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<b>J.E., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 25-0150</b>
	)	<b>Issued: March 12, 2025</b>
<b>U.S. POSTAL SERVICE, SORTING &amp; DISTRIBUTION CENTER, Edison, NJ, Employer</b>	)	
	)	

*James D. Muirhead, Esq.*, for the appellant<sup>1</sup>  
*Office of Solicitor*, for the Director

## DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge

## JURISDICTION

On November 27, 2024 appellant, through counsel, filed a timely appeal from an August 14, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted July 15, 2022 employment incident.

<sup>1</sup> 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 an 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On September 14, 2022 appellant, then a 31-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that on July 15, 2022 he injured his right shoulder and developed a sore neck while delivering large parcels over a prolonged period of time while in the performance of duty. He stopped work on August 12, 2022 and returned to work on August 15, 2022.

Return to work notes from Dr. James M. Lee, Jr., an orthopedic surgeon, dated August 23 and September 8, 2022 were received.

In a September 15, 2022 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a factual questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

Thereafter, OWCP received additional evidence, including an October 12, 2022 statement further describing his work injury; an October 10, 2022 claim for compensation (Form CA-7); an October 6, 2022 authorization request for diagnostic studies of right shoulder and cervical (neck) from Dr. Dipan Patel, a Board-certified anesthesiologist; and a September 23, 2022 physical therapy report, which noted Dr. Patel's referring diagnoses of other instability, left shoulder, pain in left shoulder, pain in unspecified shoulder, stiffness of the left shoulder, cervicalgia and myalgia.

By decision dated October 28, 2022, OWCP denied appellant's traumatic injury claim, finding that he had not established a diagnosed medical condition in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On November 30, 2022, appellant requested reconsideration.

In a September 19, 2022 report, Dr. Patel noted that appellant presented for worsening left shoulder pain and left side of neck pain which started on July 15, 2022 when he lifted packages off the truck. He noted appellant's medical course, presented examination findings and reviewed diagnostic testing of record. Dr. Patel diagnosed other instability, left shoulder; pain in left shoulder; pain in unspecified shoulder; stiffness of left shoulder; cervicalgia; and myalgia.

OWCP also received a November 23, 2022 magnetic resonance imaging (MRI) scan of the left shoulder, which demonstrated a tear of the posterior superior labrum; a November 23, 2022 cervical x-ray, which was reported as normal; and a November 30, 2022 physical therapy report.

By decision dated December 6, 2022, OWCP denied modification of its October 28, 2022 decision.

On December 16, 2022, appellant requested reconsideration.

In an October 6, 2022 report, Dr. Patel provided examination findings and diagnosed cervical pain and left shoulder pain status post work injury. He noted that appellant was waiting for the results from his left shoulder x-ray and MRI scan. In a December 14, 2022 report, Dr. Patel reviewed recent diagnostic testing and noted examination findings. He provided an assessment of

cervicalgia, cervical radiculopathy, cervical facet syndrome, and left shoulder rotator cuff tear status post work injury.

In a January 9, 2023 report, Dr. Ahmad Badri, a Board-certified osteopath and orthopedic surgeon, reported that appellant, a mail carrier, was lifting a heavy package in July 2022, which caused significant discomfort in the left shoulder and neck region. He noted appellant's medical course, results of diagnostic testing and presented examination findings. Dr. Badri assessed a "thirty-one-year-old male presenting with left shoulder pain in the setting of a posterior labral tear, biceps tendonitis, and rotator cuff tendonitis status post work-related injury occurring July 2022."

OWCP also received a November 30, 2022 report from a nurse practitioner.

By decision dated March 1, 2023, OWCP modified the December 6, 2022 decision to find that the evidence submitted was sufficient to establish a diagnosed medical condition in connection with the accepted employment incident. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted July 16, 2022 employment incident.

OWCP subsequently received Dr. Patel's November 7, 2022 report, in which he noted examination findings and provided an assessment of cervicalgia, cervical radiculopathy, cervical facet syndrome, and left shoulder rotator cuff tear status post work injury.

