

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

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D.M., Appellant)	
)	
and)	Docket No. 24-0832
)	Issued: September 12, 2024
U.S. POSTAL SERVICE, LIBERTY HILL POST)	
OFFICE, Liberty Hill, TX, Employer)	
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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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 12, 2024 appellant filed a timely appeal from a July 26, 2024 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.²

ISSUE

The issue is whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted factors of his federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the July 26, 2024 decision, appellant submitted additional evidence to OWCP. 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.*

FACTUAL HISTORY

On May 13, 2024 appellant, then a 52-year-old Postmaster, filed an occupational disease claim (Form CA-2) alleging that he developed a right shoulder condition due to factors of his federal employment including repetitive pitching and lifting heavy parcels during peak season. He noted that he first became aware of his condition and realized its relation to his federal employment on December 1, 2015. Appellant stopped work on April 22, 2024.

On May 14, 2024 the employing establishment challenged appellant's claim, asserting that appellant delayed in reporting his December 1, 2015 employment injury until May 13, 2024, when he filed his claim. It further noted that, as a Postmaster, he did not pitch mail or parcels; rather, he assigned those duties to other employees. The employing establishment submitted a job description for a Postmaster.

In a May 15, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. No additional evidence was received.

In a follow-up letter dated June 17, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the May 15, 2024 letter to submit the requested supporting evidence. OWCP further indicated that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

OWCP received a magnetic resonance imaging (MRI) scan of the right shoulder dated June 27, 2024, which demonstrated an articular surface tear of the supraspinatus tendon with delamination and propagation medially, infraspinatus tendinopathy and small articular surface tear, irregularity and signal hyperintensity in the superior glenoid labrum suspicious for a superior labrum anterior and posterior (SLAP) tear, irregularity of the articular cartilage in the glenoid with at least one small full-thickness defect inferiorly, glenohumeral joint effusion, and fluid in the long head of the biceps tendon sheath suggesting tenosynovitis.

By decision dated July 26, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted factors of his federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

LEGAL PRECEDENT

A claimant 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

³ *Supra* note 1.

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 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 causally related to the identified employment factors.

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ The opinion of the physician must be based upon a complete factual and medical background, 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 factors.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted factors of his federal employment.

Appellant has only submitted an MRI scan of the right shoulder dated June 27, 2024. The Board has held, however, that diagnostic studies, standing alone, lack probative value as they do not address whether the accepted employment factors resulted in appellant's diagnosed medical conditions.⁹ Consequently, this report will not suffice for purposes of establishing appellant's claim.

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted factors of his federal employment, the Board finds that appellant has not met his burden of proof.

⁴ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 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 *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

⁹ *L.A.*, Docket No. 22-0463 (issued September 29, 2022); *D.K.*, Docket No. 21-0082 (issued October 26, 2021); *O.C.*, Docket No. 20-0514 (issued October 8, 2020); *R.J.*, Docket No. 19-0179 (issued May 26, 2020).

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 diagnosed medical condition in connection with the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the July 26, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 12, 2024
Washington, DC

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

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

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