

form noted that she injured her lower back while lifting up a tray of mail and diagnosed a midback strain.

By letter dated August 10, 2007, the Office informed appellant that the evidence of record was insufficient to establish her claim. It advised her to submit medical and factual evidence in support of her claim. Appellant was given 30 days to submit the requested information. In response, she submitted progress notes from Briggs Chaney Clinics, LLC dated July 25 and 28, August 9 and 22, 2007 diagnosing a thoracic lumbar strain.²

By decision dated September 10, 2007, the Office denied appellant's claim on the grounds that she failed to establish that the incident occurred as alleged and the medical evidence was insufficient to establish a condition as a result of the claimed event.

The Office subsequently received progress notes from Briggs Chaney Clinics, LLC diagnosing a thoracic strain.³

On September 24, 2007 appellant requested a review of the written record by an Office hearing representative.

Appellant subsequently submitted an August 22, 2007 prescription for physical therapy by Dr. Kareem Kraidy, a treating Board-certified family practitioner; progress notes dated July 25 to September 2007 from Briggs Chaney Clinics, LLC diagnosing a thoracic strain and duty status reports dated July 25 to September 2007 noting work restrictions, diagnosing either a midback or thoracic strain.⁴ A July 25, 2007 x-ray from Dr. John V. Golding, an examining Board-certified internist with subspecialties of cardiovascular disease and interventional cardiology, diagnosed right scoliosis. A September 5, 2007 physical therapy report by Dr. Ruijin Yao, a Board-certified treating physiatrist, diagnosed a back sprain.

By decision dated January 28, 2008, the Office hearing representative affirmed the September 10, 2007 decision, finding that the evidence failed to establish that appellant sustained an injury or condition causally related to the July 24, 2007 work incident.⁵

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act has the burden of proof to establish the essential elements of his 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

² The signature on the form is illegible.

³ The signature on the form is illegible.

⁴ There is no signature on the July 28, 2007 form and the signatures on the other forms are illegible. The Office noted the author date as August 3, 2007.

⁵ The Board notes that, following the January 25, 2009 hearing representative's decision, the Office received additional evidence. However, the Board may not consider new evidence on appeal. See 20 C.F.R. § 501.2(c); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁶

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.⁷ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸ The term injury as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to, or contact with, certain factors, elements or conditions.⁹ A report is of limited probative value on the issue of the causal relationship between an employment incident and a claimed medical condition if it contains an opinion on causal relationship which is equivocal in nature.¹⁰

ANALYSIS

The Office denied appellant's claim on the grounds that she failed to establish that she sustained an injury on July 24, 2007. The Office hearing representative found that the evidence failed to establish that appellant sustained an injury or condition causally related to the July 24, 2007 work incident, accepting that appellant was lifting trays on July 24, 2007. The issue is whether the accepted employment incident caused appellant's back strain. The Board finds that the medical evidence is insufficient to establish that her diagnosed medical condition was caused or aggravated by a July 25, 2007 injury.

Appellant submitted numerous duty status reports, progress reports, an x-ray interpretation and a physical therapy report by Dr. Yao. The Board notes that the evidence submitted from the Briggs Chaney Clinics, LLC bear illegible signatures. The progress notes provide physical findings and diagnose either a thoracic, thoracic-lumbar or lower back strain. The duty status reports note physical restrictions and diagnose either a midback or thoracic strain. They note the injury occurred while lifting up a tray of mail. However, the Board has held that medical reports lacking proper identification cannot be considered as probative

⁶ *Robert Broome*, 55 ECAB 339 (2004); *see also Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *See T.H.*, 59 ECAB ___ (Docket No. 07-2300, issued March 7, 2008); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

⁸ *V.F.*, 58 ECAB ___ (Docket No. 06-1497, issued January 30, 2007); *John J. Carlone*, 41 ECAB 354, 356-57 (1989); *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

⁹ *Elaine Pendleton*, 40 ECAB 1143 (1989); 20 C.F.R. § 10.5(a)(14).

¹⁰ *K.W.*, 59 ECAB ___ (Docket No. 07-1669, issued December 13, 2007) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

evidence in support of a claim.¹¹ It is unclear who signed these reports and they are insufficient to establish appellant's claim. These reports, lacking proper identification, are not probative.

Dr. Golding, in a July 25, 2007 x-ray interpretation diagnosed scoliosis. In a September 5, 2007 physical therapy report, Dr. Yao diagnosed a back strain. The record also contains Dr. Kraidy's August 22, 2007 prescription for physical therapy. However, these reports do not provide any history of the July 24, 2007 incident, provide physical findings on examination or provide any opinion as to the cause of the diagnosed condition. The Board has held that 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.¹² As this medical evidence does not offer any opinion as to the cause of appellant's diagnosed condition, it is insufficient to establish appellant's claim.

The Office advised appellant of her responsibility to provide a comprehensive medical report which described employment injury history, her symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of her condition. Appellant failed to do so. As there is no probative, rationalized medical evidence addressing how appellant's claimed back condition was caused or aggravated by the July 24, 2007 lifting trays injury, she has not met her burden of proof to establish that she sustained an injury when she lifted mail trays on June 24, 2007.

CONCLUSION

The Board finds that appellant established the July 24, 2007 employment incident occurred, as alleged, but that she has not met her burden of proof to establish that she sustained a medical condition as a result of the July 24, 2007 employment injury.

¹¹ See *D.D.*, 57 ECAB 734 (Docket No. 06-1315, issued September 14, 2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹² *K.W.*, 59 ECAB ____ (Docket No. 07-1669, issued December 13, 2007); *A.D.*, 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 25, 2008 is affirmed.

Issued: November 19, 2008
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