



Federal Employees' Compensation Act<sup>3</sup> (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 his burden of proof to establish a medical condition causally related to the accepted July 10, 2019 employment incident.

### **FACTUAL HISTORY**

On July 16, 2019 appellant, then a 49-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on July 10, 2019 he sprained or pulled a muscle in his right shoulder when sorting and lifting mail on skids while in the performance of duty. He stopped work on July 15, 2019.

In a July 22, 2019 development letter, OWCP advised appellant of the deficiencies of his claim. It requested additional factual and medical evidence and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

Dr. Onyeama Obidi Anakwe, an osteopath specializing in family medicine, completed a duty status report (Form CA-17) diagnosing sprain/strain of the right shoulder on July 22, 2019. He noted that appellant reported that he injured his right shoulder while lifting trays of mail. On August 5, 2019 Dr. Anakwe completed a similar report noting that appellant also reported injuring his low back along with his right shoulder. He diagnosed right shoulder sprain and strain, as well as lumbar sprain. In a Form CA-17 dated August 19, 2019, Dr. Anakwe again noted that appellant reported injuring his right shoulder and low back while lifting mail. He reiterated his diagnoses of sprain/strain of the right shoulder and sprain/strain of the lumbar spine.

By decision dated August 28, 2019, OWCP denied appellant's traumatic injury claim finding that he had not established that the injury or events occurred as he described. It concluded, therefore, that the requirements had not been met to establish as injury as defined by FECA.

On September 3, 2019 appellant requested reconsideration and submitted additional medical evidence. In a July 22, 2019 report, Dr. Anakwe diagnosed right shoulder strain/sprain/contusion with possible internal derangement. He noted appellant's history of injury on July 10, 2019 while taking trays of mail weighing 20 to 40 pounds from a pallet. Dr. Anakwe noted that appellant reported hearing a "pop" in his right shoulder as he lifted the mail trays. He noted that appellant's right shoulder demonstrated limited range of motion with severe tenderness upon palpation of the acromioclavicular (AC) joint, supraspinatus, and infraspinatus muscles.

On August 8, 2019 appellant underwent a magnetic resonance imaging (MRI) scan of the right shoulder which demonstrated moderate acromioclavicular productive changes with partial supraspinatus impingement and supraspinatus tendinopathy with partial tear at its footprint insertional fibers. He also underwent a lumbar MRI scan which demonstrated an annular tear with a broad central herniated disc at L5-S1 as well as a bulging disc at L4-5.

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

In an August 19, 2019 narrative statement, appellant described his work duties, including standing, walking, kneeling, bending, stooping, pushing, pulling, reaching above the shoulder, and lifting up to 70 pounds. He asserted that he injured his right shoulder and back on July 10, 2019. Appellant explained that on July 10, 2019 he was “breaking down” pallets of mail containing trays of letters weighing from 10 to 40 pounds when he injured his right shoulder and back from constant repetitive lifting, pulling, pushing, and bending while “breaking down” the mail. He informed his coworkers of his condition and left work at 9:00 p.m. Appellant sought medical treatment in the emergency room on July 13, 2019.

In an August 19, 2019 treatment note, Dr. Anakwe noted that appellant exhibited severe muscle spasm and palpable tenderness in the paralumbar region with loss of range of motion. He also found that appellant’s right shoulder had limited range of motion with severe tenderness and spasm. Dr. Anakwe opined that appellant was disabled secondary to the July 10, 2019 work-related accident.

On August 31, September 14, and October 12, 2019 Dr. Anakwe completed CA-17 forms and diagnosed sprain/strain of the right shoulder and low back. He again noted appellant’s history of injuring his right shoulder and low back while lifting boxes of mail and pallets of mail.

In a September 12, 2019 statement, appellant described “breaking down” pallets or skids using a knife to cut the straps and take the sleeves off and then lifting the trays onto the assigned knockers. He noted that some of the skids were as tall as he was. Appellant also provided a photograph of his assigned work area.

