



reaching above her shoulders, especially with the right arm, holding, fingering and casing mail. She first became aware of her condition on February 24, 1998 and of its relation to her work on June 13, 2006. Appellant did not stop work. The Office developed this as File No. 092078629.<sup>1</sup>

In reports dated June 20 and 21, 2006, Dr. Philip Bernard, Board-certified in family medicine, noted that appellant was seen for bilateral shoulder, knee and wrist pain. He advised that her condition started with a workers' compensation injury in 1988 that was closed in 2002. Dr. Bernard provided an assessment of arthralgia, ordered x-rays and prescribed medication.

The June 20, 2006 x-rays of the right and left shoulders and right and left knees, read by Dr. Georgenna Riley, Board-certified in radiology, revealed mild degenerative changes of the acromioclavicular joint and no fractures or dislocations. Dr. Riley also noted minimal joint space narrowing of the knees.

In a June 27, 2006 statement, appellant noted that on June 13, 2006 her shoulders became sore which she attributed to being in close proximity to an air conditioning vent at work. She stated that, for the previous month, the thermostat was not working properly and that the air conditioning ran constantly. Appellant tried to dress for the extreme cold at the employing establishment by wearing hats, coats and gloves. She also alleged that she had to carry mail off another route that had steps and this further aggravated her injuries.

In a July 7, 2006 statement, the employing establishment controverted the claim on the basis of timeliness. By letter dated January 26, 2007, the Office informed appellant of the evidence needed to support her claim and requested that she submit such evidence within 30 days.

In a December 13, 2006 report, Dr. Myra Mark, Board-certified in family medicine, diagnosed osteoarthritis and rotator cuff syndrome. In a December 14, 2006 x-ray, Dr. David Acquah, a Board-certified diagnostic radiologist, noted that appellant had mild degenerative arthritis in the acromioclavicular joint of both shoulders and no soft tissue abnormalities. Regarding appellant's knees, he advised that she had minimal joint effusions bilaterally and minimally narrowing of the medial compartments. Dr. Acquah found that there was no fracture, bone destruction or erosive changes seen. In a December 18, 2006 report, Dr. Mark advised appellant that her x-rays revealed arthritis in her shoulder and knees. The Office also received physical therapy reports.

In a January 22, 2007 statement, Marie Wyman, a supervisor, informed the Office that appellant noted new work factors which began a month prior to June 13, 2006 as the cause of her

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<sup>1</sup> The record reflects that appellant has several prior claims. They include a 1998 occupational disease claim that was accepted for right carpal tunnel syndrome and right shoulder impingement under File No. 090454222, an August 14, 2000 occupational disease claim which was accepted for right shoulder impingement under File No. 092001445. On October 6, 2003 the Office issued a schedule award for six percent permanent impairment of the right arm. Appellant also had a November 17, 1979 claim for a low back injury which was denied. File No. 090230402. Additionally, appellant had several other claims dating from 1979 to 1985, which were either closed or had no time lost. The Office doubled File Nos. 092078629, 090454222 and 092001445 under master File No. 090454222.

current complaints. She indicated that appellant's claim should be treated as a new occupational disease claim.

In a January 29, 2007 report, Dr. Stephen L. Chang, a Board-certified diagnostic radiologist, noted that appellant had a claim for right shoulder impingement which was closed due to inactivity for two years. Appellant presented for follow up and alleged that her right shoulder pain was greater than the left. She attributed her condition to air conditioning in June 2006. Dr. Chang added that appellant carried her mail on her left shoulder. He diagnosed bilateral impingement syndrome of the shoulders and osteoarthritis of the acromioclavicular joint.

In a February 6, 2007 report, Dr. Chang noted that appellant was a right-handed letter carrier who carried her mailbag on her left shoulder and reached overhead with her right hand. He noted that appellant had a prior workers' compensation claim from 1999, which was accepted for right carpal tunnel syndrome. Dr. Chang diagnosed bilateral hand numbness and ordered nerve conduction testing for carpal tunnel syndrome.

A February 16, 2007 nerve conduction study read by Dr. Deborah L. Ewing-Wilson, a Board-certified neurologist, revealed right median neuropathy at the wrist, carpal tunnel syndrome (CTS) mild in degree, with no evidence of ulnar neuropathy and no evidence of left CTS.

In an April 19, 2007 decision, the Office denied appellant's claim. It found that the evidence supported that the claimed events occurred; however, appellant failed to submit sufficient medical evidence in support of her claim. The Office found that the medical evidence did not show that the claimed condition was due to established work-related events.

Appellant requested a hearing that was held on September 18, 2007. During the hearing, she described her activities as a letter carrier. Appellant indicated that in January 2002 she was involved in an automobile accident and sustained a whiplash injury to her neck.

