U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BARBARA J. QUICK and U.S. POSTAL SERVICE,
POST OFFICE, Fort Wayne, IN

Docket No. 97-2743; Submitted on the Record;
Issued December 10, 1999

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof to establish that her repetitive motion injury to her upper extremities was causally related to factors of her federal employment.

On March 6, 1995 appellant, then a 44-year-old CFS clerk, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that on March 9, 1993 she first became aware that she sustained a repetitive motion injury to both her shoulder and hands which was due to factors of her employment.[1] In an attached statement, appellant indicated that she began developing problems in May 1990 when she became uncomfortable while performing computer keying. She indicated that she found as time went by it became increasingly difficult and painful for her to maintain a keying performance quota of 800 pieces of mail per hour. Appellant was terminated from her employment on February 9, 1994. The employing establishment contested the claim and noted that appellant had been working in a limited-duty position since August 1991.

In a report dated June 3, 1993, Dr. Peter L. Yu, an attending physician, diagnosed repetitive motion injury to both her shoulders and hands due to her employment.

In an August 8, 1995 decision, the Office rejected appellant's claim on the grounds that fact of injury had not been established.

Appellant's counsel requested an oral hearing before an Office hearing representative in a letter dated September 5, 1995.

[1] Appellant had previously filed a claim alleging that her employment caused carpal tunnel syndrome which the Office of Workers' Compensation Programs denied. This claim was assigned claim number A9-357507. Appellant's current claim for repetitive motion injury was assigned claim number A9-401468.

A hearing was held on January 28, 1997 at which appellant was represented by counsel and presented testimony.

By letter dated February 26, 1997, appellant's attorney submitted a statement from appellant, a deposition of Dr. Yu and a letter from Dr. Benoit Choiniere, a chiropractor.

In a deposition held on February 12, 1997, Dr. Yu testified that appellant would be unable to perform either her original position or the light-duty job she had been given. Dr. Yu stated that, based upon his March 10, 1993 physical examination and objective testing, appellant "had repetitive motion injury to the right shoulder, the right forearm complex, with the same soft tissue injury in the left trapezius muscle. He also testified that, in his opinion, appellant's repetitive motion injury was due to her federal employment. Dr. Yu further testified that he had reviewed appellant's job descriptions and opined that her injuries were related to both her original job which she held from 1985 to 1991 and to her light-duty jobs which were held from 1991 to 1993. Lastly, Dr. Yu opined that appellant was disabled from performing both her usual and light-duty jobs since May 1993.

The Board finds that the case is not in posture for decision.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition 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 claimant. The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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 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.[2]

An award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.[3] A person who claims benefits under the Federal Employees' Compensation Act[4] has the burden of establishing the essential elements of his claim[5] Appellant must establish that she sustained an injury in the performance of duty and that

[2] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[3] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979); *Miriam L. Jackson Gholikely*, 5 ECAB 537, 538-39 (1953).

[4] 5 U.S.C. §§ 8101-8193.

[5] *Nathaniel Milton*, 37 ECAB 712, 722, (1986); *Paul D. Weiss*, 36 ECAB 720-21 (1985).

her disability resulted from such injury.[6] As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.[7] The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.[8] Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.[9]

It is well established that proceedings under the Act are not adversarial in nature nor is the Office a disinterested arbiter. While appellant has the burden to establish entitlement to compensation benefits, the Office shares responsibility in the development of the evidence.[10] It has the responsibility to see that justice is done.[11] Furthermore, once the Office has begun an investigation of a claim, it must pursue the evidence as far as reasonably possible.[12]

In support of her claim, appellant submitted a deposition of Dr. Yu who noted her position and opined that appellant was disabled from both her usual and light-duty positions. He further opined that appellant's repetitive motion injury was caused by both her usual and light-duty position duties.

While the deposition of Dr. Yu does not contain sufficient rationale to completely discharge her burden of establishing by the weight of reliable, substantial and probative evidence that appellant's repetitive motion injury of her shoulders and arms was causally related to her federal employment, Dr. Yu's deposition is sufficiently supportive of appellant's claim, containing a knowledge of her employment duties for both her regular and light-duty positions, histories of treatment and documented diagnoses of repetitive motion injury to the right shoulder, the right forearm complex, with the same soft tissue injury in the left trapezius muscle, to require the Office to further develop the record.[13]

On remand, the Office should refer a statement of accepted facts, the case record and appellant, if necessary, to an appropriate Board-certified specialist for an evaluation and a rationalized medical opinion on whether appellant's diagnosed condition of repetitive motion

[6] *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

[7] *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

[8] *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

[9] *Bruce E. Martin*, 35 ECAB 1090, 1093 (1984); *Dorothy P. Goad*, 5 ECAB 192, 193 (1952).

[10] *John J. Carlone*, 41 ECAB 354 (1989); *Charles J. Jenkins*, 40 ECAB 362 (1988); *Dorothy L. Sidwell*, 36 ECAB 699 (1985).

[11] *Russell F. Polhemus*, 32 ECAB 1066 (1981).

[12] *Edward Schoening*, 41 ECAB 277 (1989).

[13] *See John J. Carlone, supra* note 10; *Horace Langhorne*, 29 ECAB 820 (1978). The Board notes that in this case the record contains no medical opinion contrary to appellant's claim.

injury to both her shoulders and hands are causally related to her employment injury. After such development of the medical evidence as the Office deems necessary, a *de novo* decision shall be issued.

The decision of the Office of Workers' Compensation Programs dated July 7, 1997 is set aside and the case remanded for further proceedings in accordance with this decision.

Dated, Washington, D.C.
December 10, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member