U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANGEL C. STRICKLEN and U.S. POSTAL SERVICE,
POST OFFICE, Kansas City, Mo.

Docket No. 97-206; Submitted on the Record;
Issued January 15, 1999

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a bilateral hand and wrist condition in the performance of duty.

On July 16, 1996 appellant, then a 34-year-old small parcel bundle sorter (SPBS) clerk, filed a notice of occupational disease and claim for compensation alleging that her bilateral hand and wrist condition is employment related. Appellant stated that she has been having problems with both of her hands and wrists for approximately a year and a half due to repetitive keying on the SPBS machine, sweeping the machine and repetitive lifting. She also stated that she has experienced numbness, tingling, loss of strength and sharp pains that caused her eyes to water. Appellant noted that she first became aware of her disease or illness in February 1995, first realized the disease or illness was caused or aggravated by her employment and reported it to her supervisor on June 27, 1996. She explained that she did not know when she first sought medical treatment for this disease or illness, but indicated that she delayed reporting her condition to the employing establishment because she thought it was only muscle spasms and that the pain would go away. Appellant also explained that she took over-the-counter medication and massaged her hands constantly to relieve the pain, but on June 27, 1996 when her pain intensified she went to an employing establishment doctor.

In support of her claim, appellant submitted a return to work/school excuse form dated July 8, 1996 from Dr. Paula J. Davis, a Board-certified family practitioner, which instructed her to be off work beginning June 28, 1996, with no use of her hands until such time as she was seen and evaluated by Dr. Edward Bruce Toby, a Board-certified orthopedic surgeon specializing in hand surgery. Appellant has also indicated that when Dr. Toby was unavailable, she was referred to Dr. Larry Forrest Glaser, a Board-certified orthopedic surgeon. In a work status report dated July 16, 1996, Dr. Glaser diagnosed appellant with "R/O [rule out] bilateral carpal tunnel syndrome," referred her for a magnetic resonance imaging (MRI) examination, and advised her not to return to work until medically released.

In a letter dated July 14, 1996, the Office of Workers' Compensation Programs advised appellant that the evidence of file was insufficient to establish her claim for compensation benefits and advised her of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence. The Office particularly requested that appellant submit a comprehensive medical report from her treating physicians which described her symptoms; results of examinations and tests (including Phalen's and Tinel's signs and results of any nerve conduction or electromyogram (EMG) studies); diagnosis; the treatment provided; the effect of treatment; and the doctor's opinion, with medical reasons, on the cause of appellant's condition and an explanation of how specific work factors contributed to or caused her condition. Appellant was allotted 30 days within which to submit the requested evidence.

In a decision dated August 26, 1996, the Office denied appellant's claim for compensation benefits on the grounds that the evidence of record failed to support the fact of an injury in this case. In an accompanying memorandum, the Office noted that appellant was advised of the deficiencies in her claim on July 14, 1996 and afforded an opportunity to provide supportive evidence; however, no medical evidence of any kind was submitted to support the fact that appellant sustained an injury in the performance of duty, as alleged.

On August 23, 1996 the Office received a July 15, 1996 medical report from Dr. Glaser stating that appellant's chief complaint was bilateral hand pain. Dr. Glaser stated:

> "Over the last year, [appellant] has had increasing pain in both wrists. She has worked at different jobs, all of which require repetitive uses of the hands, with repetitive flexion and extension. In some of the jobs, she actually pushes things with her left hand and then sorts them with her right. She also uses some machinery. She used to sort flats. *** Over the last year, [appellant] has had increasing symptoms of pain in her left hand, but less concern about numbness in the left hand than in the right. She considers her left hand to be more of a problem than her right hand. She works the night shift, but when she is trying to sleep, she has difficulty secondary to pain in the left wrist, awakening her. On close questioning she describes some numbness and tingling in the median nerve distribution of both hands, but not in the ulnar nerve distribution. Minor retrograde left forearm pain. No other concurrent medical problems. Did have a fracture of her right wrist as a child.
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> On physical examination: Physical examination of her left wrist reveals a positive Phalen's sign at about 30 seconds, and some numbness over the median nerve distribution to pinwheel. No thenar atrophy. Normal color and temperature. No symptoms over the ulnar nerve to pinwheel. *** Examination of the right hand reveals a positive Phalen's sign as well as a positive Tinel's sign at the carpal tunnel with extension to the index and middle fingers. No Adson's sign. No thenar or interosseous atrophy. Complains of numbness to pinwheel over the median nerve distribution.
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> Diagnostic impression: Probable bilateral carpal tunnel syndromes.

> Recommendations: Not to return to work until medically released. To obtain EMG and nerve conduction studies to rule out bilateral carpal tunnel syndromes. Discussed carpal tunnel surgery with the patient which may become necessary depending on the test results."

