

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

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<b>V.S., Appellant</b>	)	
	)	
<b>and</b>	)	
	)	<b>Docket No. 25-0836</b>
	)	<b>Issued: February 26, 2026</b>
<b>U.S. POSTAL SERVICE, PLEASANT RIDGE</b>	)	
<b>ANNEX POST OFFICE, Greensboro, NC,</b>	)	
<b>Employer</b>	)	
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*Appearances:*  
*Alan J. Shapiro, Esq., for the appellant<sup>1</sup>*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On August 29, 2025 appellant, through counsel, filed a timely appeal from a June 11, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>2</sup> Pursuant to the Federal Employees' Compensation Act<sup>3</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<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 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> Counsel did not appeal from OWCP's July 24, 2025 nonmerit decision. As such, the Board will not address the July 24, 2025 decision in this appeal. *See* 20 C.F.R. § 501.3.

<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUE**

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

## **FACTUAL HISTORY**

On September 9, 2024 appellant, then a 59-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed right shoulder rotator tear, biceps tendinopathy, and torn tendons due to factors of her federal employment. She noted that she first became aware of her condition on February 20, 2024, and realized its relation to her federal employment on July 23, 2024. Appellant stopped work on June 21, 2024.

In support of her claim, appellant submitted a July 11, 2024 right shoulder magnetic resonance imaging (MRI) scan and an August 19, 2024 operative report. The August 19, 2024 operative report related postoperative diagnoses of right shoulder impingement syndrome, right acromioclavicular joint arthritis, right rotator cuff tear, right supraspinatus tendons, and right biceps tendinopathy.

In a September 18, 2024 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence. By separate development letter of even date, it requested additional information from the employing establishment, including comments from a knowledgeable supervisor regarding her allegations. OWCP afforded the employing establishment 30 days to respond.

In a letter dated September 23, 2024, Postmaster M.V. controverted the claim, asserting that appellant neither informed him nor any other supervisor that she had an employment-related injury.

In a follow-up letter dated October 15, 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 September 18, 2024 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.

In a completed development questionnaire dated November 12, 2024, appellant detailed the employment activities that she believed caused or aggravated her diagnosed right shoulder condition. She recounted the duties of a rural carrier performing repetitive heavy lifting, overhead reaching, grasping, lifting tubs of mail, trays of mail, and packages, while delivering and collecting mail.

In a report dated November 19, 2024, Dr. John Lee Graves, a Board-certified orthopedic surgeon, related appellant's medical history and her employment duties. He diagnosed rotator cuff tear, biceps tendinitis, and impingement syndrome, which he opined had been caused or aggravated by her repetitive work activities of lifting and carrying mail, reaching, and overhead reaching.

On December 5, 2024 OWCP referred appellant, together with a statement of accepted facts (SOAF), medical record, and series of questions, to Dr. Chason S. Hayes, a Board-certified orthopedic surgeon, for a second opinion regarding whether her diagnosed right shoulder condition was caused or aggravated by the accepted employment factors.

In a report dated January 10, 2025, Dr. Hayes recounted the history of appellant's current conditions and medical treatment. On physical examination, he observed right shoulder tenderness with range of motion, no swelling, normal muscle strength, intact sensation to touch, and no crepitus. Dr. Hayes diagnosed right shoulder capsulitis and status post right rotator cuff repair. He noted that appellant had preexisting rotator cuff tendinitis, bicep tendinitis, and acromioclavicular arthritis, which surgery converted to status post rotator cuff tear and biceps tenodesis. Dr. Hayes opined that there was no evidence of any work injury or any work contribution to the current condition. He advised that he was unable to determine whether there had been any aggravation, temporary or otherwise, due to her work as described in the SOAF. In conclusion, Dr. Hayes opined that appellant's current conditions were due to age-related degeneration and residuals from her medical treatment.

By decision dated February 24, 2025, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted employment factors.

