

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

D.C., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Macomb, MI, Employer**

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**Docket No. 15-1214
Issued: August 12, 2015**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 6, 2015 appellant filed a timely appeal from an April 21, 2015 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 injury causally related to her federal employment.

FACTUAL HISTORY

On December 26, 2013 appellant, then a 41-year-old rural carrier, filed a Form CA-2 occupational disease or illness claim, alleging that she sustained a right shoulder rotator cuff tear as a result of her federal employment. On the claim form, she reported that her physician had

¹ 5 U.S.C. § 8101 *et seq.*

stated that overhead lifting had contributed to her condition. Appellant also indicated that she became aware of her medical condition on October 8, 2012 and its relationship to employment on October 28, 2012. The reverse of the claim form indicated that appellant worked one day per week.

Appellant related in a narrative statement dated December 26, 2013 that on October 8, 2012 she felt a pop and had pain in her upper right arm.² She stated that her job duties involved lifting and carrying of heavy trays. According to appellant, she worked two days a week at 8.5 hours per day. In an undated statement, a supervisor indicated that appellant had completed a Form CA-1 traumatic injury claim on April 11, 2013. The supervisor stated that appellant had a full-time job in private employment. As to her work schedule, the supervisor stated that during the past 25 weeks, there were 10 weeks when appellant worked only one day. The supervisor also stated that a rural carrier does not constantly require overhead activity, as there were only one to four hours spent casing mail that required some lifting of the arm above shoulder level.

The record indicates that appellant underwent right shoulder arthroscopic surgeries on November 16, 2012 and April 2, 2013. By report dated May 8, 2013, Dr. Jeff Carroll, an osteopath, stated that appellant had a right shoulder labral tear and subsequently developed a frozen shoulder. He reported that appellant had developed pain on October 8, 2012 while delivering mail, and a right shoulder magnetic resonance imaging (MRI) scan was consistent with a partial tear of the rotator cuff. Dr. Carroll diagnosed right shoulder rotator cuff and superior labrum anterior and posterior (SLAP) tear. He stated, "The work-related injury described in her history is consistent with labral tear as far as mechanism of injury that may cause a labral tear. In her employment since 2004, [appellant] is constantly using her upper extremities in an elevated position to sort mail. This occupation requires heavy lifting and delivering tubs of mail and I believe her shoulder symptoms are a direct result of her described work-related injury, as she had no shoulder complaints prior to this time."

In a report dated December 23, 2013, Dr. Carroll stated that appellant "describes a twisting injury while lifting an object at work above the level of her shoulders." He reported that this was the injury that caused appellant's shoulder problem, and "excessive use of the upper extremities, as described in [appellant]'s job description, will put excessive stress on the joints, ligaments and tendons on the shoulders, particularly in elevated positions." Dr. Carroll concluded that appellant's shoulder symptoms were the direct result of appellant's "described work-related injury."

By decision dated June 5, 2014, OWCP denied the claim for compensation. It found the medical evidence was insufficient to establish the claim.³

Appellant requested a hearing before an OWCP hearing representative, which was held on February 3, 2015. She described an October 8, 2012 incident when she picked up a tray of mail and felt a pop in her right shoulder. As to work duties, appellant stated that her job

² The copy of the statement in the record is difficult to read.

³ OWCP noted that appellant had filed a claim for a traumatic injury on October 8, 2012. It has not accepted an injury on October 8, 2012.

involved sorting mail and lifting her arms above her shoulder. She indicated that some trays were above shoulder level, others were below shoulder level. Appellant submitted a June 18, 2014 report from Dr. Carroll, who again reported that appellant sustained a twisting injury while lifting an object above shoulder level. Dr. Carroll stated that excessive use of the arms, even on a part-time basis, will put stress on the joints, ligaments, and tendons of the shoulder. He found appellant sustained a SLAP tear, most common in patients who do excessive or repetitive overhead activities. Dr. Carroll noted that appellant had a full-time job in private employment, and while this required use of the arms, this activity was below shoulder level and did not correlate with the mechanism of injury. In a brief report dated February 26, 2015, he opined that appellant's federal job occupation caused the right shoulder injury within a reasonable degree of medical certainty.

By decision dated April 21, 2015, the hearing representative affirmed the June 5, 2014 OWCP decision. She found the medical evidence was insufficient to establish the claim.

LEGAL PRECEDENT

A claimant seeking benefits under FECA⁴ has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁵

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁷ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁸ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining

⁴ 5 U.S.C. §§ 8101-8193.

⁵ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁶ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁹

ANALYSIS

In the present case, appellant reports that she sustained a right shoulder injury causally related to her federal employment as a rural carrier. She has submitted reports from Dr. Carroll diagnosing a rotator cuff and SLAP tear. Appellant underwent arthroscopic right shoulder surgeries on November 16, 2012 and April 2, 2013.

The medical evidence of record does not provide a rationalized medical opinion that is based on a complete and accurate background. The factual evidence indicated that appellant worked only one or two days per week. Her job as a rural carrier did involve some casing mail for part of her workday and there were times when she would have to reach overhead to lift a tray of mail. Dr. Carroll did not discuss the specifics of appellant's work duties, or acknowledge the actual number of hours worked.¹⁰ There is only a general reference to working part time and a job description, without further explanation. In his May 8, 2013 report, Dr. Carroll uses terms like "constantly" in describing appellant's arm are in an elevated position. He notes "excessive" use in his December 23, 2013 and June 18, 2014 reports, without further explanation to define his finding. In the June 18, 2014 report, Dr. Carroll merely refers to "excessive or repetitive overhead activities." Thus, the factual evidence of record did not establish "excessive" overhead activity, but rather, some overhead activity performed one or two days per week.

In addition, Dr. Carroll states that appellant sustained a right shoulder injury on October 8, 2012. Appellant filed a traumatic injury claim for injury on that date, but that claim was not accepted. It is unclear which specific injury Dr. Carroll believes occurred to the shoulder on October 8, 2012. The traumatic injury claim is not before the Board. Dr. Carroll fails to provide a rationalized medical opinion on the contribution from appellant's overhead activity in federal employment. He notes that overhead arm use can put stress on the shoulder, but omits further explanation on causal relationship. Dr. Carroll's statement that overhead activity can cause stress to the shoulder is not a rationalized opinion on whether the diagnosed conditions were causally related to appellant's federal employment in this case. Moreover, the statement, standing alone, in the May 8, 2013 report that appellant did not have prior shoulder symptoms is insufficient. An opinion that a condition is causally related to an employment injury because the employee was asymptomatic before the injury but symptomatic after it is insufficient, without supporting rationale, to establish causal relationship.¹¹

On appeal, appellant states that she believes she has submitted sufficient medical evidence, noting that Dr. Carroll had several times stated that her disability was employment

⁹ *Id.*

¹⁰ See *M.R.*, Docket No. 14-11 (issued August 27, 2014) (physician did not prove sufficient detail regarding appellant's work duties and hours worked in an opinion on causal relationship between a SLAP tear and federal employment).

¹¹ See *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996) (because the employee is symptomatic after an injury is not sufficient to establish causal relationship without supporting rationale).

related. As noted, Dr. Carroll's reports are of diminished probative value to the issue presented. To meet her burden of proof appellant must submit a medical opinion which demonstrates an understanding of the specific work history of one or two days per week and the job duties performed, and thereafter provide sound medical reasoning to support an opinion that a diagnosed condition was causally related to the identified employment activity.

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 appellant did not meet her burden of proof to establish a right shoulder injury causally related to her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 21, 2015 is affirmed.

Issued: August 12, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board