

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

J.M., Appellant)
and) Docket No. 25-0609
DEPARTMENT OF JUSTICE, FEDERAL)
BUREAU OF PRISONS, UNITED STATES)
PENITENTIARY-BIG SANDY, Inez, KY,)
Employer)
Issued: July 14, 2025

)

Appearances:

Alan J. Shapiro, Esq., for the appellant¹
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 June 9, 2025, appellant, through counsel, filed a timely appeal from a May 29, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a left shoulder condition causally related to the accepted June 26, 2022 employment incident.

FACTUAL HISTORY

On June 28, 2022, appellant, then a 41-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on June 26, 2022 he injured his left shoulder when he hit it on the bottom of a gated door while in the performance of duty. He stopped work on that date.

On July 8, 2022, Tracey Hedrick-Hamilton, an advanced practice registered nurse (APRN), examined appellant due to pain in his left shoulder.

In a development letter dated July 18, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish the claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

In June 26, 2022 discharge instructions, Dr. Chad Carroll, an osteopath, diagnosed pain in the left shoulder.

On July 25, 2022, Dr. Robert Royalty, an orthopedic surgeon, found appellant totally disabled from work.

By decision dated August 22, 2022, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted June 26, 2022 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On August 21, 2023, appellant, through then counsel, requested reconsideration and submitted additional evidence. In a June 6, 2023 report, Kristen B. Jones, an APRN, provided diagnosed acute impingement of the left shoulder and acute biceps tendinitis on the left.

By decision dated September 6, 2023, OWCP modified its prior decision to find that appellant had established a medical diagnosis in connection with the accepted June 26, 2022 employment incident. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between the diagnosed condition(s) and the accepted June 26, 2022 employment incident.

On April 24, 2024, appellant, through counsel requested reconsideration. He provided a January 8, 2024 left shoulder magnetic resonance imaging (MRI) scan, which demonstrated a partial thickness tear of the supraspinatus tendon and diffuse rotator cuff tendinosis with degenerative changes. On April 10, 2024, Dr. Royalty performed a left shoulder arthroscopic rotator cuff tendon, labrum, biceps tendon, and bursal debridement, left shoulder arthroscopic subacromial decompression, and left shoulder open subpectoral biceps tenodesis.

By decision dated October 3, 2024, OWCP denied modification.

On May 15, 2025, appellant, through counsel, requested reconsideration and submitted additional evidence, including a September 12, 2023 report, wherein Krista L. Jackson, a physician assistant, diagnosed left shoulder impingement. Appellant also submitted progress reports dated March 14 through August 28, 2024 by Jayme L. Rice, APRN; an October 24, 2024 treatment note by Ms. Jackson; February 18 and March 5, 2025 treatment notes by Ms. Jones; and left shoulder x-rays.

In a July 25, 2022 report, Dr. Royalty recounted appellant's symptoms of left shoulder pain and related that he injured himself on June 26, 2022 when he hit a steel plate with his shoulder while at work. He diagnosed left shoulder pain. On February 12, 2024, Dr. Royalty diagnosed biceps tendinitis of the left shoulder, impingement syndrome left shoulder, and chronic left shoulder pain. He related that appellant hit his shoulder on a metal gate while at work in July 2022.

By decision dated May 29, 2025, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,⁴ 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.⁵ 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.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component to establish is whether he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component to establish is whether the employment incident caused an injury.⁷

³ *Id.*

⁴ *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *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).

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *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).

⁷ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Caralone*, 41 ECAB 354 (1989).

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.⁹ 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 caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left shoulder condition causally related to the accepted June 26, 2022 employment incident.

In support of his claim, appellant submitted reports from Dr. Royalty dated July 25, 2022 and February 12, 2024 in which he recounted appellant's symptoms of left shoulder pain after hitting a steel plate with his shoulder while at work on June 26, 2022. Dr. Royalty diagnosed biceps tendinitis of the left shoulder, impingement syndrome left shoulder, and chronic left shoulder pain. Appellant also submitted a note dated July 25, 2022 from Dr. Royalty holding him off work. Dr. Royalty, however, failed to provide an opinion on causal relationship between a diagnosed condition and the accepted employment incident. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value.¹¹ Therefore, this evidence is insufficient to establish appellant's claim.

On June 26, 2022, Dr. Carroll diagnosed pain in the left shoulder. However, he also did not provide an opinion on causal relationship¹² Therefore, this evidence is insufficient to establish appellant's claim.

Appellant also submitted a series of reports from APRNs and a physician assistant. Certain healthcare providers, such as APRNs and physician assistants, are not considered

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 *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *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).

¹⁰ *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).

¹¹ See *S.K.*, Docket No. 25-0296 (issued March 5, 2025); *id.*; *A.B.*, Docket No. 23-0937 (issued January 24, 2024); *T.L.*, *supra* note 9; *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *Victor J. Woodhams*, *supra* note 9.

¹² *Id.*

physicians as defined under FECA and, therefore, are not competent to provide a medical opinion.¹³

Appellant also submitted reports of diagnostic studies. However, the Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship.¹⁴ Thus, this evidence is also insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a left shoulder condition causally related to the accepted June 26, 2022 employment incident, the Board finds that appellant 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 left shoulder condition causally related to the accepted June 26, 2022 employment incident.

¹³ Section 8101(2) 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). See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (September 2020); *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 *M.M.*, Docket No. 23-0475 (issued July 27, 2023) (registered nurses and advanced registered nurse practitioners are not considered physicians as defined under FECA); see also *L.W.*, *supra* note 10 (physician assistants are not considered physicians under FECA).

¹⁴ *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

ORDER

IT IS HEREBY ORDERED THAT the May 29, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 14, 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