Accompanying this report is also a one-page progress report dated July 23, 1996 from Dr. Glaser. In this report, he stated:

> "History of present illness: The EMG done 22 July by Dr. Joe Pryor indicates no carpal tunnel syndromes on either side. *** [Appellant] sure sounds like a patient with probable EMG negative carpal tunnel syndromes. I discussed her work circumstances with her. She has used Daypro, but does not think it has been terribly helpful. She already has a small left wrist brace, but not one for the right side. The left one is wearing out.
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> Plan: My plan is as follows: Continue the present work restrictions already outlined; given samples of Relafen 500 [milligram], two every day; given prescription for bilateral wrist supports to be used at work during certain activities; and re-examine in approximately six weeks. *** Clinically, this patient sure sounds and looks like a patient with bilateral carpal tunnel syndromes. On the basis of the negative EMG, I do not recommend carpal tunnel releases at this time. Ultimately, the diagnosis must rest on the clinical picture and not solely on the EMG picture."

In a letter decision dated September 4, 1996, the Office noted that the above-mentioned additional evidence was received after the August 26, 1996 formal decision was issued. The Office found that the additional evidence was insufficient to accept appellant's claim for benefits and explained that appellant's EMG testing results were negative for carpal tunnel syndrome; that Dr. Glaser did not offer any other diagnosis; and stated "this patient sure sounds and looks like a patient with bilateral carpal tunnel syndrome." Appellant was advised to exercise her appeal rights as explained in the Office's August 26, 1996 decision if she disagreed with this informal letter decision.[1]

The Board finds that appellant has not met her burden of proof in establishing that she sustained a bilateral carpal tunnel syndrome in the performance of duty as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of his or her claim, including the fact that an injury

[1] The record shows that the above-mentioned evidence was received by the Office on August 23, 1996, prior to the issuance of its August 26, 1996 decision. Additionally, the Board notes appellant submitted further additional evidence to the Office on August 30, September 11 and 24, 1996, following the Office's August 26, 1996 decision. The Board may not consider such evidence for the first time on appeal. 20 C.F.R. § 501.2(c). This decision does not preclude appellant from having such evidence considered by the Office as part of a reconsideration request.

[2] 5 U.S.C. §§ 8101-8193.

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.[3]

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 the 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.[4] 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,[5] must be one of reasonable medical certainty,[6] 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]

In the present case, it is not disputed that appellant's job required her to do repetitive keying on the SPBS machine, sweeping the machine, and repetitive lifting during the performance of her duties. Consequently, the Office found that the claimed event, incident or exposure occurred at the time, place and in the manner alleged. However, the Office found that the medical evidence submitted was insufficient to establish that the accepted exposure resulted in an injury or condition, causally related to any specific workplace factors. Neither the July 16 and 23, 1996 progress and work status reports from Dr. Glaser, nor the July 8, 1996 return to work slip from Dr. Davis aided appellant in establishing causal relationship because the doctors could not reach a definitive diagnosis in their medical correspondence as to appellant's medical condition. Dr. Davis diagnosed R/O [rule out] carpal tunnel syndrome and Dr. Glaser diagnosed probable bilateral carpal tunnel syndrome. Dr. Glaser stated that the EMG done by Dr. Pryor indicated no carpal tunnel syndrome on either side; but stated that clinically "this patient sure sounds and looks like a patient with bilateral carpal tunnel syndrome. On the basis of a negative EMG, I do not recommend carpal tunnel releases at this time. Ultimately, the diagnosis must rest on the clinical picture and not solely on the EMG picture." Moreover, Dr. Glaser's opinion is not sufficiently rationalized to establish causal relationship as he does not discuss with any detail the cause and affect of how and why the repetitive keying on the SPBS machine, sweeping

[3] *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[4] *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[5] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[6] *See Morris Scanlon*, 11 ECAB 384-85 (1960).

[7] *See William E. Enright*, 31 ECAB 426, 430 (1980).

the machine and repetitive lifting caused, precipitated or aggravated appellant's medical condition. The reports submitted by Dr. Glaser and Dr. Davis failed to establish appellant's claim for benefits because they are equivocal, speculative and of diminished probative value.[8]

An award of compensation may not be based on surmise, conjecture or speculation. The mere fact that a disease or condition manifests itself or worsens during a period of employment[9] or that work activities produce symptoms revelatory of an underlying condition[10] does not raise an inference of causal relationship between the condition and the employment factor. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his federal employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.[11] As appellant failed to provide rationalized medical evidence establishing that she sustained carpal tunnel syndrome as a result of her federal employment, the Office properly denied appellant's claim for compensation.[12]

The decision of the Office of Workers' Compensation Programs dated August 26, 1996 is affirmed.

Dated, Washington, D.C.
January 15, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

[8] *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship); *see also George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

[9] *William Nimitz, Jr., supra* note 5.

[10] *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

[11] *Victor J. Woodhams, supra* note 4.

[12] *See supra* note 1.