

FACTUAL HISTORY

On March 13, 2019 appellant, then a 67-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on that date she was struck by a mail container full of mail and injured her right forearm while in the performance of duty. On the reverse side of the claim form the employing establishment noted that her injury had occurred in the performance of duty. Appellant did not immediately stop work.

On October 1, 2019 Dr. Peter C. Yeh, a Board-certified orthopedist, treated appellant for persistent right shoulder pain. Appellant reported that her condition was something that was gradually occurring and denied that it was related to work at that time.

In an attending physician's report (Form CA-20) dated October 15, 2019, Dr. Yeh, indicated that appellant was injured at work on March 13, 2019, when a full postal container was pushed into her right forearm by another employee. He diagnosed rotator cuff tear of the right shoulder and checked a box marked "Yes" indicating that appellant's condition had been caused or aggravated by an employment activity. Dr. Yeh noted that appellant should not lift, push, pull, or carry with her right arm. In a duty status report (Form CA-17) of even date, he noted clinical findings of right rotator cuff tear and indicated that appellant was advised not to resume work.

In a development letter dated October 28, 2019, OWCP informed appellant that additional evidence was needed to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In reports dated June 27 and August 8, 2019, Dr. Yeh noted that he had treated appellant for persistent right shoulder pain. Appellant reported that five to six months prior she felt a pop in her shoulder with pain over the lateral shoulder radiating into her neck. She also noted lifting 30 to 40 pounds of mail daily at work causing her pain to worsen over time. Appellant's history was significant for a rotator cuff repair in 2002. Dr. Yeh noted positive Hawkins and Neers impingement sign over the right shoulder. X-ray of the right shoulder revealed type II acromion, center humeral head, and slight inferior humeral head spurring. Dr. Yeh diagnosed impingement syndrome of the right shoulder and unspecified injury of muscles and tendons of the right rotator cuff. He performed an ultrasound-guided cortisone injection. On September 4, 2019 Dr. Yeh reviewed the August 30, 2019 magnetic resonance imaging (MRI) scan of the right shoulder, which demonstrated a small full-thickness supraspinatus tear over the anterior aspect posterior to the biceps and superior labral tearing. He diagnosed right rotator cuff tear, impingement syndrome of the right shoulder, and unspecified injury to the muscles and tendons of the right rotator cuff. On October 1, 2019 Dr. Yeh treated appellant in follow up for persistent right shoulder pain. Appellant reported that her condition gradually developed over time.

In a November 23, 2019 statement, in response to OWCP's development letter, appellant indicated that on March 13, 2019 she was hit on the right arm and forearm by a postal container full of mail weighing 700 to 800 pounds and she reported the incident to the employing establishment on the day of occurrence. The immediate effects of the injury included bruising (the forearm turned black and blue), swelling, and mild pain in her shoulder. Appellant noted that her coworker, B.V., had hit her with the container and that another coworker, M.N., had witnessed the incident. She reported mild pain and discomfort, but did not think she was injured and did not

seek medical attention. When the pain in her right shoulder increased appellant sought medical treatment on June 27, 2019.³ She indicated that she did not sustain any other injury between the date of injury and her visit to her physician. Appellant was then working limited duty and was advised by Dr. Yeh that she needed surgery. She noted not having similar disability or symptoms to her shoulder or arm prior to the injury. Appellant submitted a black and white photo of a mail container and a photograph showing bruising of her right forearm date-stamped from a text message at 12:44 p.m. on March 14, 2019.

By decision dated December 5, 2019, OWCP denied appellant's traumatic injury claim finding that the medical evidence submitted was insufficient to establish causal relationship between a diagnosed condition and the accepted March 13, 2019 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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,⁵ 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.⁶ 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.⁷

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁸

³ Appellant reported filing a Form CA-1 on March 13, 2019 with S.B., tour three manager, along with a witness statement. She learned that S.B. did not file the Form CA-1 or witness statement until October 2019 which caused a delay in obtaining a claim number.

⁴ *Id.*

⁵ *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).

⁶ *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).

⁷ *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).

