

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

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**J.I., Appellant**

**and**

**U.S. POSTAL SERVICE, MAIN POST OFFICE,  
Bellevue, WA, Employer**

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**Docket No. 09-1014  
Issued: December 22, 2009**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On March 9, 2009 appellant filed a timely appeal from the January 16, 2009 merit decision of the Office of Workers' Compensation Programs denying his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(e), the Board has jurisdiction over the merits of this claim.

**ISSUE**

The issue is whether appellant has established that he sustained a back condition causally related to his federal employment.

**FACTUAL HISTORY**

On December 3, 2008 appellant, then a 38-year-old mail collector, filed an occupational disease claim alleging that on November 26, 2008 he first realized his back condition was due to his repetitive job duties. He noted that he had sore muscles and cramping when he awoke on the morning of November 26, 2008. Appellant related working a collection route that involved driving a truck with an electric lift gate. The number of stops required pickups of between 150

to 350 pounds of mail. Appellant reported that the soreness began after he was required to lift mail and mail hampers into the truck when the electric lift gate had been broken and not replaced.

By letter dated December 16, 2008, the Office informed appellant that the evidence was insufficient to support his claim. Appellant was advised as to the medical and factual evidence required to support his claim and given 30 days to provide the requested information.

Appellant submitted a November 26, 2006 attending physician's report (Form CA-20) and November 26, 2008 duty status report (Form CA-17) from Dr. Abid Haq, a treating physician; progress notes dated November 26 and December 19, 2008 from William M. Baluch, a physician's assistant; and a December 19, 2008 CA-17 by Dr. Sanders Chai, a treating Board-certified preventive medicine practitioner. In a December 2, 2008 disability note, Dr. Regina Terranova, a treating Board-certified family medicine practitioner, noted that appellant stated that he was unable to work that day due to illness.

Dr. Haq diagnosed a thoracic area sprain that was a result of repetitive overhead lifting. He attributed appellant's back injury to lifting containers of mail. Dr. Haq reported physical findings of limited flexion and tenderness of the paraspinous thoracic muscles. He advised that appellant was capable of working light duty and could resume his usual job duties on December 2, 2008. Dr. Haq opined that appellant's condition was employment related based upon appellant's description of repetitive overhead lifting.

Mr. Baluch diagnosed a thoracic back sprain and listed a history of appellant's employment duties. Appellant related having problems with his mid back tightening and pain as a result of repetitive job duties. Mr. Baluch opined that the condition was more probably than not employment related as it was an overuse injury.

Dr. Chai reported that appellant had no upper back tenderness and good range of motion. No work restrictions or diagnosis was provided.

By decision dated January 16, 2009, the Office denied appellant's claim, finding that the medical evidence was not sufficient to establish causal relation.

### **LEGAL PRECEDENT**

An occupational disease or illness means a condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection, continued or repeated stress or strain or other continued or repeated conditions or factors of the work environment.<sup>1</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) medical evidence establishing the presence or existence of a condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and

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<sup>1</sup> Donald W. Wenzel, 56 ECAB 390 (2005); William Taylor, 50 ECAB 234 (1999); see also 20 C.F.R. § 10.5(q).

(3) medical evidence establishing that the employment factors identified by the employee were the proximate cause of the condition or illness, for which compensation is claimed or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>2</sup>

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>3</sup> Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between an employee's diagnosed conditions and the implicated employment factors.<sup>4</sup> 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 conditions and the specific employment factors identified by the employee.<sup>5</sup>

### ANALYSIS

The record reflects that appellant's job duties consist of picking up mail and mail hampers while on his collection route. The issue is whether his repetitive work duties caused a thoracic sprain. The Board finds that the medical evidence of record does not explain how the identified employment duties caused appellant's thoracic strain.

Dr. Haq diagnosed a thoracic back sprain and indicated that appellant injured his back while lifting containers of mail. He opined that the condition was employment related based upon appellant's description of repetitive overhead lifting. The CA-20 and CA-17 forms completed by the physician do not include explanations addressing causal relation. There were no reasons provided by Dr. Haq for his stated conclusion. The forms do not provide a full medical history of appellant's back condition. These brief notations do not represent a rationalized opinion on causal relationship.<sup>6</sup> The reports of Dr. Haq are insufficient to meet appellant's burden that he sustained a thoracic sprain due to the identified employment factors.

On December 19, 2008 Dr. Chai reported no upper back tenderness and good range of motion. He did not provide any restrictions or make a diagnosis. The December 2, 2008 disability note from Dr. Terranova merely noted appellant's opinion that he was unable to work that day due to an unspecified illness. There was no opinion as to the cause of appellant's

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<sup>2</sup> *D.D.*, 57 ECAB 734 (2006); *Donna L. Mims*, 53 ECAB 730 (2002).

<sup>3</sup> *David Apgar*, 57 ECAB 137 (2005).

<sup>4</sup> *G.G.*, 58 ECAB \_\_\_\_ (Docket No. 06-1564, issued February 27, 2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

<sup>5</sup> *J.M.*, 58 ECAB \_\_\_\_ (Docket No. 06-2094, issued January 30, 2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

<sup>6</sup> *D.E.*, 58 ECAB \_\_\_\_ (Docket No. 07-27, issued April 6, 2007); *Victor J. Woodhams*, 41 ECAB 345 (1989) (to establish causal relationship, a claimant must submit a physician's report in which the physician reviews the employment factors identified as causing the claimed condition and, taking these factors into consideration as well as findings upon examination, states whether the employment injury caused or aggravated the diagnosed conditions and presents medical rationale in support of his or her opinion).

disability. The Board has held that medical evidence providing no opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>7</sup> These reports are insufficient to establish that appellant sustained a thoracic condition due to his employment.

Appellant also submitted treatment notes from Mr. Baluch, a physician's assistant, who diagnosed a thoracic back sprain. However, these reports have no probative value as they were not approved by a physician.<sup>8</sup> Section 8101(2) of the Act provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by the applicable state law.<sup>9</sup> A physician's assistant is not a physician as defined under the Act.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>10</sup> Neither the fact that the condition became apparent during a period of employment nor the employee's belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>11</sup> Causal relationship must be established by reasoned medical opinion evidence, which is appellant's responsibility to submit.

### CONCLUSION

The Board finds that appellant did not establish that he sustained a thoracic sprain causally related to factors of his federal employment.

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<sup>7</sup> *A.F.*, 59 ECAB \_\_\_\_ (Docket No. 08-977, issued September 12, 2008).

<sup>8</sup> *S.E.*, 60 ECAB \_\_\_\_ (Docket No. 08-2214, issued May 6, 2009) (Reports of physician's assistants have no probative value as medical evidence. A physician's assistant is not a physician as defined under the Act and any report from such individual does not constitute competent medical evidence which, in general, can only be given by a qualified physician).

<sup>9</sup> 5 U.S.C. § 8102; *see S.E.*, 60 ECAB \_\_\_\_ (Docket No. 08-2214, issued May 6, 2009); *J.M.*, 58 ECAB \_\_\_\_ (Docket No. 06-2094, issued January 30, 2007).

<sup>10</sup> *R.T.*, 60 ECAB \_\_\_\_ (Docket No. 08-408, issued December 16, 2008); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>11</sup> *P.K.*, 60 ECAB \_\_\_\_ (Docket No. 08-2551, issued June 2, 2009); *Roy L. Humphrey*, *supra* note 5.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated January 16, 2009 is affirmed.

Issued: December 22, 2009  
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