U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARTHA CASABLANCA and U.S. POSTAL SERVICE,
POST OFFICE, Oakland, CA

Docket No. 99-1688; Submitted on the Record;
Issued July 27, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an arm and shoulder injury causally related to factors of her federal employment.

Appellant, then a 49-year-old distribution clerk, filed a traumatic injury claim on November 8, 1995 alleging that on October 12, 1995 she sustained an arm and shoulder injury as a result of her federal employment. She asserted in a supporting statement that on October 2, 1995 she began a new-duty assignment of sweeping, casing, lifting and carrying trays of mail, which ultimately caused pain in her right shoulder that radiated into her neck, back, arm, elbows and hands. Appellant worked in a light-duty position due to a previous injury and continued intermittent light duty until she stopped work on February 12, 1996.

In support of appellant's CA-1 claim, the Office of Workers' Compensation Programs received visit verification slips from Kaiser Permanente dated December 5, 1995 and January 29, 1996 signed by Dr. Omar Bayne, a Board-certified orthopedic surgeon, who diagnosed appellant with pain in her right hand and thumb, tendinitis exacerbation and overuse syndrome. The Office subsequently informed appellant that it required further factual and medical information; however, no additional evidence was submitted.

By decision dated April 10, 1996, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that she sustained a work-related arm and shoulder condition as alleged. The Office found that the evidence submitted in support of her claim did not provide the specific factors of employment or a rationalized medical opinion regarding the medical connection of the reported conditions and employment factors.

In a letter dated April 29, 1996, appellant disagreed with the April 10, 1996 decision and requested an oral hearing before an Office hearing representative.

Prior to the hearing, the Office received a medical report from Dr. Weyman Wong, appellant's attending physician, dated April 29, 1996. In his report, Dr. Wong indicated that appellant had been treated by Dr. Bayne since 1987 for symptoms which he attributed to overuse syndrome and that Dr. Bayne had opined in a report submitted in a previous claim[1] that appellant was permanently disabled due to the repetitious nature of her work, resulting in symptoms in both of her upper extremities, shoulder and neck. Dr. Wong reported that he saw appellant in March and April 1996, for symptoms in both upper extremities. He indicated that when he first saw appellant, she explained that she had been able to function in her light-duty position until she began experiencing right shoulder and arm symptoms in September 1995 when she was asked to begin casing mail. Dr. Wong related that because appellant was favoring her right upper extremity, she began to experience pain in her left upper extremity as well. He reported that from February 12 through April 18, 1996, the last time he saw appellant for her symptoms, she had not worked because her employing establishment was unable to accommodate her work restrictions. Dr. Wong concluded that appellant had a repetitive strain injury caused by her work situation and he continued her work restrictions.

The oral hearing was held on December 19, 1996. Appellant testified about a previous work injury to her right arm and wrist and that as a result she worked in a modified position with intermittent periods of disability from 1987 until 1994. She further testified that she returned to a modified position on December 29, 1994 of preparing damaged letters until September 1995 when she was instructed to case mail, which ultimately caused her arm and shoulder pain. During the hearing, appellant submitted additional visit verification slips dated February 6 through October 9, 1996 documenting her continual treatment and evaluation.

By decision dated March 7, 1997, the hearing representative affirmed the April 10, 1996 Office decision on the grounds that the medical evidence of record was insufficient to establish causal relationship. The Office particularly referred to Dr. Wong's report and found that he failed to specify the nature of appellant's injury in terms of a medical diagnosis and provide a medical basis for his opinion that the employment injury caused appellant's condition.

In a letter dated March 7, 1998, appellant through her congressional representative requested reconsideration of the prior decision. In support of her request, the Office received an orthopedic evaluation report from Dr. Philip Chan, a Board-certified orthopedic surgeon, dated April 21, 1992, additional visit verification slips from Kaiser Permanente and Dr. Wong's report dated April 29, 1996, which had been previously submitted to the Office. Appellant's representative argued that Dr. Chan had not explained in his April 21, 1992 report why he disagreed with appellant's treating physician regarding her disability status and further that the record contained sufficient medical evidence to require further development of the evidence by the Office.

By decision dated May 19, 1998, the Office denied appellant's request for modification based on a merit review of the claim.

[1] The Board notes that appellant filed a previous claim accepted by the Office for right carpal tunnel syndrome.

The Board has reviewed the record and finds that appellant has not established an injury causally related to her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act 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 the Act, that the claim was filed within the applicable time limitation of the Act, 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 occupational disease.[3] In order to determine whether an employee actually sustained an injury in the performance of duty, the Office 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.[4] In this case, the Office accepted that appellant actually experienced the claimed event. The Board finds that the evidence of record supports this incident. The second component is whether the employment incident caused a personal injury and this generally can only be established by medical evidence. Causal relationship is a medical issue[5] and the medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,[6] must be one of reasonable medical certainty[7] and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.[8]

In this case, appellant has failed to submit rationalized medical evidence establishing that her diagnosed conditions of tendinitis, overuse syndrome and repetitive strain injury were caused or aggravated by factors of her federal employment. In support of her claim, she submitted several visit verification slips from Kaiser Permanente, which indicated that she was diagnosed with tendinitis and overuse syndrome. Appellant also submitted Dr. Wong's April 29, 1996 medical report, in which he opined that her diagnosed repetitive strain injury was caused by

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

[3] *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

[4] *Elaine Pendleton*, *supra* note 2.

[5] *Mary J. Briggs*, 37 ECAB 578 (1986).

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

[7] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

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

work factors. On reconsideration, appellant resubmitted Dr. Wong's April 29, 1996 report and a report from Dr. Chan dated April 21, 1992, which had been previously considered by the Office in a claim accepted for bilateral wrist tendinitis.[9] The Office found in its April 10, 1996 decision that the visit verification slips were insufficient to establish appellant's claim as they failed to reference specific factors of employment or provide a rationalized medical opinion on causal relationship. The Office further found that Dr. Wong's report failed to provide medical rationale to support his conclusion that appellant's repetitive strain injury was caused by her employment.

Appellant has failed to establish with rationalized medical opinion evidence whether the employment incident alleged in her claim caused a personal injury. Neither Drs. Wong nor Chan offered any medical rationale to explain how appellant's employment duties on October 12, 1995 caused the diagnosed conditions. Dr. Wong opined that appellant's diagnosed repetitive strain injury was caused by work factors; however, he failed to support his conclusion with medical rationale. The Board has held that a physician's opinion is not dispositive simply because it is offered by a physician.[10] To be of probative value to appellant's claim, the physician must provide a proper factual background and must provide medical rationale which explains the medical issue at hand, be that whether the current condition is disabling or whether the current condition is causally related to the accepted employment injury. Where no such rationale is present, the medical opinion is of diminished probative value.

The decision of the Office of Workers' Compensation Programs dated May 19, 1998 is affirmed.

Dated, Washington, D.C.
July 27, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

[9] The Board notes that Dr. Chan's April 21, 1992 report was used in the previous claim to establish that appellant's bilateral wrist condition had resolved. Consequently, the Office terminated appellant's benefits.

[10] *See Michael Stockert*, 39 ECAB 1186 (1988).