



## ISSUE

The issue is whether appellant has met his burden of proof to establish a recurrence of the need for medical treatment commencing January 16, 2020 causally related to his accepted April 10, 2008 employment injury.

## FACTUAL HISTORY

On April 10, 2008 appellant, then a 32-year-old marshal in training, filed a second Form CA-1 alleging that on April 10, 2008 his left shoulder became dislocated during defensive training while in the performance of duty. He did not stop work. On May 7, 2009 OWCP accepted this claim for closed anterior dislocation of the left shoulder under OWCP File No. xxxxxx507.<sup>3</sup>

On September 5, 2008 appellant underwent a diagnostic arthroscopy with Bankart repair, left shoulder.

By decision dated July 8, 2010, OWCP granted appellant a schedule award for four percent permanent impairment of his left upper extremity.

On February 6, 2020 appellant filed a notice of recurrence (Form CA-2a) alleging that on January 16, 2020 he noticed pain emanating from his left shoulder due to his April 10, 2008 employment injury. He asserted that his recurrence occurred during normal everyday use and that he had noticed reduced strength and mobility. Appellant did not stop work.

In a February 6, 2020 development letter, OWCP requested additional medical evidence in support of appellant's claimed recurrence of a medical condition. It afforded him 30 days to response. No response was received.

By decision dated April 29, 2020, OWCP denied appellant's recurrence claim.

On May 4, 2020 Dr. Michael J. Lillestol, a Board-certified internist, examined appellant due to left shoulder pain. He noted that appellant denied any recent history of trauma, but described his April 10, 2008 employment injury. Dr. Lillestol noted that since April 10, 2008 appellant had previously experienced occasional episodes with left shoulder pain which lasted a few days to a week, but usually receded. He noted that appellant's current left shoulder pain had persisted for two to three weeks and reported that his left arm strength was decreased. Dr. Lillestol found limited range of motion in the left shoulder and some tenderness in the medial aspect of the shoulder. He diagnosed recurrent shoulder dislocation and opined that appellant had a left shoulder strain pattern with possible internal derangement.

On May 11, 2020 appellant requested an oral hearing from a representative of OWCP's Branch of Hearings and Review. During the hearing held on September 8, 2020, appellant testified

---

<sup>3</sup> Appellant has a prior claim under OWCP File No. xxxxxx633, which OWCP accepted for closed dislocation of the left shoulder. OWCP authorized wage-loss compensation beginning September 14, 2008. Appellant returned to full-duty work on December 18, 2008. OWCP has administratively combined appellant's claims with OWCP File No. xxxxxx633 serving as the master file.

that he had no intervening injury and that his shoulder condition occasionally caused him pain and stiffness.

By decision dated October 21, 2020, OWCP's hearing representative affirmed the April 29, 2020 OWCP decision.

### **LEGAL PRECEDENT**

A recurrence of a medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.<sup>4</sup> An employee has the burden of proof to establish that he or she sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury without intervening cause.<sup>5</sup>

If a claim for recurrence of a medical condition is made more than 90 days after release from medical care, a claimant is responsible for submitting a medical report supporting a causal relationship between the employee's current condition and the original injury in order to meet his or her burden.<sup>6</sup> To meet this burden, the employee must submit medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, supports that the condition is causally related and supports his or her conclusion with sound medical rationale.<sup>7</sup> Where no such rationale is present, medical evidence is of diminished probative value.<sup>8</sup>

### **ANALYSIS**

The Board finds that appellant has not met his burden of proof to establish a recurrence of the need for medical treatment commencing January 16, 2020 causally related to his accepted April 10, 2008 employment injury.

In a May 4, 2020 note, Dr. Lillestol noted that appellant denied any recent history of left shoulder trauma and described appellant's April 10, 2008 employment injury. He also noted that appellant's current left shoulder pain had persisted for two to three weeks and that appellant's left arm strength was decreased. Dr. Lillestol found limited range of motion in the left shoulder and some tenderness in the medial aspect of the shoulder. He diagnosed recurrent shoulder dislocation and opined that appellant had a left shoulder strain pattern with possible internal derangement.

---

<sup>4</sup> 20 C.F.R. § 10.5(y).

<sup>5</sup> *S.P.*, Docket No. 19-0573 (issued May 6, 2021); *M.P.*, Docket No. 19-0161 (issued August 16, 2019); *E.R.*, Docket No. 18-0202 (issued June 5, 2018).

<sup>6</sup> Federal (FECA) Procedural Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.4b (June 2013); *see also J.M.*, Docket No. 09-2041 (issued May 6, 2010).

<sup>7</sup> *S.P.*, *supra* note 5; *A.C.*, Docket No. 17-0521 (issued April 24, 2018); *O.H.*, Docket No. 15-0778 (issued June 25, 2015).

<sup>8</sup> *S.P.*, *supra* note 5; *Michael Stockert*, 39 ECAB 1186 (1988).

Although Dr. Lillestol related appellant's current left shoulder condition to his accepted employment injury, his report is of limited probative value on the underlying issue of this case because he did not provide a rationalized opinion explaining the causal relationship between appellant's recurrent need for medical treatment and the accepted employment injury. He did not describe appellant's accepted employment conditions in any detail or explain the pathophysiological process through which such conditions, sustained in approximately April 10, 2008, would require medical treatment in 2020. Dr. Lillestol did not adequately explain how appellant sustained a spontaneous recurrence of the accepted employment conditions, without an intervening cause, such that appellant needed medical treatment for that condition. The Board has held that a report is of limited probative value if it does not contain medical rationale explaining causal relationship between the recurrent need for medical treatment and the accepted employment-related injury. Therefore, his May 4, 2020 note is insufficient to establish appellant's claim.

As the medical evidence of record does not contain a rationalized medical opinion establishing a recurrent need for medical treatment commencing January 16, 2020 causally related to his accepted employment injury, the Board finds that appellant has not met his 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 his burden of proof to establish a recurrence of the need for medical treatment commencing January 16, 2020 causally related to his accepted April 10, 2008 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 21, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 6, 2022  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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