

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

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K.M., Appellant)	
)	
and)	Docket No. 24-0577
)	Issued: July 5, 2024
LIBRARY OF CONGRESS, COLLECTIONS)	
AND SERVICES, Washington, DC, Employer)	
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Appearances:
Aaron Parsons, for the appellant¹
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 May 8, 2024 appellant, through her representative, filed a timely appeal from an April 30, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). 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.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted November 7, 2023 employment incident.

FACTUAL HISTORY

On November 13, 2023 appellant, then a 56-year-old library technician, filed a traumatic injury claim (Form CA-1) alleging that on November 7, 2023 she injured her left shoulder and arm when she was struck by a tub while in the performance of duty. She stopped work on November 8, 2023.

In an after-visit summary dated November 8, 2023, Dr. Oluwadamilola Adewumi, a Board-certified family practitioner, diagnosed pain of the left shoulder blade and shoulder joint. In an attached letter, she stated that appellant was seen on that date and recommended that appellant could return to work on November 13, 2023.

In an after-visit summary dated November 14, 2023, Dr. Adam Goodcoff, an emergency medicine specialist, diagnosed left shoulder joint pain. In an attached letter, he stated that appellant was seen on that date and recommended that she could return to work on November 15, 2023.

A report of work status (Form CA-3) dated November 16, 2023 noted that appellant had stopped work on November 8, 2023, and returned on November 13, 2023 to full-time regular duty without restrictions.

In a development letter dated November 16, 2023, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical information needed, including a detailed factual description of the alleged employment incident, and provided a questionnaire for completion. OWCP afforded appellant 60 days to respond.

In a note dated November 27, 2023, Dr. Stephanie Letourneau, a Board-certified family practitioner recommended that appellant perform limited duty for the next two weeks, with restrictions of no repeated lifting and only occasional lifting of objects over five pounds. In an attached after-visit summary of the same date, she diagnosed left shoulder joint pain.

In an industrial work status report dated December 1, 2023, Dr. Mychelle Shegog, a Board-certified orthopedic surgeon, diagnosed adhesive capsulitis of the left shoulder and cervical radiculopathy. She recommended that appellant remain off work from December 1 through 10, 2023. Dr. Shegog further recommended extensive activity restrictions. In an attached after-visit summary of the same date, she diagnosed adhesive capsulitis of the left shoulder, cervical radiculopathy, and lumbar radiculopathy.

In a follow-up letter dated December 19, 2023, OWCP indicated that it had performed an interim review of appellant's case file, and found that the evidence remained insufficient to support her claim. It noted that she had 60 days from the date of the initial development letter of November 16, 2023 to submit the requested supporting evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

Appellant submitted verifications of treatment from J.J., a physical therapist, dated December 14 and 21, 2023.

In a Form CA-20 dated December 14, 2023, Dr. Shegog diagnosed adhesive capsulitis of the left shoulder, cervical radiculopathy, and lumbar radiculopathy. She indicated that she believed appellant's conditions were caused or aggravated by being hit in the shoulder by a pushcart and having books fall on her. Dr. Shegog further explained that appellant may have had underlying issues acutely worsened by the incident. She indicated that an x-ray of appellant's left shoulder revealed mild osteoarthritis of the acromioclavicular joint, and changes of the greater tuberosity consistent with cuff derangement. Dr. Shegog concluded that appellant was totally disabled from December 1 through 11, 2023 and partially disabled from December 11, 2023 through January 14, 2024.

Appellant submitted a verification of treatment from L.W., a physician assistant, dated January 2, 2024.

In a Form CA-20 dated December 27, 2023, Dr. Shegog diagnosed adhesive capsulitis of the left shoulder. She indicated that she believed this condition was worsened by being hit with a tub of books at work on November 7, 2023. Dr. Shegog noted objective findings of limited range of motion and increased pain. She stated that appellant was partially disabled from December 11, 2023 through March 1, 2024.

In a letter dated December 27, 2023, the employing establishment acknowledged that appellant may have experienced some shoulder pain/discomfort due to the accepted incident, but controverted that she developed adhesive capsulitis, cervical radiculopathy, or lumbar radiculopathy.

By decision dated January 24, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted November 7, 2023 employment incident.

On February 14, 2024 appellant requested reconsideration.

In a Form CA-20 dated March 13, 2024, Dr. Shegog diagnosed adhesive capsulitis. She indicated that she believed this condition was caused or aggravated by having been hit in the shoulder, resulting in objective findings of pain and limited range of motion. Dr. Shegog stated that appellant was partially disabled beginning December 1, 2023, and that her date of anticipated return to full-duty work was unclear.

By decision dated April 30, 2024, OWCP denied modification of its January 24, 2024 decision.

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 of FECA, that the claim was timely filed within the applicable time limitation 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 first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether the employee actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.⁷

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 incident.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a cervical, left shoulder, or lumbar condition causally related to the accepted November 7, 2023 employment incident.

Appellant submitted after visit summaries and letters from Drs. Adewumi and Goodcoff dated November 8 and 14, 2023; a note and an after-visit summary from Dr. Letourneau dated

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).

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).

November 27, 2023; and an industrial work status report and after-visit summary from Dr. Shegog dated December 1, 2023. However, these reports did not contain opinions regarding the cause of appellant's diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹⁰ As such, the above-noted after-visit summaries, letters, note, and industrial work status report are insufficient to establish appellant's claim.

In Forms CA-20 dated December 14 and 27, 2023 and March 13, 2024, Dr. Shegog opined that the incident of November 7, 2023 caused or aggravated appellant's diagnosed condition(s). On December 14, 2023 she opined that appellant may have had underlying issues acutely worsened by the incident. On December 27, 2023 Dr. Shegog indicated that she believed this condition was worsened by being hit with a tub of books at work on November 7, 2023. On March 13, 2024 she noted that she believed appellant's diagnosed adhesive capsulitis was caused or aggravated by having been hit in the shoulder, resulting in objective findings of pain and limited range of motion. Although Dr. Shegog generally supported causal relationship she did not provide a rationalized medical opinion explaining, pathophysiologically, how the accepted employment incident caused or contributed to the diagnosed condition. The Board has held that a medical opinion that does not offer a rationalized explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions is of limited probative value.¹¹ As such, the Forms CA-20 from Dr. Shegog are insufficient to establish appellant's claim.¹²

Appellant submitted verifications of treatment from a physical therapist and a physician assistant dated December 14 and 21, 2023 and January 2, 2024. Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers, however, are not considered "physician[s]" as defined under FECA.¹³ Consequently, these verifications of treatment are of no probative value for the purpose of establishing entitlement to FECA benefits.¹⁴

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted November 7, 2023 employment incident, the Board finds that appellant has not met her burden of proof.

¹⁰ *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *Willie M. Miller*, 53 ECAB 697 (2002).

¹¹ *J.B.*, Docket No. 21-0011 (issued April 20, 2021); *A.M.*, Docket No. 19-1394 (issued February 23, 2021).

¹² *B.S.*, Docket No. 22-0102 (issued May 19, 2022); *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D'Wayne Avila*, 57 ECAB 642, 649 (2006).

¹³ Section 8101(2) of FECA provides that medical opinions can only be given by a qualified physician. This section defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006); see also *R.K.*, Docket No. 20-0049 (issued April 10, 2020) (physician assistants are not considered physicians under FECA).

¹⁴ See *id.*

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 cervical, left shoulder, or lumbar condition causally related to the accepted November 7, 2023 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 30, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 5, 2024
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