

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

S.S., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Nauvoo, AL, Employer)
_____)

Docket No. 21-1318
Issued: December 7, 2022

Appearances:
Appellant, pro se
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
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On August 31, 2021 appellant filed a timely appeal from a June 9, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 right shoulder condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On January 14, 2020 appellant, then a 63-year-old rural mail carrier, filed an occupational disease claim (Form CA-2) alleging that she developed a right shoulder condition due to the factors of her federal employment, including repetitive movements when casing, opening and closing, and delivering mail and packages. She further claimed that she tore her right shoulder rotator cuff after pulling open a jammed-shut mailbox, which also impacted her shoulder, arm, and neck muscles.

¹ 5 U.S.C. § 8101 *et seq.*

Appellant noted that she first became aware of her claimed condition and realized its relation to her federal employment on November 4, 2019. She did not stop work.

In a statement dated January 12, 2020, appellant recounted the symptoms she alleged were a result of her employment duties, including continuous movement of her arms from the neck to her fingers. She explained that in addition to casing and delivering mail, her duties required lifting packages up to 70 pounds while on her walking route. Appellant further indicated that she had similar work-related issues with her right shoulder and elbow between April 25 to May 4, 2019, and on August 27, 2019 she experienced tightening in her right bicep and elbow after attempting to open a jammed mailbox while performing her official duties. She notified her supervisor and sought medical treatment, but the pain symptoms continued. On November 4, 2019 appellant underwent a magnetic resonance imaging (MRI) scan, which revealed superior labrum anterior posterior (SLAP) of the bicep/rotator cuff.

A January 17, 2020 statement from S.C., an employing establishment supervisor, summarized appellant's account of the alleged employment incident noting that she injured herself during her delivery route while moving boxes. She further noted that there were inconsistencies in her narrative regarding the workplace incident.

On January 21, 2020 A.N., an employing establishment health and resource manager, advised that the employing establishment was controverting the claim because appellant did not report the incident to management until January 14, 2020, more than 72 days after the alleged incident occurred.

In a January 29, 2020 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of evidence necessary to establish her claim and provided a questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It afforded both parties 30 days to respond.

On May 22, 2019 Dr. Wayne McGough, a Board-certified orthopedist, diagnosed right elbow pain with bicep tendinitis and lateral epicondylitis. He noted that appellant should undergo an MRI scan if her condition did not improve with medical treatment.

An October 29, 2019 note from Dr. Cherie Miner, a Board-certified family medicine specialist, related that appellant had ongoing complaints of right shoulder and arm pain, which was aggravated when she performed overhead lifting and reaching outward movements. She also noted that appellant did not recall any specific injury that occurred. Dr. Miner diagnosed right shoulder pain with rotator cuff impingement, possible partial rotator cuff tear, and labrum tear. In a return to work note of even date, she advised that appellant could return to work without restricted duties.

On November 4, 2019 Dr. Miner, in a request for authorization for an MRI scan of appellant's right shoulder. Dr. Arthur Jones, a Board-certified radiologist, performed an MRI scan of her right shoulder on that day, which demonstrated severe supraspinatus tendinopathy including intrasubstance delaminating tears.

In a November 13, 2019 note, Dr. Samuel Goldstein, a Board-certified orthopedist, recounted the details of the August 27, 2019 incident. He noted that appellant had no history of shoulder pain but had previously sustained a May 2019 biceps injury while pushing and pulling heavy objects while on her delivery route. Dr. Goldstein related that she sustained an injury at

work and performed an MRI scan of her right shoulder, which demonstrated a large SLAP tear and rotator cuff tear in the right shoulder. In a return to work note of even date, he indicated that appellant could return to work without restrictions.

On December 11, 2019 appellant was again treated by Dr. Goldstein for ongoing complaints of pain and decreased strength in the upper extremity. Dr. Goldstein recommended that she continue her treatment. In a return to work note of even date, he advised that appellant could return to work without restrictions.

In a statements dated January 12 and February 18, 2020 and signed on February 22, 2020, appellant responded to OWCP's development questionnaire and summarized her medical providers and dates of treatment. She further detailed her official duties, asserting that repetitive motions of her right shoulder including loading mail and packages in her vehicle, opening and closing mailboxes, and using a scanner daily, led to her right shoulder condition. Appellant summarized prior injuries to her right bicep and elbow beginning April 25 through May 4, 2019, which she attributed to repetitive opening and closing of mailboxes. She indicated that she did not engage in any sports or physical activities outside of her federal employment.

By decision dated March 6, 2020, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish a right shoulder condition causally related to the accepted factors of her federal employment.

On March 30, 2020 Dr. Michael Cantrell, a Board-certified orthopedic surgeon, noted that appellant was a postal worker who had been experiencing worsening pain and tightness of her right bicep and shoulder since August 2019. He performed an MRI scan of her right shoulder, which demonstrated a small full thickness tear of the supraspinatus tendon. Dr. Cantwell diagnosed appellant with a right rotator cuff tear and acromioclavicular (AC) joint arthritis. In a letter of even date, he opined that her diagnosis was caused by the August 27, 2019 work incident when she attempted to pull a jammed mailbox open causing her right shoulder to pop and that her condition may also be aggravated by other official work duties.

On August 7, 2020 appellant requested reconsideration of OWCP's March 6, 2020 decision and attached additional medical evidence in support of her request.

A March 30, 2020 work restriction form by Dr. Cantrell noted that appellant was to undergo x-rays and an MRI scan related to a right shoulder condition.

In an attending physician's report (Form CA-20) dated July 14, 2020, Dr. Cantrell noted that appellant was first examined on March 30, 2020 and received medical treatment for her symptoms. In a letter of even date, he reiterated the details of his March 30, 2020 letter, where he opined that her condition was caused by the August 27, 2019 workplace incident and possibly aggravated by other official duties.

