

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

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N.S., Appellant )

and )

U.S. POSTAL SERVICE, POST OFFICE, )  
Vincentown, NJ, Employer )

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**Docket No. 08-1913  
Issued: January 16, 2009**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
COLLEEN DUFFY KIKO, Judge

**JURISDICTION**

On June 27, 2008 appellant timely appealed the Office of Workers' Compensation Programs' merit decision dated June 28, 2007. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant has established that he sustained an injury on December 27, 2006 as a result of his employment-related motor vehicle accident.

**FACTUAL HISTORY**

On December 27, 2006 appellant, a rural letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on that day he sustained a neck sprain as the result of an employment-related motor vehicle accident. He submitted no other supporting evidence with his CA-1 form.

By letter dated January 5, 2007, the Office acknowledged receipt of appellant's claim and notified him that the evidence failed to establish that he actually experienced the incident or

employment factor alleged to have caused the injury and that the evidence lacked a diagnosis of any condition resulting from the December 27, 2006 injury.

Responding to this letter, appellant submitted an undated form from the Tatem-Brown Family Practice Center. The form stated that appellant had been treated for cervical sprain on December 28, 2006 and was able to return to work on December 30, 2006. Appellant also submitted discharge instructions from Virtua Health Marlton dated December 27, 2006. The unsigned discharge instructions noted that appellant was treated by Dr. Todd Roberts, a physician, for neck and knee sprain.

By decision dated February 6, 2007, the Office denied appellant's claim for compensation benefits because the evidence submitted was insufficient to support his traumatic injury claim. It specifically found that appellant's simple description of "auto[mobile] accident" did not provide the Office with enough information to determine what exactly happened, and that appellant had not submitted medical evidence sufficient to establish injury.

By letter dated April 2, 2007, appellant requested reconsideration. In his letter, he clarified that his accident was work related. In further support of this allegation, appellant submitted copies of a police report dated December 27, 2006. The police report stated that appellant was involved in a motor vehicle crash that occurred when the mail truck he was driving was struck by another vehicle. Appellant also submitted an employing establishment accident report. In the report, he stated that he was not hurt but sustained a cut on his back and a bruise on his neck from the seatbelt. An annotation on the form indicated that appellant was sent to the emergency room to be evaluated.<sup>1</sup>

By decision dated June 28, 2007, the Office modified the February 6, 2007 denial of appellant's claim. Although it found the evidence submitted established that the incident occurred as alleged, nevertheless, appellant had not established an injury as alleged.<sup>2</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of proof to establish the essential elements of his claim by the weight of the evidence,<sup>4</sup> including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment

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<sup>1</sup> The report states that appellant's supervisor instructed appellant on completion of a CA-16 and that a first script and CA-16 had been faxed for completion. The record does not contain evidence of a completed CA-16.

<sup>2</sup> On appeal, appellant submitted additional evidence: copies of medical bills dated January 3, 2007 documenting treatment received December 27, 2006. The Board notes that the Office did not consider this evidence in reaching its final decision. Pursuant to 20 C.F.R. § 501.2(c), the Board's review is limited to the evidence in the case record at the time the Office made its final decision. For this reason, the Board cannot consider this evidence for the first time on appeal.

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *J.P.*, 59 ECAB \_\_\_\_ (Docket No. 07-1159, issued November 15, 2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

injury.<sup>5</sup> As part of his burden, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background showing causal relationship.<sup>6</sup> The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>7</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.<sup>8</sup> Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>9</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. 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 factors identified by the employee.<sup>10</sup> The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.<sup>11</sup>

Furthermore, in order to be entitled to reimbursement of medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury. Proof of causal relation in a case such as this must include supporting rationalized medical evidence.<sup>12</sup>

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<sup>5</sup> *G.T.*, 59 ECAB \_\_\_ (Docket No. 07-1345, issued April 11, 2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *G.T.*, *supra* note 5; *Nancy G. O'Meara*, 12 ECAB 67, 71 (1960).

<sup>7</sup> *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

<sup>8</sup> *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *Edward C. Lawrence*, 19 ECAB 442, 445 (1968).

<sup>9</sup> *T.H.*, 59 ECAB \_\_\_ (Docket No. 07-2300, issued March 7, 2008); *John J. Carlone*, 41 ECAB 354, 356-57 (1989).

<sup>10</sup> *I.J.*, 59 ECAB \_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>11</sup> *Charles E. Evans*, 48 ECAB 692 (1997).

<sup>12</sup> *Zane H. Cassell*, 32 ECAB 1537, 1541 (1981); *John R. Benton*, 15 ECAB 48, 49 (1963).

## ANALYSIS

The record supports that on December 27, 2006 appellant was delivering mail on his route when he was involved in a motor vehicle accident. Appellant has therefore established that the incident occurred as alleged. The Board, however, finds the medical evidence insufficient to establish that the accepted employment incident caused a neck sprain.

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 the belief that his condition was caused, precipitated or aggravated by his employment sufficient to establish causal relationship.<sup>13</sup> Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

The Office advised appellant of the evidence required to establish his claim; however, he failed to submit such evidence. The discharge instructions indicate that appellant was treated by Dr. Roberts who diagnosed neck and knee sprains. However, this document is of little probative value. To be of probative medical value, the opinion of the physician must be based on a complete factual and medical background of the claimant, be one of reasonable medical certainty, and 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>14</sup> The medical evidence contains no history of injury and no rationalized medical opinion which relates the accepted incident to the diagnosed neck strain. The Board also notes that the discharge summary itself was not signed by a physician. The Board has held that an unsigned report with no adequate indication that it was signed by a physician is not considered probative medical evidence.<sup>15</sup>

The only other piece of evidence received was an undated, unsigned form from the Tatem-Brown Family Practice Center which indicated that appellant was treated for cervical strain on December 28, 2006. Again, this form lacks probative medical value because it was unsigned, did not provide a history of injury, and did not provide a medical opinion explaining how the accepted incident caused the diagnosed neck strain.

Accordingly, as appellant has failed to submit any probative medical evidence establishing that he sustained a neck sprain in the performance of duty on December 27, 2006, the Office properly denied his claim for compensation.

## CONCLUSION

The Board finds appellant has not established that he sustained a traumatic injury on December 27, 2006.

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<sup>13</sup> *Id.*

<sup>14</sup> *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

<sup>15</sup> *Merton J. Sills*, 39 ECAB 572, (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated June 28, 2008 is affirmed.

Issued: January 16, 2009  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board