

On June 24, 2006 appellant, then a 44-year-old mail handler, filed a traumatic injury claim alleging that the constant lifting of mail trays and putting them into all-purpose containers (APC's) affected her right and left shoulders, right back, right leg and foot. She alleged that her injury occurred on June 23, 2006. Appellant stopped work on June 24, 2006.

The Office received a June 20, 2006 physical therapy evaluation, part of an August 8, 2006 report, from an orthopedic surgeon whose name is illegible and nurses' notes. In emergency room records dated June 24, 2006, a physician whose signature is illegible, noted that appellant was seen for complaints of back pain. Appellant related that she was at work lifting and turning her body when she felt pain in her shoulder and back. The physician diagnosed upper back pain and bilateral shoulder pain.

On July 29, 2006 the employing establishment controverted the claim noting that it was not a traumatic injury.

Appellant submitted a June 28, 2006 report from Dr. Al Sardinas, a Board-certified orthopedic surgeon, who noted appellant's history of injury and treatment and conducted a physical examination of the cervical spine. Dr. Sardinas indicated that appellant had tenderness into the paravertebral musculature bilaterally and into both medial scapular border areas. Regarding range of motion, he found that it was limited to 25 percent due to pain, in all directions. Dr. Sardinas conducted a neurological examination of the upper extremities and noted diminished superficial tactile sensation in the right hand and indicated that appellant's motor reflexes were bilaterally symmetrical and intact. Regarding the right shoulder, he determined that appellant had tenderness in the subacromial space less than on the right, and tenderness on abduction beyond 90 degrees. As to the left shoulder, he found tenderness in the subacromial space area to a lesser extent than on the right and tenderness on abduction beyond 90 degrees. Dr. Sardinas also found tenderness in the paravertebral musculature bilaterally into both posterior thighs and positive straight leg raising bilaterally at 20 degrees. He diagnosed a traumatic strain of the cervical and lumbar spine. Dr. Sardinas completed disability certificates dated June 28 and August 23, 2006, advising that appellant could not return to work.

By letter dated August 11, 2006, the Office advised appellant that it was developing her claim as an occupational disease claim. The Office requested additional information and allotted appellant 30 days within which to submit evidence. In a separate letter also dated August 11, 2006, the Office also requested additional information from the employing establishment.

On August 16, 2006 appellant filed a CA-7 form for compensation from July 28 to September 28, 2006.

By letter dated September 7, 2006, appellant alleged that, on June 23, 2006, she was constantly lifting heavy trays of mail off a conveyor belt, putting them into APC's and dispatching heavy APC's. She alleged that, at approximately 6:00 p.m., she was lifting a tray of mail that weighed about 45 pounds off the conveyor belt, when she turned and leaned into the APC. Appellant felt a sharp pain in her shoulder, down her hand and in her lower back, leg and left shoulder. She alleged that she had "no activities." Further, appellant alleged that she had continuous pain.

By decision dated September 19, 2006, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish causal relation.<sup>1</sup>

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<sup>1</sup> The Office denied appellant's July 28, 2006 claim for compensation.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</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>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.<sup>5</sup>

### **ANALYSIS**

Appellant submitted insufficient medical evidence to establish that her strain of the cervical and lumbar spine was caused or aggravated by factors of her federal employment. The medical evidence of record fails to provide any explanation of how her federal work duties caused or contributed to her diagnosed conditions. The Office informed appellant of the evidence needed to establish her claim in its letter of August 11, 2006.

In a June 28, 2006 report, Dr. Sardinas diagnosed a traumatic strain of the cervical and lumbar spine. However, he did not provide an opinion regarding the cause of these diagnosed

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Id.*

conditions. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>6</sup>

Appellant submitted hospital and diagnostic reports regarding a back condition; however, these reports do not contain a discussion on causal relationship. As noted, the requisite evidence needed to establish the claim was a medical report from a physician explaining how her federal employment contributed to her diagnosed conditions.<sup>7</sup>

The record also contains reports from physical therapists and nurses. However, health care providers such as nurses and physical therapists are not physicians under the Act. Thus, their opinions do not constitute medical evidence and have no weight or probative value.<sup>8</sup>

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>9</sup> Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup> Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no medical evidence explaining how appellant's employment duties caused or aggravated a condition, appellant has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

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<sup>6</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>7</sup> *See supra* note 4.

<sup>8</sup> *See Jan A. White*, 34 ECAB 515, 518 (1983). *See* 5 U.S.C. § 8101(2). This subsection defines the term "physician." *See also Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

<sup>9</sup> *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>10</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated September 19, 2006 is affirmed.

Issued: March 14, 2007  
Washington, DC

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

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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