

employment on January 10, 2011. Appellant notified his supervisor on January 10, 2011 and stopped work the following day.

In a January 10, 2011 narrative statement, appellant reported that on January 6, 2011 he was on his route when he injured both of his shoulders. He first noticed discomfort while on route and the pain continued throughout the weekend.

In a January 11, 2011 attending physician's report (Form CA-20), appellant's physician diagnosed bilateral shoulder sprain and strain due to continuous lifting.

In a January 11, 2011 duty status report (Form CA-17), appellant's physician reported that he was injured on January 7, 2011. Appellant did not know how the injury occurred other than both of his shoulders were bothering him by the end of the day. The physician diagnosed bilateral shoulder pain and provided appellant with work restrictions.

By letter dated January 13, 2011, Amy McCall, a customer service manager, reported that appellant informed her of his injury on January 10, 2011, stating that he injured his shoulder on January 6, 2011. Appellant reported that he did not have shoulder pain prior to January 6, 2011 and did not know how it happened. Ms. McCall controverted the claim stating that appellant could not state where he was, what he was doing and the activity which caused him pain.

In a September 12, 2010 e-mail, Randy LeBlang, a branch supervisor, reported that appellant approached him on September 8, 2010 inquiring about workers' compensation for his shoulder which he had injured the week before.

By letter dated January 24, 2011, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised of the medical and factual evidence needed and asked that he respond to the provided questions within 30 days.

In January 11 and 13, 2011 medical reports, appellant's physician reported that appellant complained of bilateral shoulder pain from continuous lifting and reaching overhead.

In a February 2, 2011 report, Brad Chayet, a physician's assistant (PA), stated that appellant complained of bilateral shoulder pain which began on January 6, 2011. Appellant reported that he experienced pain with overhead activity and reaching. He diagnosed bilateral shoulder pain, right with impingement and rotator cuff tendinitis.

By decision dated February 25, 2011, OWCP denied appellant's claim finding that the evidence did not establish that the occupational exposure occurred as alleged. It also noted that he failed to establish that he sustained an injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing 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 filed within the applicable time

² 5 U.S.C. §§ 8101-8193.

limitation period of FECA³ and that an injury was sustained in the performance of duty.⁴ These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or occupational disease.⁵

When an employee claims that he sustained an injury in the performance of duty he must submit sufficient evidence to establish a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.⁶ Once an employee establishes that he sustained an injury in the performance of duty, he has the burden of proof to establish that any subsequent medical condition or disability for work, for which he claims compensation is causally related to the accepted injury.⁷

ANALYSIS

The Board finds that appellant failed to establish that he sustained a bilateral shoulder injury in the performance of duty as a mail carrier.

Appellant must establish all of the elements of his claim in order to prevail. He must prove his employment, the time, place and manner of injury, a resulting personal injury and that his injury arose in the performance of duty. Appellant alleged that he sustained bilateral shoulder pain from his duties as a mail carrier.

Appellant has not provided sufficient detail to establish that an occupational exposure occurred as alleged.⁸ He failed to adequately describe the circumstances of his injury, how he injured his shoulders and the duties he was performing which caused his injury. Appellant did not respond to the questionnaire in OWCP's January 24, 2011 development letter and did not provide OWCP with the additional factual evidence requested. Moreover, the employing establishment controverted the claim stating that it was unclear when the injury occurred due to his conflicting reports.

Appellant did not submit sufficient medical evidence even to establish her claim. The duty status report diagnosed bilateral shoulder sprain and strain due to continuous lifting. The January 11, 2011 report stated bilateral shoulder pain due to continuous lifting and reaching overhead. Neither report provides an adequate explanation of the activities performed during employment which might have caused a shoulder injury. The medical evidence failed to describe a mechanism of injury other than generally stating it was caused by reaching overhead and lifting.

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *James E. Chadden Sr.*, 40 ECAB 312 (1988).

⁵ *Delores C. Ellyet*, 41 ECAB 992 (1990).

⁶ *See generally John J. Carlone*, 41 ECAB 354 (1989); *see also* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. § 10.5(q) and (ee) (1999) (occupational disease or illness and traumatic injury defined). *See Victor J. Woodhams*, 41 ECAB 345 (1989) regarding a claimant's burden of proof in an occupational disease claim.

⁷ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁸ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

The report of PA Chayet is also insufficient because registered nurses, licensed practical nurses and physicians assistants are not physicians as defined under FECA and their opinions are of no probative value.⁹

In the instant case, the record lacks any evidence establishing the factual element of appellant's claim, namely, when and how it occurred. The record also lacks rationalized medical evidence to establish an injury causally related to her employment. An award of compensation may not be based on surmise, conjecture or speculation. Because appellant did not submit sufficient evidence establishing the alleged occupational injury claim as OWCP properly denied his claim.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a bilateral shoulder injury in the performance of duty as a mail carrier.

ORDER

IT IS HEREBY ORDERED THAT the February 25, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 14, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

⁹ 5 U.S.C. § 8102(2) of FECA provides as follows: (2) 'physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law.