

In a February 24, 2010 report, Dr. Frank A. Graf, Board-certified in orthopedic surgery, stated that appellant sustained an injury to his low and middle back while carrying two 50-pound canisters on January 21, 2004. He was restricted from lifting exceeding 50 pounds and repetitive lifting exceeding 20 pounds. Dr. Graf opined that appellant's current condition of chronic thoracolumbar pain was causally related to the January 21, 2004 lifting event. In an April 20, 2010 report, he reiterated that his current thoracic condition originated with the January 21, 2004 work incident. Dr. Graf further stated that appellant sustained an injury to the thoracolumbar spine on February 12, 2010 while working with an apprentice pipe fitter.

By decision dated June 8, 2010, OWCP denied the claim, finding that appellant failed to submit medical evidence sufficient to establish that he sustained a thoracic condition in the performance of duty. Appellant requested reconsideration and submitted a June 23, 2010 report from Dr. Graf which essentially reiterated his previously stated findings and conclusions.

By decision dated August 23, 2010, OWCP denied modification of the June 8, 2010 decision. It noted that Dr. Graf had attributed the onset of appellant's claimed thoracic condition to a January 21, 2004 work incident and that appellant had filed a previously accepted claim, under case number xxxxxx826, which was accepted for lumbar and thoracic sprains resulting from a January 21, 2004 work incident. OWCP stated that it was unclear whether appellant was attributing his injury to the repetitive activities of his work duties or to the January 21, 2004 traumatic injury, as he referenced both of these in his personal statements, and Dr. Graf cited to both in his reports. It found that since appellant submitted medical evidence which addressed both a recurrence and a new injury, he failed to establish a *prima facie* case of causal relationship under either criteria.

The Board notes that factual and medical evidence pertaining to the history of appellant's previously accepted claim for a January 21, 2004 traumatic injury is not contained in the instant record. This is significant given the fact that appellant and Dr. Graf have indicated that his current symptoms are caused or aggravated by a January 21, 2004 work injury. However, the case file does not contain contemporaneous medical reports which discuss appellant's accepted medical conditions as of January 21, 2004. Thus the case record before the Board is incomplete, as it does not include much of the record pertaining to the history and development of appellant's claim, as is required for an informed adjudication of this case. As all the records pertaining to appellant's claim are necessary for complete consideration and adjudication of the issue raised on appeal, the Board, therefore, finds that the appeal docketed as No. 11-830 is not in posture for a decision as the Board is unable to render an informed adjudication of the case.

Accordingly, the August 23, 2010 decision will be set aside and remanded for reconstruction and consolidation of the case records to include the entire case file pertaining to claim numbers xxxxxx826 and xxxxxx310. After such further development as OWCP deems necessary, it should issue an appropriate decision to protect appellant's appeal rights. Once OWCP obtains this information, clarifies the instant record and composes a statement of accepted facts, it should then determine whether appellant sustained a new injury or condition in the performance of duty, or whether appellant sustained a recurrence of his January 21, 2004 injury.

IT IS HEREBY ORDERED THAT the August 23, 2010 decision be remanded for reconstruction and consolidation of the case records.

Issued: November 25, 2011
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board