In a December 28, 2022 report, Dr. Dev Sinha, a Board-certified physiatrist, noted the history of the July 15, 2022 work injury and appellant's medical course. He presented examination findings and reviewed diagnostic testing. Dr. Sinha assessed cervicalgia, cervical radiculopathy, cervical facet syndrome, and left shoulder rotator cuff tear status post work injury.

In a February 6, 2023 report, Dr. Badri presented examination findings and diagnosed left shoulder impingement syndrome, bursitis, posterior labral tear and biceps tendinitis. He provided a cortisone injection to the left shoulder to mitigate pain and inflammation. Dr. Badri opined that appellant could return to work in three days.

In a February 7, 2023 report, Dr. Sinha reported that appellant's neck pain was improving and that his left shoulder pain had resolved. He noted positive findings on the left C3-6 and positive Spurling's on the left. An assessment of cervicalgia, cervical radiculopathy, cervical facet syndrome, and left shoulder rotator cuff tear status post work injury was provided.

In a February 20, 2023 report, Dr. Badri indicated that appellant had improvement in his symptoms status post injury to the left shoulder with known left shoulder posterior labral tear, impingement syndrome, and biceps tendinitis. He noted that appellant had returned to work but avoided heavy lifting.

In an October 9, 2023 report, Dr. Badri stated that on July 15, 2022 appellant, who was employed as a mail carrier, experienced a sudden and acute pain in his left shoulder while attempting to lift a particularly heavy package. He indicated that the weight of the package "may have" placed stress on the labrum tissue in his shoulder, which caused it to tear. Appellant immediately reported the incident to his supervisor, and work was halted to seek medical attention. Dr. Badri indicated that appellant was diagnosed with a left posterior labral tear, bursitis, biceps tendinitis and impingement syndrome, his recovery had been gradual, and he could currently

perform light-duty tasks with occasional discomfort when lifting heavy objects. He concluded that appellant's left shoulder injury, which occurred in July 2022 while lifting a heavy package, has significantly impacted his work and well-being.

On October 9, 2023, appellant, through counsel, requested reconsideration.

By decision dated January 3, 2024, OWCP denied modification of its March 1, 2023 decision.

On August 8, 2024, appellant, through counsel, requested reconsideration.

In support thereof, appellant submitted a July 19, 2024 report, wherein Dr. Badri reiterated the history of the July 15, 2022 employment incident and provided diagnoses of left shoulder posterior labral tear, bursitis, biceps tendinitis and impingement syndrome. He noted that, during the course of his work, appellant experienced sudden and acute pain in his left shoulder while attempting to lift a particularly heavy package. Dr. Badri opined that there was a reasonable degree of medical certainty that the weight of the package placed stress on the labrum tissue in his shoulder, which caused it to tear.

By decision dated August 14, 2024, OWCP denied modification of its January 3, 2024 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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 period of FECA,<sup>3</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>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.<sup>5</sup>

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident at the time and place, and in the manner alleged.<sup>6</sup> The second component is whether the employment incident caused a personal injury.<sup>7</sup>

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<sup>3</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *L.S.*, Docket No. 19-1769 (issued July 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>5</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> *B.P.*, Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>7</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the accepted employment incident must be based on a complete factual and medical background.<sup>9</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment incident.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted July 15, 2022 employment incident.

In an October 9, 2023 report, Dr. Badri noted the history of the July 15, 2022 employment incident and provided diagnoses. He opined that the weight of the package appellant lifted at work "may have" placed stress on the labrum tissue in his shoulder, which caused it to tear. The Board has held, however, that medical opinions that are speculative or equivocal are of diminished probative value.<sup>11</sup> Therefore, this evidence is also insufficient to establish the claim.