⁸ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁹ 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 factors identified by the employee.¹⁰

In a case where a preexisting condition involving the same part of the body is present and the issues 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.¹¹

Pursuant to OWCP's procedures, no development of a claim is necessary when the condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting, or animal bite).¹² No medical report is required to establish a minor condition such as a laceration or bruise.¹³

ANALYSIS

The Board finds that appellant has met her burden of proof to establish a right forearm bruise causally related to the accepted March 13, 2019 employment incident.

OWCP found that the March 13, 2019 employment incident, in which appellant's right forearm was hit by a heavy postal container, had occurred as alleged. In response to OWCP's development letter appellant submitted a statement and a copy of a photo demonstrating a visible bruise of her right forearm which was memorialized contemporaneously to the date of injury. The statement also indicated that she had not initially sought treatment following the employment incident as she had not considered the injury to be severe. As the evidence of record establishes that appellant's employment incident resulted in a visible injury, the Board finds that she has met her burden of proof to establish a right forearm bruise causally related to the accepted March 13, 2019 employment incident.¹⁴ Appellant also alleged that she sustained a right shoulder condition causally related to the accepted March 13, 2019 injury. She submitted a series of medical treatment notes from her attending physician. In reports from Dr. Yeh dated June 27 and August 8, 2019,

⁹ *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).

¹⁰ *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).

¹¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *M.O.*, Docket No. 18-0229 (issued September 23, 2019); *J.F.*, Docket No. 19-0456 (issued July 12, 2019).

¹² See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011). See also *A.J.*, Docket No. 20-0484 (issued September 2, 2020); *S.K.*, Docket No. 18-1411 (issued July 22, 2020).

¹³ *Id.*

¹⁴ *Id.*

he noted treatment of appellant for right shoulder pain, which began five to six months prior when she felt a pop in her shoulder with pain over the lateral shoulder radiating into her neck. Appellant also noted lifting 30 to 40 pounds of mail at work causing her pain to worsen over time. Dr. Yeh diagnosed impingement syndrome of the right shoulder and unspecified injury of muscles and tendons of the right rotator cuff. In a report dated September 4, 2019, he noted an August 30, 2019 MRI scan of the right shoulder demonstrated a small full-thickness supraspinatus tear over the anterior aspect posterior to the biceps and superior labral tearing. Dr. Yeh diagnosed right rotator cuff tear, impingement syndrome of the right shoulder and unspecified injury to the muscles and tendons of the right rotator cuff. Similarly, in a Form CA-17 report dated October 15, 2019, he noted clinical findings of right rotator cuff tear. The Board notes that these reports did not provide an opinion on the issue of causal relationship. 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 on the issue of causal relationship.¹⁵ These reports, therefore, are insufficient to establish appellant's claim.

In an October 15, 2019 Form CA-20 report, Dr. Yeh checked a box marked "Yes" indicating that appellant's rotator cuff tear of the right shoulder was caused or aggravated by the accepted March 13, 2019 employment incident. However, the Board has held that an opinion on causal relationship that consists of an affirmative check mark, without more by way of medical rationale, is insufficient to establish the claim.¹⁶ As such, this report is insufficient to establish appellant's claim.

As the medical evidence of record does not contain rationalized medical evidence establishing causal relationship between appellant's claimed right shoulder condition and the accepted March 13, 2019 employment incident, the Board finds that appellant has not met her burden of proof as to this additional condition.

As appellant has established a right forearm bruise as an accepted employment-related condition, the Board will reverse, in part, the December 5, 2019 decision and remand the case for payment of medical costs and wage-loss compensation for disability, if any.

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, for additional claimed right upper extremity and shoulder conditions.¹⁷

CONCLUSION

The Board finds that appellant has met her burden of proof to establish a right forearm bruise causally related to a March 13, 2019 employment incident. The Board further finds,

¹⁵ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁶ See *C.S.*, Docket No. 18-1633 (issued December 30, 2019); *D.S.*, Docket No. 17-1566 (issued December 31, 2018).

¹⁷ Upon return of the case record OWCP shall administratively combine the present claim file with File No. xxxxxx873 which was an accepted claim for a June 10, 2002 right shoulder condition.

however, that appellant has not met her burden of proof to establish an additional right upper extremity or shoulder condition causally related to her March 13, 2019 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the December 5, 2019 decision of the Office of Workers' Compensation Programs is affirmed in part and remanded in part and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: December 3, 2020
Washington, DC

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

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board