U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GILBERTO HERNANDEZ, JR. and DEPARTMENT OF THE AIRFORCE, AIR FORCE SYSTEMS COMMAND, BROOKS AIR FORCE BASE, San Antonio, TX

Docket No. 01-1045 Submitted on the Record;
Issued December 19, 2001

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT, PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury while in the performance of duty.

On September 5, 2000 appellant, then a 53-year-old technician, filed a notice of occupational disease alleging that he developed carpal tunnel syndrome as a result of repetitive motion in working on computers and equipment. He did not stop work.

In a September 18, 2000 duty status report, a physician whose signature is illegible diagnosed carpal tunnel syndrome with no injury and advised that appellant could work with restrictions which included no lifting more than 30 pounds.

On October 16, 2000 the Office of Workers' Compensation Programs advised appellant of the additional factual and medical evidence needed to establish his claim and requested that he submit such. Appellant was advised that submitting a rationalized statement from his physician addressing any causal relationship between his claimed injury and factors of his federal employment was crucial. He was allotted 30 days to submit the requested evidence.

On October 20, 2000 the Office received a package of materials consisting of: an explanation of benefits from Dr. William D. McCheney, a Board-certified radiologist; a charge ticket from Dr. Steven Bauer, a Board-certified internist; a patient history printout from Dr. Bauer; a disability certificate from Dr. Bauer stating appellant could return to work on September 19, 2000; a position description and appellant's work history.

The employing establishment forwarded an additional package of materials, which was also received by the Office on March 20, 2000. The materials included several reports from Dr. Douglas W. Marshall, Board-certified in psychiatry and neurology. In his June 5, 2000 report, which was the initial office visit, Dr. Marshall stated that appellant presented with intermittent but persistent symptoms of numbness in the hands and forearms. He stated that the

symptoms were present on and off for more than a year and he was currently awakened six to seven nights per week with bilateral numbness and pain. Dr. Marshall diagnosed bilateral carpal tunnel syndrome.

In his June 20, 2000 report, Dr. Marshall stated that appellant was a 53-year-old diabetic male who presented with numbness in his fingertips of both hands and had no weakness in the hands, but noted numbness while driving and upon wakening in the morning. He diagnosed bilateral carpal tunnel entrapment of the median nerve-moderately severe on the right and moderate on the left. In a July 24, 2000 report, which was unsigned, Dr. Paul D. Pace, a Board-certified surgeon, noted that appellant was seen in follow up for his bilateral carpal tunnel syndrome and noted that the electromyograms pointed to a mild associated carpal tunnel syndrome. In his August 28, 2000 report, which was also unsigned, Dr. Pace noted that appellant was seen in follow up and was doing quite well and that "his symptoms had settled down quite nicely." The Office also received copies of referral notifications and appointment slips.

By decision dated January 9, 2001, the Office denied appellant's claim finding the medical evidence insufficient to establish a causal relationship between his current condition and his employment.

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury while in the performance of duty.

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."[1] 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.[2]

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.[3]

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

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

[3] *See Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[4]

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized medical 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 upon 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.

In this case, appellant alleged that he sustained carpal tunnel syndrome in the performance of duty. In support of his claim, appellant submitted medical records from Drs. McCheney, Bauer, Marshall and Pace.

The records from Drs. McCheney and Bauer were composed of an explanation of benefits and a patient history. The doctors did not provide any diagnosis or discussion of appellant's condition and how it was related to his employment.[7]

The records from Dr. Marshall dated June 5 and 20, 2000 and the September 18, 2000 duty status report from a physician whose signature is illegible, provided a diagnosis; however, these reports did not contain an opinion on the causal relationship between appellant's carpal tunnel syndrome and his federal employment.[8]

The records from Dr. Pace dated July 24 and August 28, 2000 did not contain any discussion or opinion on causal relationship and were also unsigned. The Board has consistently held that unsigned medical reports are of no probative value.[9]

Appellant has not submitted any rationalized medical evidence to establish that he sustained a condition causally related to factors of his employment. As he has not submitted the

[4] The Board has held that, in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

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

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

[7] In order to establish causal relationship, a physician's report must present rationalized medical opinion evidence, based on a complete factual and medical background; *see Kathryn Haggerty*, 45 ECAB 383 (1994). Rationalized medical evidence is evidence which relates a work incident or factors of employment to a claimant's condition, with stated reasons of a physician; *see Gary L. Fowler*, 45 ECAB 365 (1994).

[8] *Id.*

[9] *See Merton J. Sills*, 39 ECAB 572 (1988).

requisite medical evidence needed to establish his claim, he has failed to meet his burden of proof.[10]

For the above-noted reasons, appellant has not established that he sustained an injury in the performance of duty.

The decision of the Office of Workers' Compensation Programs dated January 9, 2001 is affirmed.

Dated, Washington, DC
December 19, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

[10] In his appeal, appellant submitted additional evidence, however, the Board cannot consider new evidence on appeal. Appellant can submit the new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2) (1999); *see* 20 C.F.R. § 501.2(c).