

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

S.O., Appellant)	
)	
and)	Docket No. 21-0332
)	Issued: September 24, 2021
U.S. POSTAL SERVICE, POST OFFICE, Pittsburgh, PA, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On January 7, 2021 appellant filed a timely appeal from a December 11, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (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 her burden of proof to establish a left shoulder condition causally related to the accepted July 28, 2020 employment incident.

¹ The Board notes that, following the December 11, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On July 29, 2020 appellant, then a 22-year-old postal collection and delivery employee, filed a traumatic injury claim (Form CA-1) alleging that on July 28, 2020 she popped her left shoulder when pulling a bundle of mail while in the performance of duty. On the reverse side of the claim form, her supervisor acknowledged that she was injured in the performance of duty.

In support of her claim, appellant submitted a report dated July 28, 2020 from Dr. Robert Valley, an emergency medicine specialist, who related that she was pulling a tray of mail and felt her left shoulder pop. He diagnosed strain of the muscle, fascia, and tendon of the long head of biceps of the left arm. Dr. Valley also completed a duty status report (Form CA-17) dated July 28, 2020, wherein he noted her diagnosis of left shoulder strain. He related a history of injury that appellant had lifted a bundle of mail and advised that she could return to work on July 29, 2020 with restrictions.

In a report dated August 3, 2020, Dr. Jeffery Frye, a Board-certified emergency medicine specialist, related that appellant was seen for regarding left shoulder pain. He noted a diagnosis of unspecified muscle, fascia and tendon strain at the shoulder and upper arm level and recommended that she follow-up with a specialist.

In a report dated August 3, 2020, Dr. David R. Sheba, an osteopathic physician specializing in orthopedic surgery, related a history of a left shoulder condition occurring as a result of lifting heavy bundles at work. He noted that appellant had a longstanding history of left shoulder issues and that she had undergone bilateral shoulder arthroscopy in 2019. However, Dr. Sheba opined that she had an acute injury to the shoulder due to her work injury. He diagnosed left shoulder pain.

In an x-ray report dated August 3, 2020, Dr. Sheba found no abnormalities in the left shoulder.

The employing establishment noted that, on the day of appellant's alleged shoulder injury, she was seen for her 30-day review, during which she asked if she could shadow a clerk because she would be unable to perform her current duties for her whole life due to prior shoulder surgeries. Later that day appellant called in with a shoulder injury.

In a magnetic resonance imaging (MRI) scan report dated August 11, 2020, Dr. Derek Armfield, a Board-certified diagnostic radiology specialist, noted that appellant had dull left shoulder pain with limited range of motion after pulling a box at work. He indicated that appellant had a mild central cuff tendinopathy and bursitis without rotator cuff tear.

On August 21 and October 9, 2020 Dr. Sheba diagnosed appellant with a sprain of left rotator cuff capsule.

By development letter dated November 5, 2020, OWCP advised appellant that additional factual and medical evidence was necessary to establish her claim. It requested that she submit a narrative medical report from her attending physician, which included the physician's opinion supported by a medical explanation as to how the reported employment incident caused or

aggravated the claimed injury. OWCP also provided appellant with a questionnaire for completion. It afforded her 30 days to submit the necessary evidence.

In a note dated November 11, 2020, Dr. Sheba stated that it was his opinion that appellant's injury on July 28, 2020 was the direct result of her work injury. In a progress report November 11, 2020, he related that she was seen for a left shoulder injury that occurred when she lifted heavy bundles at work. Dr. Sheba also completed a Form CA-17 on November 11, 2020 indicating that she could return to full-duty work without restrictions on November 12, 2020.

By decision dated December 11, 2020, OWCP accepted that the July 28, 2020 employment incident occurred, as alleged, but denied appellant's claim as causal relationship had not been established between a diagnosed medical condition and the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 FECA, that the claim was timely filed within the applicable time limitation period of FECA,⁴ 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.⁵ 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.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a 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. Second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁷

³ *Id.*

⁴ *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).

⁵ *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).

⁶ *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).

⁷ *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 causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁸ 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.⁹

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.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a left shoulder condition causally related to the accepted July 28, 2020 employment incident.

OWCP received reports dated July 28, 2020 from Dr. Valley, a report dated August 3, 2020 from Dr. Frye, and progress reports dated August 21, October 9, and November 11, 2020 from Dr. Sheba. In these reports, the physicians noted appellant's history of injury and diagnosed left shoulder sprain. However, in these reports, the physicians merely noted appellant's reported history of injury, rather than offering their own opinions on causation.¹¹ 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.¹² As such, these reports are sufficient to establish appellant's claim.

In a report dated August 3, 2020, Dr. Sheba noted appellant's prior history of bilateral shoulder arthroscopy in 2019 and indicated that she sustained an acute injury on July 28, 2020. He diagnosed left shoulder pain. The Board has held that pain is a symptom and not a compensable medical diagnosis.¹³ This report is, therefore, insufficient to establish appellant's claim.

OWCP also received a note dated November 11, 2020 from Dr. Sheba wherein he opined that the appellant's injury on July 28, 2020 was the direct cause of her condition. While Dr. Sheba

⁸ *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).

⁹ *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).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); see *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹¹ See *C.G.*, Docket No. 20-0957 (issued January 27, 2021).

¹² *L.G.*, Docket No. 20-0433 (issued August 6, 2020); *S.D.*, Docket No. 20-0413 (July 28, 2020); *S.K.*, Docket No. 20-0102 (issued June 12, 2020). See also *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ See *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

provided an opinion on the causal relationship, he did not offer any rationale to explain how the accepted employment incident would have caused appellant's diagnosed condition.¹⁴ The need for a rationalized medical opinion was particularly important because appellant had preexisting left shoulder conditions.¹⁵ The Board has held that a medical opinion should offer a medically-sound explanation of how the specific employment incident physiologically caused the diagnosed condition.¹⁶ This report is, therefore, insufficient to establish causal relationship.

Appellant submitted an x-ray report and an MRI scan report. The Board has held that diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between the accepted employment factors, and a diagnosed condition.¹⁷ For this reason, these reports are insufficient to meet appellant's burden of proof.

As there is no rationalized medical evidence of record explaining how appellant's left shoulder condition was causally related to the accepted employment incident, the Board finds that she has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted July 8, 2020 employment incident.

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 her burden of proof to establish a left shoulder condition causally related to the accepted July 28, 2020 employment incident.

¹⁴ *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *see H.A.*, Docket No. 18-1466 (issued August 23, 2019); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

¹⁵ *Supra* note 10 at Chapter 2.805.3e (January 2013). *J.G.*, Docket No. 20-0009 (issued September 28, 2020).

¹⁶ *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *see also E.B.*, Docket No. 18-1060 (issued November 1, 2018).

¹⁷ *See W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

ORDER

IT IS HEREBY ORDERED THAT the December 11, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 24, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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