On September 30, 2019 Dr. Anakwe completed an attending physician’s report (Form CA-20) and described appellant’s history of injuring his right shoulder and low back while lifting mail. He checked a box marked “Yes” indicating that he believed that the conditions found were caused or aggravated by the described employment activities. Dr. Anakwe noted findings including the MRI scan results of tear of the shoulder muscle and herniated lumbar disc. He included remarks that appellant had a herniated disc in the lumbar region with possible radiculopathy which may result in permanent sciatica. Dr. Anakwe also noted that appellant had right shoulder impingement and tear which may take time to heal. He completed an additional Form CA-17 on September 30, 2019.

By decision dated October 16, 2019, OWCP denied modification of its prior decision.

In an August 31, 2019 treatment note, Dr. Anakwe diagnosed lumbosacral strain/sprain/contusion with possible herniated disc and radicular symptoms as well as right shoulder strain/sprain/contusion with possible internal derangement. He found that appellant was disabled secondary to the work-related accident. On September 14, 2019 Dr. Anakwe repeated these findings and conclusion. On August 31, October 26, November 7, and 19, 2019 he completed CA-17 forms and repeated the diagnoses of sprain and strain of the right shoulder and low back.

In an October 10, 2019 note, Dr. Mark Avart, an osteopath specializing in orthopedic surgery, diagnosed impingement syndrome of the right shoulder, adhesive capsulitis of the right shoulder, bursitis of the right shoulder, and sprain of right rotator cuff capsule. He completed a note on November 7, 2019 and added the additional diagnoses of low back pain and lumbar radiculopathy.

Dr. Anakwe examined appellant on October 12, and 26, 2019 and again diagnosed right shoulder and lumbosacral strain/sprain/contusion as well as possible herniated disc with radicular symptoms and possible internal derangement of the right shoulder.

On December 3, 2019 Dr. Harris A. Ross, an osteopath specializing in physiatry, noted that appellant attributed his low back pain and pain radiating into the right lower extremity to a work injury on July 10, 2019. He noted that appellant's work required him to remove and sort trays from skids that ranged from four to five feet high and that the trays weighed between 30 and 40 pounds. Dr. Ross reported that as a result of lifting appellant had developed low back and right shoulder pain. He diagnosed sprain and strain of myoligamentous supporting structures of the lumbar spine with herniated discs and lower extremity radiculopathy and opined that it is within a reasonable degree of medical certainty that these conditions were a direct result of the injury sustained.

In notes dated December 4, 17, and 31, 2019, as well as January 14, 2020, Dr. Anakwe repeated his findings and diagnoses of lumbosacral strain/sprain/contusion with possible herniated disc and radicular symptoms as well as right shoulder strain/sprain/contusion with possible internal derangement. He completed CA-17 forms on December 31, 2019, January 14 and 27, 2020 and February 11, 2020 repeating these diagnoses.

On January 10, 2020 Dr. Ross performed electromyogram and nerve conduction velocity (EMG/NCV) studies and found these studies suggestive of left L5 radiculopathy.

On February 14, 2020 appellant, through counsel, requested reconsideration of the October 16, 2019 decision in reliance on Dr. Ross' reports. He also provided witness statements from four coworkers, Z.L., D.J., E.S., and J.C. confirming that appellant had informed them that he had hurt his shoulder on July 10, 2019. Appellant also submitted February 25 and March 10, 2020 CA-17 forms from Dr. Anakwe which continued to diagnose right shoulder sprain/strain and lumbar sprain/strain.

In a report dated January 9, 2020, Dr. Avart diagnosed lumbar radiculopathy, low back pain, impingement syndrome of the right shoulder, bursitis of the right shoulder, adhesive capsulitis of the right shoulder, and sprain of the right rotator cuff capsule. He recommended right shoulder surgery related to the July 10, 2019 injuries. Dr. Avart further recommended continued conservative treatment of appellant's lumbar conditions.

On January 27 and February 25, 2020 Dr. Anakwe examined appellant due to back and right shoulder pain. He repeated his diagnoses of right shoulder sprain/strain/contusion with internal derangement and lumbar sprain/strain/contusion with left radiculopathy.

