

notified her supervisor on December 6, 2011. Appellant's supervisor checked the box marked "yes" when asked if her knowledge of the facts about this injury agreed with appellant's statements.

In medical notes dated November 15 to December 5, 2011, Dr. Isaiah Pinckney, a treating physician, reported that appellant was incapacitated from November 14, 2011 to January 1, 2012 due to a rotator cuff syndrome. He advised that she could resume work on January 2, 2012.

By letter dated December 28, 2011, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was asked to respond to the questions provided in the letter within 30 days.

In medical reports dated November 15 to December 19, 2011, Dr. Pinckney reported that on November 13, 2011 appellant was lifting a bag of mail in excess of 50 pounds when she felt a sharp pain on the right side of her neck towards her right wrist. He noted a history of arthritis of the right shoulder and diagnosed cervicalgia and sprain of the rotator cuff. Dr. Pinckney requested a magnetic resonance imaging (MRI) scan of the right shoulder and advised that appellant could return to work on January 2, 2012 without limitations.

In a November 16, 2011 diagnostic report, Dr. Mark Shapiro, a Board-certified diagnostic radiologist, reported that x-rays of appellant's right shoulder demonstrated degenerative changes of the acromioclavicular joint and greater tuberosity.

By decision dated February 1, 2012, OWCP denied appellant's claim finding that the evidence did not establish that the incident occurred as alleged.²

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.⁴

² The Board notes that appellant submitted additional evidence after OWCP rendered its February 1, 2012 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 510.2(c)(1); *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). Appellant may submit this evidence to OWCP, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

³ *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

⁴ *Michael E. Smith*, 50 ECAB 313 (1999).

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP 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.⁵ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

When an employee claims that she sustained an injury in the performance of duty she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.⁶ Once an employee establishes that she sustained an injury in the performance of duty, she has the burden of proof to establish that any subsequent medical condition or disability for work, for which she claims compensation is causally related to the accepted injury.⁷

To establish that an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and her subsequent course of action. In determining whether a case has been established, such circumstances as late notification of injury, lack of confirmation of injury and failure to obtain medical treatment may, if otherwise unexplained, cast substantial doubt on the employee's statements. The employee has not met her burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim.⁸

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁹ 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 factors identified by the claimant. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.¹⁰

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

⁶ *See generally John J. Carlone*, 41 ECAB 354 (1989); *see also* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. § 10.5(q) and (ee) (1999) (occupational disease or illness and traumatic injury defined). *See Victor J. Woodhams*, 41 ECAB 345 (1989) regarding a claimant's burden of proof in an occupational disease claim.

⁷ *Supra* note 4.

⁸ *Betty J. Smith*, 54 ECAB 174 (2002).

⁹ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

¹⁰ *James Mack*, 43 ECAB 321 (1991).

ANALYSIS

The Board finds that appellant failed to establish that she sustained a right shoulder rotator cuff sprain or cervicalgia in the performance of duty on November 13, 2011.

Appellant must establish all of the elements of her claim in order to prevail. She must prove her employment, the time, place and manner of injury, a resulting personal injury and that her injury arose in the performance of duty. In its February 1, 2012 decision, OWCP found that appellant did not establish that the incident occurred at the time, place and in the manner alleged. The Board finds, however, that the evidence of record is sufficient to establish that the November 13, 2011 incident occurred, as alleged.

Appellant alleged that she sustained an injury at work on November 13, 2011 when she was lifting a heavy bag and felt pain in her right shoulder. The medical reports from Dr. Pinckney are consistent in noting that appellant experienced a sharp pain on the right side of her neck towards her right wrist when she was lifting a bag of mail in excess of 50 pounds. Further, appellant stopped work the following day and sought medical treatment on November 15, 2011. Her supervisor agreed with the facts alleged by appellant and the employing establishment did not controvert the claim. The Board finds that, given the above referenced evidence, appellant has alleged with specificity that the incident occurred at the time, place and in the manner alleged.¹¹

The Board also finds that the medical evidence of record establishes diagnoses of rotator cuff sprain and cervicalgia. In medical reports dated November 15 to December 19, 2011, Dr. Pinckney reported appellant's history of injury and symptoms, and thereafter diagnosed cervicalgia and sprain of the rotator cuff.

Given that appellant has established diagnosed conditions, the question becomes whether the November 13, 2011 incident caused these right shoulder conditions. To establish causal relationship, appellant must submit rationalized medical evidence to establish that her diagnosed conditions were causally related to the accepted November 13, 2011 employment incident.

Dr. Pinckney's reports are not rationalized as to the issue of causal relation. In his reports, he reiterated appellant's history that she was lifting a bag of mail in excess of 50 pounds on November 13, 2011 when she experienced a sharp pain on the right side of her neck towards her right wrist. Dr. Pinckney failed to provide a medical explanation, with rationale, as to how the incident accepted in this case caused or contributed to appellant's right shoulder injury. He did not describe how physiologically the accepted incident would have caused the diagnosed conditions. The Board also notes that Dr. Pinckney did not fully address appellant's medical history or discuss her preexisting right shoulder conditions other than noting that she suffered from arthritis of the right shoulder. Dr. Pinckney did not mention or comment on appellant's right shoulder degenerative changes of the acromioclavicular (AC) joint and greater tuberosity as shown by x-ray and how these conditions affected her diagnosis.

¹¹ See *Willie J. Clements*, 43 ECAB 244 (1991).

Dr. Pinckney merely recounted the incident as described by appellant, but he did not offer a rationalized opinion on the issue of causal relationship.¹² The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.¹³ Dr. Pinckney's reports do not meet that standard and are insufficient to meet appellant's burden of proof.

The remaining medical evidence of record is also insufficient to establish causal relationship as Dr. Shapiro's November 16, 2011 diagnostic report only provided a diagnosis of degenerative changes of the AC joint and greater tuberosity and failed to provide any opinion on the cause of appellant's injury.¹⁴

In the instant case, the record is without rationalized medical evidence establishing a causal relationship between the November 13, 2011 employment incident and appellant's right rotator cuff sprain. Thus, appellant has failed to establish her burden of proof.

Evidence submitted by appellant after the final decision cannot be considered by the Board. As previously noted, the Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its decision.¹⁵ Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her right rotator cuff sprain is causally related to the accepted November 13, 2011 employment incident.

¹² *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

¹³ See *Lee R. Haywood*, 48 ECAB 145 (1996).

¹⁴ *Supra* note 9.

¹⁵ 20 C.F.R. § 501.2(c)(1).

ORDER

IT IS HEREBY ORDERED THAT the February 1, 2012 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: September 18, 2012
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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