OWCP subsequently received a February 19, 2025 report and a February 27, 2025 work capacity evaluation (Form OWCP-5c), wherein Dr. Graves diagnosed bilateral shoulder pain, rotator cuff tear, and biceps tendinitis. He provided work restrictions of pushing, pulling, and lifting no more than 10 pounds, and no overhead work.

On March 20, 2025 appellant requested reconsideration. In support thereof, she submitted a March 18, 2025 report, wherein Dr. Graves provided examination findings and noted that she was seven months status post right shoulder rotator cuff repair. Dr. Graves diagnosed right shoulder rotator cuff repair with some pain, stiffness, and weakness, which he opined was work related.

By decision dated June 11, 2025, OWCP denied modification of the February 24, 2025 decision.

### **LEGAL PRECEDENT**

An employee 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

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

<sup>5</sup> *T.A.*, Docket No. 25-0802 (issued December 11, 2025); *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).

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 employment factors identified by the employee.<sup>8</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>9</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>10</sup>

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.<sup>11</sup>

### ANALYSIS

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

In a January 10, 2025 report, Dr. Hayes, an OWCP second opinion physician, diagnosed right shoulder capsulitis and status post right rotator cuff repair. He opined there was no evidence of any work injury or any work contribution to the current condition. However, Dr. Hayes also advised that he was unable to determine whether there had been any aggravation, temporary or otherwise, due to appellant's work as described in the SOAF. He attributed her current right

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<sup>6</sup> *T.A., id.*; *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> *T.A., id.*; *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> *T.A., id.*; *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett, id.*

<sup>9</sup> *T.A., id.*; *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>10</sup> *D.D.*, Docket No. 25-0751 (issued August 27, 2025); *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

<sup>11</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *E.J.*, Docket No. 24-0777 (issued September 12, 2024); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

shoulder capsulitis and status post right rotator cuff repair to age-related degeneration and residuals from her medical treatment.

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>12</sup> Accordingly, once OWCP undertakes development of the medical evidence, it must resolve the relevant issues in the case.<sup>13</sup> In a situation where OWCP secures an opinion from a second opinion physician and the opinion from such second opinion physician requires clarification or elaboration, it has the responsibility to secure a supplemental report from the physician for the purpose of correcting the defect in the original opinion.<sup>14</sup>

Accordingly, this case will be remanded to OWCP for further development of the medical evidence. On remand OWCP shall request that Dr. Hayes clarify his opinion as to whether the accepted employment factors aggravated appellant's diagnosed conditions. Alternatively, if he is unavailable or unwilling to provide a supplemental opinion, OWCP shall refer appellant to a new second opinion physician.<sup>15</sup> After this and other such further development as deemed necessary, it shall issue a *de novo* decision.

### **CONCLUSION**

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

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<sup>12</sup> See *N.B.*, Docket No. 23-0690 (issued December 5, 2023); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

<sup>13</sup> See *K.A.*, Docket No. 23-0773 (issued November 1, 2024); *S.A.*, Docket No. 18-1024 (issued March 12, 2020); *L.B.*, Docket No. 19-0432 (issued July 23, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

<sup>14</sup> See *G.L.*, Docket No. 23-0584 (issued April 1, 2024); *M.F.*, Docket No. 23-0881 (issued December 6, 2023); *G.T.*, Docket No. 21-0170 (issued September 29, 2021); *Ayanle A. Hashi*, 56 ECAB 234 (2004) (when OWCP refers a claimant for a second opinion evaluation and the report does not adequately address the relevant issues, OWCP should secure an appropriate report on the relevant issues).

<sup>15</sup> *S.F.*, Docket No. 23-0509 (issued January 24, 2024); *J.F.*, Docket No. 23-0963 (issued December 8, 2023); *S.G.*, Docket No. 22-0014 (issued November 3, 2022); *G.T.*, *id.*; see also *D.L.*, Docket No. 20-0886 (issued November 9, 2021).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 11, 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 26, 2026  
Washington, DC

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

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

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