By decision dated May, 20, 2020, OWCP modified its prior decision, finding that appellant had established that the employment incident occurred as alleged. However, it further denied his claim, finding that he had not provided the necessary medical opinion evidence to establish causal relationship between his accepted July 10, 2019 employment incident and the diagnosed right shoulder and back conditions.

## LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact 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 period of FECA,<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>7</sup> The second component is whether the employment incident caused a personal injury.<sup>8</sup>

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.<sup>9</sup> 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 the specific employment factor(s) identified by the employee.<sup>10</sup> The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.<sup>11</sup>

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted July 10, 2019 employment incident.

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<sup>4</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *T.M.*, Docket No. 19-0380 (issued June 26, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>8</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *S.A.*, Docket No. 18-0399 (issued October 16, 2018); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>10</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>11</sup> *D.R.*, Docket No. 19-0954 (issued October 25, 2019); *James Mack*, 43 ECAB 321 (1991).

Appellant provided reports dated December 3, 2019 and January 10, 2020 from Dr. Ross who described appellant's work duties and opined that as a result of lifting appellant had developed low back pain and right shoulder pain. Dr. Ross diagnosed sprain and strain of myoligamentous supporting structures of the lumbar spine with herniated discs and lower extremity radiculopathy and opined within a reasonable degree of medical certainty that these conditions were a direct result of the injury sustained. Although he opined that appellant's conditions were a direct result of the July 10, 2019 employment incident, this general statement on causation failed to provide a sufficient explanation as to the mechanism of injury pertaining to this traumatic injury claim, namely how appellant's lifting activities on July 10, 2019 caused the diagnosed back and right shoulder conditions.<sup>12</sup> As Dr. Ross' opinions regarding causal relationship between the accepted injury and the additional claimed conditions were conclusory and unrationalized, the Board finds that they are insufficient to meet appellant's burden of proof to establish his claim.<sup>13</sup>

Appellant submitted medical reports from Dr. Anakwe dated July 22, 2019 through February 20, 2020. In a form report dated September 30, 2019, Dr. Anakwe checked a box marked "Yes," without further comment, indicating that the diagnosed conditions were caused or aggravated by the employment incident. The Board has held that when a physician's opinion on causal relationship consists only of checking "Yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.<sup>14</sup> In the remainder of his reports, Dr. Anakwe noted appellant's history of injury and diagnosed back and shoulder sprains/strains/contusions, but he did not offer an opinion as to causal relationship. 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.<sup>15</sup> Dr. Anakwe's reports, therefore, are insufficient to establish appellant's claim.

Appellant also provided notes from Dr. Avart dated October 10, 2019 through January 9, 2020. Dr. Avart diagnosed lumbar radiculopathy, low back pain, impingement syndrome of the right shoulder, bursitis of the right shoulder, adhesive capsulitis of the right shoulder, and sprain of the right rotator cuff capsule. He did not offer an opinion regarding the cause of appellant's condition. As noted above, 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.<sup>16</sup> Dr. Avart's reports, therefore, are insufficient to establish appellant's claim.

OWCP also received MRI scans and electrodiagnostic studies. The Board has held that diagnostic studies, standing alone lack probative value as they do not address whether the

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<sup>12</sup> *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.R.*, Docket No. 16-1901 (issued April 17, 2017).

<sup>13</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020).

<sup>14</sup> *R.P.*, Docket No. 20-0161 (issued October 23, 2020); *M.G.*, Docket No. 18-1616 (issued April 9, 2020); *Sedi L. Graham*, 57 ECAB 494 (2006); *D.D.*, 57 ECAB 734 (2006).

<sup>15</sup> *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>16</sup> *Id.*

employment incident caused any of the diagnosed conditions.<sup>17</sup> Such reports are therefore insufficient to establish appellant's claim.

As the record lacks rationalized medical evidence establishing causal relationship between the accepted July 10, 2019 employment incident and appellant's diagnosed right shoulder and back conditions, the Board finds that he has not met his burden of proof.

Appellant may submit additional evidence or argument with a written request for reconsideration, to OWCP within one year of the Board's 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 medical condition causally related to the accepted July 10, 2019 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 20, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 8, 2021  
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

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<sup>17</sup> *F.D.*, Docket No. 19-0932 (issued October 3, 2019).