

believed it was related to a prior right shoulder injury he had while in the military. Appellant stopped work on May 12, 2008 and returned for part of the day on May 14, 2008, but continued having symptoms. His attending physician had advised him not to return to work and opined that his back problems were caused and aggravated by carrying a mailbag for the past four years. The employing establishment controverted the claim on the basis that appellant first noticed pain on May 11, 2008 while off duty.

In a May 12, 2008 work status form, Dr. Andrew DeGruccio, a Board-certified orthopedic surgeon, listed October 29, 2005 as appellant's date of injury and described his condition as chronic joint pain involving the right shoulder. He indicated that appellant was allowed to resume his regular work duties. A May 12, 2008 duty status report noted that appellant presented right shoulder pain, swelling, numbness, tingling and loss of strength. The physician's signature and diagnosis were illegible.

A May 23, 2008 magnetic resonance imaging (MRI) scan report from Dr. Anthony Perkins, a Board-certified diagnostic radiologist, revealed small central disc protrusions between the C3-C4 and C4-C6 and a small broad-based right paracentral protrusion at the C6-C7. No cord compression or nerve root impingement was identified.

On June 9, 2008 the Office informed appellant that the evidence was insufficient and advised him about the evidence needed to establish his claim.

In a June 27, 2008 report, Dr. Gary Davis, a family practitioner, noted that appellant complained of right shoulder and neck pain since May 11, 2008, which did not improve in subsequent follow-up visits between May 13 and June 14, 2008. He concurred with the May 27, 2008 MRI scan findings and concluded, "[Appellant]'s current occupation as a postal carrier affects his current condition daily. Lifting, twisting and repetitive movements cause extreme pain. Carrying his mailbag significantly increases and worsens his pain level."

Appellant detailed in July 7, 2008 statements that he was watching television on May 11, 2008 when he began to feel right shoulder symptoms, which radiated down his right arm and chest. The following morning, he awoke with diminished right arm strength. Appellant pointed out that he previously sustained C4 and C5 protrusions in February 2001 while serving in the military service and underwent right shoulder surgery in March 2006.² He related that, during a May 12, 2008 visit, Dr. DeGruccio ruled out any causal connection between these events and the present injury. Appellant stated that his employment duties for over four years, such as casing, loading, carrying and delivering mail, strained his neck and back as they normally entailed repetitious twisting, turning, pulling, bending, squatting and lifting. In particular, he draped a mailbag weighing up to 35 pounds over his right shoulder while on his postal route. Appellant also indicated that he performed additional duties on May 10, 2008 that contributed to his injury, namely collecting donations for an annual food drive.

The employing establishment responded in a June 6, 2008 letter that appellant usually carried a mailbag weighing an average of five pounds. It added that he carried the maximum 35-

² Appellant noted that he had filed a recurrence claim for his right shoulder. This claim is not presently before the Board.

pound load once or twice a month, if at all. The employing establishment noted that appellant continued to miss work.

By decision dated July 18, 2008, the Office denied appellant's claim, finding the medical evidence did not provide a diagnosis that could be connected to the employment incident.

Appellant requested reconsideration on February 24, 2009. He submitted a September 6, 2008 report from Dr. Christopher B. Shields, a Board-certified neurosurgeon, which related a history of right arm and shoulder pain since May 11, 2008 "which initiated one day after performing heavy lifting," and neck pain since May 15, 2008. On physical examination, Dr. Shields observed right-sided cervical pain on hyperextension and decreased right elbow strength on extension. He noted that appellant underwent right shoulder arthroscopy in 2004 and exhibited a small cervical disc protrusion at the right C6-C7 interspace on a May 23, 2008 MRI scan secondary to cubital tunnel syndrome. Dr. Shields diagnosed neck pain, right C7 radiculopathy and small cervical disc protrusion at the right C6-C7 interspace. He remarked, "[Appellant]'s current symptoms are due to the workman's compensation injury which occurred on May 10, 2008. Dr. Shields performed heavy work during this injury with the initiation of his symptoms one day later."

On May 6, 2009 the Office denied the claim finding that the medical evidence was insufficient to establish that his current condition was caused by work factors.

Appellant requested reconsideration again on April 26, 2010 and provided an April 21, 2010 report, from Dr. Shields who reiterated, "[Appellant]'s neck pain and right arm symptoms are 100 percent directly related to the work-related accident in May 2008." Dr. Shields stated that appellant denied any preexisting injuries.