The Office also received several reports from Dr. Todd S. Hochman, Board-certified in internal medicine, who conducted a physical examination and provided medications. Dr. Hochman diagnosed bilateral shoulder impingement syndrome, carpal tunnel syndrome, and patellofemoral syndrome. On May 25, 2007 he opined that it was his medical opinion within a reasonable degree of medical certainty that appellant's work activities while working as a letter carrier "significantly aggravated her bilateral shoulder impingement syndrome" and "significantly aggravated her right wrist carpal tunnel syndrome" and "significantly aggravated the bilateral patellofemoral syndrome."

By decision dated November 7, 2007, the Office hearing representative affirmed the April 19, 2007 decision. The hearing representative noted that, while appellant had prior claims which were accepted for right shoulder impingement and right carpal tunnel syndrome from 1988 and 2000, she had not received treatment for her accepted condition since 2002. Furthermore, appellant attributed her condition to the performance of her work duties rather than a spontaneous recurrence of her previously accepted condition. Therefore her claim on and after June 2006 was properly considered a new occupational disease.

## LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</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>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.<sup>5</sup>

## ANALYSIS

The Office accepted as factual appellant's description of her work activities which involved lifting and carrying mail. In June 2006, she worked in a building with a faulty thermostat and was exposed to cold air. The Board finds that appellant submitted insufficient medical evidence to establish that she sustained a bilateral wrist, knee or shoulder condition that was caused or aggravated by her activities as a letter carrier or exposure to cold air.

Appellant provided several reports in support of her claim. Dr. Bernard diagnosed arthralgia; however, he did not provide an opinion on causal relationship. In a December 13, 2006 report, Dr. Mark diagnosed osteoarthritis and rotator cuff syndrome. On December 18, 2006 he noted that appellant had arthritis in her shoulder and knees. These reports did not offer

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Id.*

any opinion regarding the cause of appellant's condition. The Board has found that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>6</sup>

Appellant also submitted several reports from Dr. Chang, who advised that appellant "[t]hinks air conditioning in June 2006 had something to do with this." Dr. Chang diagnosed bilateral impingement syndrome of the shoulders and osteoarthritis of the acromioclavicular joint. On February 6, 2007 he diagnosed bilateral hand numbness. While Dr. Chang provided a diagnosis, he did not provide a rationalized opinion regarding whether the diagnosed conditions were caused or aggravated by specific factors of appellant's employment.

Dr. Hochman diagnosed bilateral shoulder impingement syndrome, carpal tunnel syndrome, and patellofemoral syndrome. However, his initial reports did not address causal relationship. In a May 25, 2007 report, Dr. Hochman supported causal relationship, opining that it was his medical opinion within a reasonable degree of medical certainty that appellant's work activities while working as a letter carrier "significantly aggravated her bilateral shoulder impingement syndrome" and "significantly aggravated her right wrist carpal tunnel syndrome" and "significantly aggravated the bilateral patellofemoral syndrome." However, he did not provide any rationale to explain the basis for his stated conclusion. Dr. Hochman did not provide a history of appellant's duties as a letter carrier or exposure to cold temperatures. He did not explain how these employment factors would cause or contribute to her bilateral shoulder impingement syndrome, right carpal tunnel syndrome and bilateral patellofemoral syndrome. The Board has held that a medical opinion not fortified by medical rationale is of diminished probative value.<sup>7</sup> To be considered rationalized medical evidence, a 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 the claimant's specific employment factors.<sup>8</sup>

Additionally, the record contains several diagnostic reports. However, these reports do not contain any opinion on the causal relationship of the conditions found on diagnostic testing. Therefore, these reports have no probative value in establishing causal relationship.<sup>9</sup> The Office also received physical therapy reports. However, physical therapists are not physicians under the Act. Thus, their opinions do not constitute medical evidence and have no weight or probative value.<sup>10</sup>

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<sup>6</sup> *K.W.*, 59 ECAB \_\_\_\_ (Docket No. 07-1669, issued December 13, 2007).

<sup>7</sup> *S.D.*, 58 ECAB \_\_\_\_ (Docket No. 07-1120, issued September 24, 2007).

<sup>8</sup> *Id.*

<sup>9</sup> *See Michael E. Smith*, 50 ECAB 313 (1999).

<sup>10</sup> *See Jane A. White*, 34 ECAB 515, 518 (1983). *See* 5 U.S.C. § 8101(2). This subsection defines the term "physician." *See also Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>11</sup> Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>12</sup> Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no competent medical evidence explaining how appellant's employment duties caused or aggravated her bilateral wrist, knee or shoulder conditions, appellant has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty, causally related to factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs' hearing representative dated November 7, 2007 is affirmed.

Issued: July 3, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>11</sup> See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>12</sup> *Id.*