

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted July 5, 2019 employment incident.

FACTUAL HISTORY

On July 9, 2019 appellant, then a 55-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 5, 2019 she suffered a left shoulder injury when removing mail from the back of her vehicle while in the performance of duty. She noted that she experienced pain from the left side of her neck to the fingertips in her left hand. On the reverse side of the claim form the employing establishment controverted appellant's claim, noting that she never reported the incident to her supervisor. Appellant did not stop work.

In a development letter dated July 22, 2019, OWCP informed appellant that the evidence of record was insufficient 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 an attending physician's report (Form CA-20), dated August 8, 2019, a physician assistant diagnosed right shoulder tendinitis and impingement.

By decision dated August 26, 2019, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted July 5, 2019 employment incident. It concluded therefore that the requirements had not been met to establish an injury as defined by FECA.

On September 3, 2019 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

OWCP subsequently received an August 27, 2019 report from Dr. Charles Willis, II, a Board-certified anesthesiologist. Dr. Willis noted that on July 5, 2019 appellant pulled her left arm and upper torso while grabbing a falling box of mail. He indicated that she felt pain and discomfort in her left shoulder, but continued to work, thinking her symptoms were minor and would resolve naturally. Dr. Willis noted that appellant's symptoms progressively worsened to include pain and discomfort in her neck and back. He examined her on August 21, 2019 and reviewed her medical history. Dr. Willis noted objective findings and diagnosed neck strain, thoracic strain, left shoulder sprain, and mononeuropathy of the left upper limb. He opined that the employment incident of grabbing a falling box of mail created a sufficient amount of force to cause appellant's upper torso to suddenly change from a static position to a moving position with her arm and torso toward the ground. Dr. Willis explained that this unexpected change in body position caused overstretching sprain/strain injuries to the soft tissue structures of her neck, back, and upper left extremity, forcing the structures beyond their physiological capacity. He further noted that peripheral nerve injuries could be caused by a variety of mechanisms including acute stretch injury. Dr. Willis, therefore, found that appellant's mononeuropathy of the left upper limb

also resulted from the accepted employment incident.⁴ In an accompanying August 21, 2019 work capacity evaluation (Form OWCP-5c), he noted that she was unable to perform her usual job without restrictions.

In a September 11, 2019 report, Dr. Willis noted that appellant's symptoms were unchanged since her last visit. He examined her and found no significant changes.

A telephonic hearing was held on December 6, 2019. During the hearing, appellant testified that she injured her left shoulder, neck, and back while attempting to lift a plastic bin of mail, weighing approximately 50 to 60 pounds when it shifted. She indicated that she had no prior injuries or conditions related to her neck, back, or left leg. Appellant noted that she received physical therapy treatment for her left shoulder in 2006 or 2007. She stated that she reported the employment incident to her supervisor and first received medical treatment on July 7, 2019. Appellant indicated that she did not return to work with the employing establishment, but was presently working as a florist.

Appellant submitted a magnetic resonance imaging (MRI) scan report of her left shoulder, dated July 12, 2019, which revealed mild supraspinatus and infraspinatus tendinopathy.

In a July 19, 2019 note, Dr. Stephen Brown, a Board-certified specialist in orthopedic sports medicine, reviewed the MRI scan of appellant's left shoulder and found that she had tendinitis and internal tendinopathy. He also found bursitis and mild biceps tendon irritation. Dr. Brown diagnosed left shoulder impingement with bursitis and rotator cuff tendinitis and left shoulder biceps tenosynovitis. He planned for arthroscopic labral debridement, subacromial decompression with rotator cuff debridement, and possible biceps tenodesis procedures.

By decision dated February 12, 2020, OWCP's hearing representative affirmed the August 26, 2019 decision, as modified, finding that appellant had established valid medical diagnoses. However, the claim remained denied because the medical evidence of record was insufficient to establish a causal relationship between the diagnosed medical conditions and the accepted July 5, 2019 employment incident. The hearing representative found that Dr. Willis' August 27, 2019 report was not based on a complete and accurate factual background as he did not demonstrate awareness of appellant's preexisting left shoulder complaints or mention the July 12, 2019 left shoulder MRI scan.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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,⁶ that an injury was sustained in the performance of duty as alleged,

⁴ Dr. Willis correctly identified the date of the employment incident as July 5, 2019 throughout his report, but incorrectly listed the date as August 7, 2018 in his conclusion.