In an April 28, 2010 statement, appellant specified that he collected numerous donations of nonperishable food items during his regular work shift and overtime on May 10, 2008, which led to a neck strain and right arm and shoulder pain, numbness and tingling. Thereafter, his condition deteriorated to such an extent that he experienced severe neck and bilateral arm and shoulder pain by January 2010. Appellant received several cervical epidural injections with limited success and did not return to work until April 7, 2010. Since his return, he continued to have neck and shoulder pain.

On June 10, 2010 the Office denied modification of the May 6, 2009 decision.

LEGAL PRECEDENT

An employee seeking compensation under the Act has the burden of establishing the essential elements of his claim by the weight of reliable, probative and substantial evidence,³ including that he is an "employee" within the meaning of the Act and that he filed his claim within the applicable time limitation.⁴ The employee must also establish that he sustained an

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

⁴ *R.C.*, 59 ECAB 427 (2008).

injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing 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. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is 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 factors. The opinion of the physician must be based on a complete factual and medical background, 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 factors identified by the claimant.⁷

ANALYSIS

The evidence supports that appellant routinely cased, loaded, carried and delivered mail for approximately four years and, in addition to these duties, collected donations for the employing establishment's annual food drive during and after his regular work shift on May 10, 2008.⁸ Nonetheless, he did not provide sufficient medical evidence demonstrating that these activities caused or aggravated a cervical or right shoulder condition.

In a September 6, 2008 report, Dr. Shields concluded that appellant's "heavy lifting" on May 10, 2008 resulted in right arm and shoulder pain on May 11, 2008 and neck pain on May 15, 2008. However, he failed to provide reasoning to explain the pathophysiological process by which heavy lifting caused or contributed to appellant's injuries.⁹ A medical opinion not fortified by medical rationale is of little probative value.¹⁰ The need for rationalized medical opinion evidence was particularly important in this case since the record indicated that appellant sustained cervical protrusions in February 2001 and underwent right shoulder surgery in 2004

⁵ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *T.H.*, 59 ECAB 388 (2008).

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ The Board notes that appellant partly contended that his condition developed over a period of time, which is more consistent with a claim for occupational disease rather than traumatic injury. See 20 C.F.R. § 10.5(q) & (ee).

⁹ In addition, the Board notes that, while Dr. Shields pointed out in the September 6, 2008 report that appellant filed a "[w]orkman's [c]ompensation injury," he did not expressly identify that appellant's "heavy lifting" was in the course of employment.

¹⁰ *George Randolph Taylor*, 6 ECAB 986, 988 (1954).

and 2006. Dr. Shields' opinion was also of diminished probative value because he did not specifically discuss the May 10, 2008 employment incident as it was described by appellant.¹¹ In a subsequent April 21, 2010 report, he merely restated that appellant's condition was "100 percent directly related to the work-related accident in May 2008." Again, Dr. Shields did not offer any fortifying medical rationale to support causal relationship.¹²

Dr. Davis attributed appellant's condition to repetitive lifting, twisting and carrying of his mailbag. His opinion is of limited probative value as it lacked adequate medical reasoning. Dr. Davis did not explain how any particular work activities or those of May 10, 2008 caused or aggravated a diagnosed condition.

The May 12, 2008 work status form from Dr. DeGruccio is of diminished probative value as it pertained to an October 29, 2005 injury, which predated the injury at issue here, and did not otherwise address whether work factors on May 10, 2008 caused an injury. A May 12, 2008 duty status report lacks any probative medical value because the physician's signature was illegible. The Board has held that medical reports lacking proper identification do not constitute probative medical evidence.¹³

Appellant contends on appeal that the Office's June 10, 2010 decision was contrary to fact and law. As noted, the medical evidence did not sufficiently explain how the May 10, 2008 employment caused or aggravated his cervical or right shoulder condition.

CONCLUSION

The Board finds that appellant did not establish that he sustained a traumatic injury in the performance of duty on May 10, 2008.

¹¹ See *John W. Montoya*, 54 ECAB 306, 309 (2003).

¹² The Board notes that Dr. Shields' April 21, 2010 report conflicts with his earlier one, insofar as the former disregarded appellant's history of preexisting injury. See *M.W.*, 57 ECAB 710 (2006); *James A. Wyrick*, 31 ECAB 1805 (1980) (medical conclusions based on an incomplete or inaccurate history are of diminished probative value).

¹³ *R.M.*, 59 ECAB 690, 693 (2008).

ORDER

IT IS HEREBY ORDERED THAT the June 10, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 21, 2011
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board