

In a November 30, 2011 note, Dr. Patrick Carolan, a Board-certified orthopedic surgeon, provided a diagnosis of cervical disc disease with cervical sprain. An accompanying chart note was only partially complete.

In two letters of December 13, 2011, the employing establishment controverted the claim.

In a December 19, 2011 letter, OWCP advised appellant of the deficiencies in his claim and requested additional factual and medical information. It asked that he submit a comprehensive medical report from a physician.

OWCP received appellant's December 29, 2011 statement and Dr. Carolan's completed November 30, 2011 chart note. Dr. Carolan noted that appellant presented with right arm pain, which he indicated began on November 26, 2011 while lifting bundles of magazines at work. Appellant was bending over, picking up and carrying bundles of magazines which weighed about 9.5 pounds for about 45 minutes. He developed pain in his right axilla which radiated down his right arm associated with a pins and needles sensation in the ring and little finger of his right hand. Appellant complained of some pain in the right side of his neck. Dr. Carolan noted that appellant's past medical history was pertinent for chronic low back pain. Examination of the cervical spine revealed increased pain in the right side of the neck with extension and pain with left lateral rotation. Examination of both upper extremities revealed good range of motion, normal neurological examination and no motor deficit. X-rays of the cervical spine showed degenerative disc disease throughout the midcervical segments associated with osteophytic spurring and foraminal narrowing. An impression of degenerative cervical disc disease; cervical sprain was provided.

By decision dated January 26, 2012, OWCP denied the claim. It found that appellant failed to submit sufficient medical evidence to establish that the claimed incident on November 26, 2011 caused or aggravated his cervical condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing that 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 timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

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.⁴ There are two components involved in establishing the fact of injury. First, the employee must

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *S.P.*, 59 ECAB 184 (2007); *Alvin V. Gadd*, 57 ECAB 172 (2005).

submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁵ Second, the employee must submit evidence, generally only in the form of probative medical evidence, to establish that the employment incident caused a personal injury.⁶

Whether an employee sustained an injury in the performance of duty requires the submission of rationalized medical opinion evidence providing a diagnosis or opinion as to causal relationship.⁷ 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 condition and the specific employment factors identified by the employee.⁸ The weight of the 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.⁹

ANALYSIS

OWCP accepted that the November 26, 2011 incident occurred but found that the medical evidence failed to establish that he sustained a cervical or right arm condition as a result of the accepted incident. The Board finds that appellant failed to provide sufficient medical evidence to establish a cervical condition causally related to the November 26, 2011 employment incident.

Appellant submitted November 30, 2011 chart notes from Dr. Carolan, who diagnosed degenerative disc disease and cervical sprain. The chart notes listed a history of injury and that appellant presented with complaints of right arm pain which began on November 26, 2011 and pain in the right side of his neck. A history of chronic low back pain was also noted. Dr. Carolan took appellant off work and referred him to physical therapy. While he generally noted appellant's work activities, he did not provide a specific opinion explaining how the work duties of November 26, 2011 caused or aggravated the diagnosed medical conditions. The Board has held that 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.¹⁰ Dr. Carolan's records are insufficient to establish appellant's claim.

Because the record does not contain any medical evidence providing a rationalized medical opinion explaining how appellant sustained a cervical strain as a result of the November 26, 2011 employment incident, the Board finds that appellant did not meet his burden of proof to establish his claim.

⁵ *Bonnie A. Contreras*, 57 ECAB 364 (2006); *Edward C. Lawrence*, 19 ECAB 442 (1968).

⁶ *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *See J.Z.*, 58 ECAB 529 (2007); *Paul E. Thams*, 56 ECAB 503 (2005).

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 3.

⁹ *James Mack*, 43 ECAB 321 (1991).

¹⁰ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *A.D.*, 58 ECAB 149 (2006).

On appeal, appellant stated that he filed an appeal to the Board on or about February 23, 2012. While the Board has no record of such a filing, it is noted that appellant filed a timely appeal of OWCP's January 26, 2012 denial of his claim. A review of the case record indicates that appellant sent a February 13, 2012 letter to OWCP apparently in response to questions raised in the January 26, 2012 decision. As noted, appellant failed to provide a rationalized medical opinion to establish his claim. Causal relationship is a medical issue that can only be shown by reasoned medical opinion evidence that is supported by medical rationale.¹¹ Appellant has not provided such evidence in this case. Thus, the Board finds that he did not meet his burden of proof to establish his claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has failed to meet his burden of proof in establishing that he sustained a cervical strain in the performance of duty on November 26, 2011.

ORDER

IT IS HEREBY ORDERED THAT the January 26, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 25, 2013
Washington, DC

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

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

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

¹¹ *T.H.*, 59 ECAB 388 (2008); *see also Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).