⁵ *Supra* note 2.

⁶ *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁷ 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.⁸

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 that allegedly occurred.⁹ The second component is whether the employment incident caused a personal injury.¹⁰

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹¹ 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 incident identified by the claimant.¹²

In a case in which 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.¹³

ANALYSIS

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

In support of her claim, appellant submitted an August 27, 2019 report from Dr. Willis who accurately described the history of the accepted employment incident. Dr. Willis diagnosed neck strain, thoracic strain, left shoulder sprain, and mononeuropathy of the left upper limb. He opined that the accepted employment incident of grabbing a falling box of mail created a sufficient amount of force to cause a rapid change in appellant's upper torso position. Dr. Willis found that this sudden, unexpected change in body position caused sprain/strain injuries to the soft tissue structures of her neck, back, and upper left extremity as the structures overstretched beyond their physiological capacity. He related that peripheral nerve injuries could be caused by an acute

⁷ *J.R.*, Docket No. 20-0496 (issued August 13, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁸ *B.M.*, Docket No. 19-1341 (issued August 12, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁹ *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

¹⁰ *D.M.*, Docket No. 20-0386 (issued August 10, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

¹¹ *A.R.*, Docket No. 19-0465 (issued August 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

¹² *W.L.*, Docket No. 19-1581 (issued August 5, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *C.C.*, Docket No. 19-1071 (issued August 26, 2020); *V.W.*, Docket No. 19-1537 (issued May 13, 2020).

stretch injury and, therefore, found that appellant's mononeuropathy of the left upper limb also resulted from the accepted employment injury.

The Board finds that the August 27, 2019 report of Dr. Willis is sufficient to require further development of the medical evidence. Dr. Willis is a Board-certified physician who is qualified in his field of medicine to render rationalized opinions on the issue of causal relationship. He reviewed appellant's medical records and provided a comprehensive understanding of the case history. Dr. Willis provided a pathophysiological explanation as to how the mechanism of the accepted employment incident was sufficient to cause her diagnosed conditions. His opinion is not contradicted by any substantial medical or factual evidence of record.¹⁴ The Board has long held that it is unnecessary that the evidence of record in a case be so conclusive as to suggest causal connection beyond all possible doubt. Rather, the evidence is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound, and logical.¹⁵ Following review of Dr. Willis' August 27, 2019 report, the Board finds that his medical opinion is rationalized and logical and is, therefore, sufficient to require further development of appellant's claim.¹⁶

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.¹⁷ OWCP has an obligation to see that justice is done.¹⁸

On remand OWCP shall refer appellant to a specialist in the appropriate field of medicine, along with the case record and a statement of accepted facts. Its referral physician shall provide a well-rationalized opinion as to whether appellant's diagnosed conditions are causally related to the accepted July 5, 2019 employment incident. If the physician opines that the diagnosed conditions are not causally related to the employment incident, he or she must explain with rationale how or why their opinion differs from that of Dr. Willis. After such further development of the case record as OWCP deems necessary, it shall issue a *de novo* decision.

CONCLUSION

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

¹⁴ See *A.M.*, Docket No. 18-1656 (issued October 23, 2020).

¹⁵ See *J.S.*, Docket No. 20-0379 (issued October 28, 2020); *W.M.*, Docket No. 17-1244 (issued November 7, 2017); *E.M.*, Docket No. 11-1106 (issued December 28, 2011); *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983).

¹⁶ See *S.J.*, Docket No. 19-1029 (issued October 22, 2020).

¹⁷ See *A.M.*, *supra* note 14; see also *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹⁸ See *J.S.*, *supra* note 15; *B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone*, 41 ECAB 354 (1989).

ORDER

IT IS HEREBY ORDERED THAT the February 12, 2020 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: December 22, 2020
Washington, DC

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

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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