By decision dated September 9, 2020, OWCP denied modification of its March 6, 2020 decision.

In a November 1, 2020 report, Dr. Daniel Morris, a Board-certified orthopedic surgeon, related that appellant presented with ongoing complaints of right shoulder pain, which initially began in the right elbow one year prior on August 27, 2019. He noted that appellant underwent

an MRI scan of her right shoulder, which demonstrated severe tendinopathy of the supraspinous tendon with intrasubstance delaminating tears and a tendon tear.

On November 26, 2020 Dr. Morris recounted the details of appellant's right shoulder condition and its relation to her official duties. He noted that her pain would occur with minimal exertion and is associated with feelings of weakness and loss of motion. Dr. Morris performed another MRI scan of appellant's right shoulder, which revealed a small full-thickness tear in the distal supraspinatus tendon anteriority and small partial-thickness articular surface tear of the infraspinatus tendon.

In a December 1, 2020 letter, Dr. Morris diagnosed a progressive full-thickness tear of supraspinatus tendon and opined that appellant's injury was caused by repetitive movement of both arms and other job activities she performed as a rural mail carrier, specifically she related that she felt a pop in her right shoulder when opening a jammed mailbox on August 27, 2019. He further opined that her injury may also have been aggravated by other work duties.

In a Form CA-20 dated December 23, 2020, Dr. Morris noted that appellant was first examined on October 12, 2020 and that her official duties required repetitive movements of her arms.

On March 11, 2021 appellant requested reconsideration of OWCP's September 9, 2020 decision and attached additional medical evidence.

A November 13, 2019 return to work note by Dr. Goldstein noted that appellant could return to work without restrictions.

On January 27, 2020 S.C., an employing establishment postmaster, alleged that on November 18, 2019 appellant reported that she injured her shoulder in April or May 2019 when she was working with box holders. She noted that appellant had not previously reported any workplace incident to her.

In an undated statement, appellant denied S.C.'s allegations detailed in her January 27, 2020 statement. She contended that she initially complained to S.C. about right elbow and arm pain. Appellant noted that she did not realize she injured her bicep or shoulder until after she had an MRI scan on November 4, 2019.

By decision dated June 9, 2021, OWCP denied modification of its September 9, 2020 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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,³ that an injury was sustained in the performance of duty as alleged, and that

² *Supra* note 1.

³ *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).

any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴ 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.⁵

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 casually related to the identified employment factors by the claimant.⁶

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁷ 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.⁸

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right shoulder condition causally related to the accepted factors of her federal employment.

In support of her claim, appellant submitted a letter from Dr. Morris dated December 1, 2020, wherein he diagnosed a full-thickness tear of supraspinatus tendon of the right shoulder and opined those repetitive motions of appellant's arms as a rural mail carrier aggravated her condition. The Board finds that, while he provides an opinion on causal relationship, his reports are insufficient to meet her burden of proof, as he did not provide adequate medical reasoning to explain how repetitive use of both arms caused or contributed to her diagnosed medical condition. The Board has held that medical evidence that does not offer a rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹ Thus, Dr. Morris' December 1, 2021 letter is insufficient to meet appellant's burden of proof.

Likewise, in a March 30, 2020 letter, Dr. Cantrell opined that appellant's right shoulder condition was caused by the accepted August 27, 2019 incident when she attempted to pull open

⁴ *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).

⁵ *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).

⁶ *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

⁷ *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).

⁸ *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).

⁹ *M.E.*, Docket No. 18-0940 (issued June 11, 2019).

a mailbox that was jammed shut. He did not explain specifically how or why he believed that her right shoulder condition was caused by attempting to open a jammed mailbox. Without medical opinion evidence addressing the mechanics by which the incident would have resulted in the diagnosed condition, and offering a clear opinion that this incident was the cause of the condition, this report is insufficient to meet her burden of proof.¹⁰ Dr. Cantrell further opined that appellant's condition may have also been caused or aggravated by other work duties. However, the Board has held that medical opinions that are speculative or equivocal in character diminish the probative value of the medical opinion.¹¹ Dr. Cantrell's letter, therefore, is insufficient to meet appellant's burden of proof.

Appellant's history of injury and medical treatment was summarized in reports dated May 22, 2019 from Dr. McGough; October 29, 2019 from Dr. Miner; November 1 and 26, 2020 from Dr. Morris; and a March 30, 2020 report from Dr. Cantrell. These reports provided, diagnoses of right elbow pain with tendinitis and lateral epicondylitis; right rotator cuff tear, labrum tear, AC joint arthritis and severe tendinopathy of the supraspinatus tendon. However, neither Drs. McGough, Miner, Morris or Cantrell offered an opinion on causal relationship in their reports. 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 of no probative value and are insufficient to establish appellant's claim.

The remaining evidence of record consists of various MRI scan reports dated November 4, 2019 through November 26, 2020. The Board has held that diagnostic studies, standing alone, are of no probative value as they do not address the cause of any of the diagnosed conditions.¹³

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted employment factors, the Board finds that appellant has not met her burden of proof.

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 right shoulder condition causally related to the accepted factors of her federal employment.

¹⁰ *Id.*; see also *L.F.*, Docket No. 14-1144 (issued August 14, 2015).

¹¹ *S.O.*, Docket No. 21-0002 (issued April 29, 2021); *H.A.*, Docket No. 18-1455 (issued August 23, 2019).

¹² *L.B.*, Docket No. 18-0533 (issued August 27, 2018); see *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *J.G.*, Docket No. 21-1334 (issued May 18, 2022); *J.P.*, Docket No. 19-0216 (issued December 13, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

ORDER

IT IS HEREBY ORDERED THAT the June 9, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 7, 2022
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board