appellant continued to perform these tasks on a daily basis, the cumulative effect of repetitive strain exceeded appellant's tendon's ability to repair itself, resulting in progressive degeneration. An increased workload and volume of packages in recent years further exacerbated this strain, accelerating wear and tear on the tendons. Eventually, the structural integrity of appellant's tendons was

compromised, leading to a complete tear. Dr. Patton noted that the tear was consistent with the type of injury occurring when tendons were subjected to chronic overuse and repetitive overhead activity, as appellant performed at his job. He opined that the repetitive lifting, reaching, and carrying motions had not only caused the tendons to tear, but also had resulted in a significant reduction in shoulder function, manifesting as decreased range of motion and difficulty performing everyday tasks. Dr. Patton further opined that the right rotator cuff injury was a direct result of appellant's required duties over the past 25 years and their repetitive nature.

By decision dated January 23, 2025, OWCP denied modification of its January 7, 2025 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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 of FECA, 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>4</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.

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) rationalized medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>5</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>6</sup> The opinion of the physician must be based on 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>7</sup>

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>6</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>7</sup> *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

## ANALYSIS

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

In a report dated January 14, 2025, Dr. Patton related appellant's physical examination findings and opined that appellant's complete rotator cuff tear of the right shoulder was the direct result of duties of appellant's employment over the past 25 years. He described the mechanism of injury as repetitive motions which significantly stressed the shoulder joint, particularly the rotator cuff. Dr. Patton explained that repetitive overhead reaching required to case mail, as well as frequent lifting and carrying of heavy parcels, subjected appellant's shoulder to chronic mechanical stress, which led to microtrauma of the rotator cuff tendons, causing them to fray and weaken over time. He noted that as appellant continued to perform these tasks daily, the cumulative effect of repetitive strain exceeded appellant's tendon's ability to repair itself, resulting in progressive degeneration. An increased workload and volume of packages in recent years further exacerbated this strain, accelerating wear and tear on the tendons. Eventually, the structural integrity of appellant's tendons was compromised, leading to a complete tear. Dr. Patton explained that appellant's rotator cuff tear was consistent with the type of injury occurring when tendons were subjected to chronic overuse and repetitive overhead activity. He opined that the repetitive lifting, reaching, and carrying motions had not only caused the tendons to tear, but also had resulted in a significant reduction in shoulder function, manifesting as decreased range of motion and difficulty performing everyday tasks. Dr. Patton concluded that appellant's right rotator cuff condition was a direct result of appellant's required duties over the past 25 years. Although the January 14, 2025 report is insufficient to meet appellant's burden of proof to establish his claim, it is sufficient to require OWCP to further develop the claim.<sup>8</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>9</sup> It has an obligation to see that justice is done.<sup>10</sup>

The case shall, therefore, be remanded for further development. On remand, for full and fair adjudication, OWCP shall administratively combine OWCP File Nos. xxxxxx563 and xxxxxx573.<sup>11</sup> It shall then refer appellant along with the case record, a statement of accepted facts, and a series of questions to a specialist in the appropriate field of medicine, for a second opinion evaluation. If the physician opines that the diagnosed condition is not causally related, he or she must explain with rationale how or why the opinion differs from that of Dr. Patton. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

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<sup>8</sup> See *E.G.*, Docket No. 19-1296 (issued December 19, 2019).

<sup>9</sup> *Id.* See also *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

<sup>10</sup> *S.M.*, Docket No. 19-1634 (issued August 25, 2020); see *B.C.*, Docket No. 15-1853 (issued January 19, 2016); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>11</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000).

**CONCLUSION**

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

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 23, 2025 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: February 12, 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