



In a November 28, 2006 statement, appellant noted that, after loading mail, he pushed a general purpose container to the rear of a trailer and injured his arms and shoulders. In support of his claim, appellant submitted a November 29, 2006 Form CA-17, duty status report prepared by Dr. William F. Moore, a Board-certified family practitioner, who diagnosed cervical radiculopathy and recommended that appellant return to work subject to various restrictions.

By letter dated December 12, 2006, the Office asked appellant to submit additional information, including a comprehensive medical report from his treating physician which included a reasoned explanation as to how the specific work factors or incidents identified by him had contributed to his claimed injury.

Appellant submitted a treatment note from Dr. Moore dated November 29, 2006, who treated him for bilateral arm pain which began when he was pushing a mail container at work. Dr. Moore diagnosed cervical disc and cervical radiculopathy. In a January 15, 2007 attending physician's report, he noted that on November 28, 2006 appellant experienced neck and arm pain after pushing a mail container at work. Dr. Moore diagnosed cervical radiculopathy and noted with a checkmark "yes" that appellant's condition was caused or aggravated by an employment activity. He prescribed pain medicine and advised that appellant was totally disabled from November 29, 2006 to January 15, 2007.

In a decision dated January 18, 2007, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his condition was caused by factors of employment.<sup>1</sup>

### **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 filed within the applicable time limitation 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. 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>3</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>4</sup> The second

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Id.*

<sup>3</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>4</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a 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, based on a complete factual and medical background, supporting such a causal relationship.<sup>5</sup>

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>6</sup> The weight of 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>7</sup>

### ANALYSIS

The record establishes that on November 28, 2006 appellant was pushing a mail container as alleged. The Board finds, however, that the medical evidence is not sufficient to establish that he sustained a bilateral arm and shoulder injury causally related to the November 28, 2006 incident.

On December 12, 2006 the Office advised appellant of the medical evidence needed to establish his claim. Appellant did not submit a rationalized narrative medical report from an attending physician addressing how pushing the mail container caused or aggravated his claimed condition.

Appellant submitted a duty status report and a treatment note dated November 29, 2006 from Dr. Moore who treated him for bilateral arm pain which began while appellant was pushing a mail container at work. Dr. Moore diagnosed cervical disc and cervical radiculopathy and advised that appellant return to work subject to various restrictions. However, these reports failed to provide a rationalized opinion addressing the causal relationship between appellant's bilateral arm and shoulder condition and the factors of employment believed to have caused or contributed to such condition.<sup>8</sup> Appellant did not submit a physician's report explaining how the November 28, 2006 work incident caused or aggravated the cervical condition with radiculopathy as diagnosed by Dr. Moore. The medical evidence fails to provide a history of his cervical condition or explanation of how his work activities would cause the symptoms noted on

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

<sup>6</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>7</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>8</sup> *Id.*

November 29, 2006. Therefore, these reports are insufficient to meet appellant's burden of proof.

On January 15, 2007 Dr. Moore noted that on November 28, 2006 appellant experienced neck and arm pain while pushing a mail container at work. He diagnosed cervical radiculopathy and noted with a checkmark "yes" that appellant's condition was caused or aggravated by an employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.<sup>9</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment, nor is the belief that his condition was caused, precipitated or aggravated by his employment sufficient to establish causal relationship.<sup>10</sup> Causal relationship must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office properly denied his claim for compensation.

### **CONCLUSION**

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a bilateral arm and shoulder injury causally related to his November 28, 2006 employment incident.<sup>11</sup>

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<sup>9</sup> *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

<sup>10</sup> *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>11</sup> With his request for an appeal, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 18, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 11, 2007  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

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