



By letter dated July 31, 2007, the Office informed appellant that the information provided was insufficient to establish the claim and identified the areas where more information was needed to establish her claim. It allowed 30 days for appellant to submit the requested materials.

By decision dated August 30, 2007, the Office denied the claim finding that the evidence in the record did not support that the claimed event occurred as alleged.<sup>1</sup>

### **LEGAL PRECEDENT**

A claimant seeking compensation has the burden of establishing the essential elements of the claim by the weight of reliable, probative and substantial evidence.<sup>2</sup> A traumatic injury is a condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift. Such a condition must be caused by an external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.<sup>3</sup> As part of the burden of proof, appellant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation.<sup>4</sup> An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is causal relationship between his, or her, claimed condition and employment.<sup>5</sup>

### **ANALYSIS**

Appellant has alleged that a traumatic injury occurred on August 26, 2006. Despite the Office's July 31, 2007 request for more detailed and specific information, she did not respond within the time allotted. The additional evidence requested by the Office was especially important since the claim was filed on July 17, 2007, almost a year later after the alleged injury. At the time of the Office's August 30, 2007 decision, there was no evidence of the August 2007 injury other than appellant's original allegation in the claim form which was insufficient. The record contained no medical evidence.

The evidence before the Board on appeal consists only of that which was before the Office on August 30, 2007. When the Office denied this claim, there was no factual evidence explaining the delay or corroborating the alleged work incident to the hand. Moreover, there was no medical evidence in the record as required to establish the essential elements of the claim.

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<sup>1</sup> Following the denial, appellant provided a September 24, 2007 statement describing the injury, a medical report and other materials. This evidence which was not before the Office at the time it issued its decision may not be considered by the Board in this appeal. *Rebecca O. Bolte*, 57 ECAB 687 (2006). The Office has not issued any decision in which it considered the subsequently submitted evidence.

<sup>2</sup> *Thomas M. Petroski*, 53 ECAB 484 (2002).

<sup>3</sup> *Patricia K. Cummings*, 53 ECAB 623 (2002).

<sup>4</sup> *Ronald M. Cokes*, 46 ECAB 967 (1995).

<sup>5</sup> *D.D.*, 57 ECAB 734 (2006).

**CONCLUSION**

The record before the Office at the time it issued its August 30, 2007 decision does not establish that an injury occurred as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 30, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 3, 2008  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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