

arm. He stopped work on September 30, 2013. The employing establishment challenged the claim.

By letter dated October 30, 2013, OWCP informed appellant of the type of evidence needed to support his claim and requested that he submit such evidence within 30 days.

In a November 1, 2013 statement, appellant indicated that on September 27, 2013 he reported to the employing establishment health clinic to receive vaccinations for an "OCONUS" position. He received four vaccinations in the left arm and three in the right arm. Appellant noted that he had fatigue and soreness in both arms and, by the end of the first week, most of the side effects had dissipated but he had "noticeable pain and achiness still in the right arm." By the middle of the following week, the pain in the right arm worsened, with burning, mostly in the upper arm, and across the bend at the elbow, with a dull ache that persisted in the hand and forearm. Appellant advised that using the arm to lift or do normal tasks increased the pain and certain movements were excruciating. When he continued having right arm pain, he saw a nurse practitioner who recommended continued monitoring. Appellant went to an emergency room for treatment when symptoms worsened. He indicated he was given pain and sleep medication and had some relief at night and in the morning, but the pain returned and worsened with any use as the day progressed. Appellant indicated that since he received the shots, he experienced loss of strength in the right arm and hand and limited range of motion, pain or dull aching almost constantly, and twitching and tics primarily when lying down. He completed OWCP's questionnaire on November 8, 2013 and responded "no" with regard to whether he had prior injuries and whether he had a similar injury or disability before the injury.

In a November 21, 2013 statement, Barry Wade, an injury compensation manager with the employing establishment, controverted the claim.

In a November 25, 2013 report, Dr. Anjaneyulu Alapati, a Board-certified clinical neurologist, noted appellant's history, which included that he presented with right arm pain and weakness two months after receiving immunizations for a trip overseas. The physician examined appellant, assessed right arm pain and diagnosed improving brachial neuralgia and no weakness. Appellant also submitted evidence nurses' notes and October 12, 2013 emergency department discharge instructions.

In a decision dated December 2, 2013, OWCP denied appellant's claim, finding that the medical evidence did not establish causal relationship.

On December 9, 2013 appellant requested reconsideration. In a December 15, 2013 statement, appellant indicated that he was diagnosed with brachial neuritis as a direct result of the employment-related vaccinations. OWCP received copies of previously submitted documentation to include a copy of Dr. Alapati's November 25, 2013 report.

In a January 7, 2014 decision, OWCP denied appellant's request for reconsideration finding that the evidence submitted was insufficient to warrant review of its prior decision.²

² On October 10, 2014 appellant filed an appeal of the January 7, 2014 decision. On December 24, 2014 the Board issued an order dismissing appeal. It found that the appeal was untimely filed. Docket No. 15-56.

On October 30, 2014 OWCP received appellant's request for reconsideration. Appellant indicated that it was 13 months post injury and he continued to suffer from pain and paralysis directly resulting from the required vaccinations taken for his federal employment. OWCP received nerve conduction studies dated December 4, 2013, which were normal and a copy of a November 25, 2013 report from Dr. Alapati.

In a May 13, 2014 report, Dr. Tiffany Hendricks, Board-certified in family medicine, noted that he had weakness and pain in the elbow and right arm after having had vaccinations. She also indicated that appellant had aches and would get very tired. Dr. Hendricks diagnosed essential hypertension and unspecified backache.

OWCP received a medical report dated June 10, 2014, from an unidentified healthcare provider associated with Sportsmed. This report contains a diagnosis of bicipital tenosynovitis and the provider indicates that his right elbow pain was not likely related to his vaccinations. OWCP also received nurses' notes dated December 8, 2014.

In a December 12, 2014 decision, OWCP denied modification of its prior decision.

On January 12, 2015 OWCP received appellant's request for reconsideration. Appellant argued that he filed his claim with the proper agency and his vaccination was work related as he had to undergo the vaccination for his employment position. He noted that he had incurred exorbitant out-of-pocket medical expenses. Appellant indicated that he also submitted further documentation to include "doctor office notes." He argued that his brachial praxis "DIRECTLY" resulted from the vaccinations. OWCP received a copy of the June 10, 2014 report and treatment notes from a physical therapist dated December 16 and 18, 2014.

In a decision dated January 15, 2015, OWCP denied appellant's request for reconsideration finding that the evidence submitted was insufficient to warrant review of its prior decision.

LEGAL PRECEDENT -- ISSUE 1

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 timely filed within the applicable time limitation period of FECA³ and that an injury was sustained in the performance of duty.⁴ These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *Delores C. Ellyett*, 41 ECAB 992 (1990).

experienced the employment incident at the time, place, and in the manner alleged.⁶ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

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 generally required to establish causal relationship. 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.⁸

ANALYSIS -- ISSUE 1

Appellant alleged that he sustained right arm pain and weakness after receiving preemployment vaccinations at work. OWCP properly found that appellant was in the performance of duty when the incident, the inoculations occurred on September 27, 2013. This finding is consistent with OWCP procedures which state that deleterious effects such as injury while undergoing periodic medical examination, reaction to agency-sponsored inoculation or disease contracted from instrumentation are compensable.⁹ OWCP, however, denied appellant's claim for compensation after finding that the medical evidence was insufficient to establish that appellant's claimed conditions were causally related to the September 27, 2013 inoculations.