In a July 19, 2024 report, Dr. Badri reiterated the history of the July 15, 2022 employment incident and provided diagnoses of left shoulder posterior labral tear, bursitis, biceps tendinitis and impingement syndrome. He noted that during the course of his work, appellant experienced sudden and acute pain in his left shoulder while attempting to lift a particularly heavy package. Dr. Badri opined that there was a reasonable degree of medical certainty that the weight of the package placed stress on the labrum tissue in his shoulder, which caused it to tear. While Dr. Badri offered an affirmative opinion that appellant's medical conditions were work related, he failed to provide sufficient medical rationale explaining the basis of his opinion. Without explaining, physiologically, how the specific employment incident caused or aggravated a diagnosed condition, Dr. Badri's opinion on causal relationship is of limited probative value and insufficient to establish the claim.<sup>12</sup>

In February 6 and 20, 2023 reports, Dr. Badri provided diagnoses for appellant's left shoulder post work injury. However, he did not provide an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an

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<sup>8</sup> *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

<sup>10</sup> *B.C.*, Docket No. 20-0221 (issued July 10, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>11</sup> *See L.B.*, Docket No. 23-0099 (issued July 26, 2023); *C.C.*, Docket No. 22-0609 (issued October 25, 2022); *H.A.*, Docket No. 18-1455 (issued August 23, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

<sup>12</sup> *J.M.*, Docket No. 25-0186 (issued January 28, 2025); *L.B.*, Docket No. 24-0833 (issued November 5, 2024); *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *J.P.*, *supra* note 3; *Joe D. Cameron*, *supra* note 3.

employee's condition or disability is of no probative value on the issue of causal relationship.<sup>13</sup> For the above reasons, this evidence is insufficient to establish appellant's claim.

Similarly, in reports dated December 28, 2022 and February 7, 2023, Dr. Sinha noted the history of appellant's July 15, 2022 employment incident and provided post-injury diagnoses. However, as he did not offer an opinion on causation, his reports are of no probative value on the issue of causal relationship.<sup>14</sup> Thus, this evidence is also insufficient to establish the claim.

In his January 9, 2023 report, Dr. Badri noted the history of the July 15, 2022 employment incident and assessed left shoulder pain in the setting of a posterior labral tear, biceps tendinitis, and rotator cuff tendinitis status post work-related injury occurring July 2022. Likewise, in his September 19 and October 6, 2022 reports, Dr. Patel noted the July 15, 2022 employment incident and diagnosed cervical pain, left shoulder pain, other instability, left shoulder; pain in left shoulder; pain in unspecified shoulder; stiffness of left shoulder; and subsequently, cervicgia and myalgia. However, Dr. Patel did not offer an opinion on causal relationship. As previously noted, medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.<sup>15</sup> Thus, this evidence is insufficient to establish the claim.

Appellant also submitted diagnostic studies, including a November 23, 2022 left shoulder MRI scan and a November 23, 2022 cervical x-ray. The Board, however, has held that diagnostic studies, standing alone, lack probative value.<sup>16</sup> Consequently, this evidence is insufficient to establish appellant's claim.

Appellant also submitted reports from a nurse practitioner and a physical therapist. However, certain health care providers such as nurses, physician assistants, and physical therapists are not considered physicians under FECA and, therefore, are not competent to provide a medical opinion.<sup>17</sup> As such, this evidence is of no probative value and are insufficient to establish appellant's claim.

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<sup>13</sup> *J.M., id.*; *L.B.*, Docket No. 24-0833 (issued November 5, 2024); *S.H.*, Docket No. 19-1128 (issued December 2, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>14</sup> *See id.*

<sup>15</sup> *See supra* note 12.

<sup>16</sup> *K.A.*, Docket No. 23-613 (issued April 22, 2024); *W.L.*, Docket No. 20-1589 (issued August 26, 2021); *A.P.*, Docket No. 18-1690 (issued December 12, 2019).

<sup>17</sup> Section 8102(2) of FECA provides as follows: 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. § 8102(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, 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.J.*, Docket No. 25-0072 (issued January 17, 2025); *B.D.*, Docket No. 22-0503 (issued September 27, 2022) (nurse practitioners are not considered physicians as defined under FECA and their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (nurse practitioners are not considered physicians as defined under FECA).

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted July 15, 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 medical condition causally related to the accepted July 15, 2022 employment incident.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the August 14, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 12, 2025  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board