



injury.<sup>1</sup> He indicated that, on May 16, 2006, while driving his postal vehicle, he experienced a spontaneous return of symptoms (neck pain) related to his 1999 injury. On December 11, 2006 the Office advised appellant that it would adjudicate his claim as a claim for a new injury on May 16, 2006.

An emergency room report dated May 16, 2006 indicated that appellant was seen for neck pain radiating into his shoulder. The diagnosis was cervical radiculopathy.<sup>2</sup>

By decision dated February 2, 2007, the Office denied appellant's claim on the grounds that the medical evidence failed to establish that he sustained an injury on May 16, 2006 in the performance of duty.

### **LEGAL PRECEDENT**

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 actually experienced the employment incident at the time, place and in the manner alleged.<sup>3</sup> Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.<sup>4</sup> An employee may establish that the employment incident occurred as alleged but fail to show that his disability or condition relates to the employment incident.

To establish a causal relationship between an employee's condition and any attendant disability claimed and the employment event or incident, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment incident. 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 incident identified by the employee.<sup>5</sup>

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<sup>1</sup> On appeal appellant asserts that the Office should have reviewed his claim for an injury on May 16, 2006 as a recurrence of disability related to his 1999 claim under OWCP File No. 020763910, rather than a new injury claim under OWCP File No. 022518892. The case record for OWCP File No. 022518892 does not contain any documents relating to the 1999 claim. The Board notes that on October 31, 2006 appellant filed an application for review of an October 3, 2006 decision relating to OWCP File No. 020763910 which was docketed as 07-192. The Board issued a decision in Docket No. 07-192 on June 15, 2007.

<sup>2</sup> Portions of the report are illegible.

<sup>3</sup> *Steven S. Saleh*, 55 ECAB 169 (2003); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>4</sup> *Shirley A. Temple*, 48 ECAB 404 (1997).

<sup>5</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, *supra* note 4.

**ANALYSIS**

The Board finds that the evidence is insufficient to establish that appellant sustained an injury on May 16, 2006 in the performance of duty.

Appellant alleged that on May 16, 2006 he injured his neck while driving his postal vehicle. An emergency room report dated May 16, 2006 indicated that he was seen for neck pain radiating into his shoulder. The diagnosis was cervical radiculopathy. However, there is no medical rationale provided in the report which explains how appellant's cervical condition was caused or aggravated by the employment incident on May 16, 2006 when he was driving his postal vehicle. Therefore, the Office properly denied his claim.

**CONCLUSION**

The Board finds that appellant failed to establish that he sustained an injury on May 16, 2006 in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 2, 2007 is affirmed.

Issued: September 10, 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