The medical reports of record do not establish that the vaccinations on September 27, 2013 caused a personal injury. The medical evidence contains no firm diagnosis, no rationale and no explanation of the mechanism of injury. Appellant provided a November 25, 2013 report from Dr. Alapati, who indicated that appellant presented with right arm pain and weakness two months after receiving immunizations for a trip overseas. Dr. Alapati examined appellant, assessed right arm pain and diagnosed brachial neuralgia improving and no weakness. The Board notes that he did not indicate the condition was work related.¹⁰

In a May 13, 2014 report, Dr. Hendricks noted appellant was having weakness and pain in the elbow and right arm after having had vaccinations. The Board initially notes that it appears that Dr. Hendricks is concerned with a nonwork-related back condition. While Dr. Hendricks mentioned right arm complaints, she did not specifically address whether an employment incident on September 27, 2013 caused any condition to his right arm as she only diagnosed essential hypertension and backache, unspecified. Consequently, the Board finds that this evidence is insufficient to establish appellant's claim.

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *Id.*

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Performance of Duty*, Chapter 2.804.19(a) (March 1994).

¹⁰ *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

Other reports submitted by appellant did not specifically address causal relationship between the September 27, 2013 vaccinations and a diagnosed medical condition.

The record also contains notes from physical therapists and a nurse. Section 8101(2) of FECA¹¹ 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. Consequently, this evidence is not relevant as it cannot be considered medical evidence and, as noted above, the underlying point at issue is medical in nature.

The record also contains a report dated June 10, 2014, from an unidentified healthcare provider. The Board has held that medical reports lacking proper identification do not constitute probative medical evidence.¹² Without a signature, it is unclear who authored the opinion and it is therefore of limited probative value.

In the present case, there is no reasoned medical evidence from a physician explaining how and why the employment activities on September 27, 2013 caused or aggravated appellant’s right arm condition.

As such, appellant has not established that the September 27, 2013 employment incident caused or aggravated a specific injury.

On appeal appellant argues that his claim was denied in part because it was filed with the wrong agency. However, the Board notes that the claim is denied because the medical evidence was insufficient, as found above.

Appellant may submit evidence or argument with a written request for reconsideration 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.

LEGAL PRECEDENT -- ISSUE 2

Under section 8128(a) of FECA,¹³ OWCP may reopen a case for review on the merits in accordance with the guidelines set forth in section 10.606(b)(2) of the implementing federal regulations, which provides that a claimant may obtain review of the merits if the written application for reconsideration, including all supporting documents, sets forth arguments and contains evidence which:

“(i) Shows that OWCP erroneously applied or interpreted a specific point of law;
or

¹¹ See 5 U.S.C. § 8101(2). See also *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board has held that a medical opinion, in general, can only be given by a qualified physician).

¹² See *C.B.*, Docket No. 09-2027 (issued May 12, 2010).

¹³ 5 U.S.C. § 8128(a).

“(ii) Advances a relevant legal argument not previously considered by OWCP; or

“(iii) Constitutes relevant and pertinent new evidence not previously considered by the OWCP.”¹⁴

Section 10.608(b) provides that any application for review of the merits of the claim which does not meet at least one of the requirements listed in section 10.606(b) will be denied by OWCP without review of the merits of the claim.¹⁵

ANALYSIS -- ISSUE 2

Appellant disagreed with the denial of his traumatic injury claim and timely requested reconsideration on January 12, 2015. The underlying issue on reconsideration is medical in nature, whether the September 27, 2013 work incident caused or contributed to an injury.

OWCP denied appellant’s application on January 15, 2015, finding that no new evidence was offered warranting further merit review. The underlying issue on reconsideration is medical in nature. OWCP denied the claim because the medical evidence did not contain medical opinion evidence explaining how his right arm condition was caused or aggravated by the September 27, 2015 work incident.¹⁶ The Board finds that appellant made no arguments that demonstrated a legal error by OWCP or advance a relevant legal argument not previously considered by OWCP. Appellant’s general disagreement with OWCP’s denial of his claim is insufficient to meet one of these two criteria.

Appellant argued that he filed his claim with the proper agency. He also indicated that his medical evidence supported that his brachial plexus was directly related to the vaccinations. Appellant’s opinion on causal relationship would not be sufficient to reopen the case. The Board has held that the submission of evidence which does not address the particular issue involved does not constitute a basis for reopening a case.¹⁷

The Board finds that no new medical evidence was submitted. Appellant resubmitted evidence which included the unsigned June 10, 2014 report. Material which is cumulative does not constitute a basis for reopening a case for further merit review.¹⁸

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he sustained a traumatic injury on September 27, 2013 in the performance of duty. The Board also

¹⁴ 20 C.F.R. § 10.606(b).

¹⁵ *Id.* at § 10.608(b).

¹⁶ *See for example, A.D.*, 58 ECAB 149 (2006).

¹⁷ *Ronald A. Eldridge*, 53 ECAB 218 (2001); *Alan G. Williams*, 52 ECAB 180 (2000).

¹⁸ *Betty A. Butler*, 56 ECAB 545 (2000).

finds that OWCP properly refused to reopen appellant's case for further review of the merits of his claim under 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the January 15 and December 12, 2014 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: August 7, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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