

**United States Department of Labor
Employees' Compensation Appeals Board**

C.G., Appellant

and

**SOCIAL SECURITY ADMINISTRATION,
OFFICE OF HEARINGS & APPEALS,
Grand Rapids, MI, Employer**

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**Docket No. 07-2172
Issued: March 7, 2008**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On August 23, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated July 24, 2007. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established a left arm condition causally related to factors of her federal employment.

FACTUAL HISTORY

On May 23, 2006 appellant filed an occupational claim (Form CA-2), alleging that she sustained left arm epicondylitis as a result of her federal employment as a case intake specialist. She previously filed an occupational claim on July 17, 2000 for a right arm condition that was accepted for right medial epicondylitis.

In a narrative statement dated May 19, 2006, appellant reported left elbow and arm pain, with numbness, for over a year. She stated that she had left arm pain while performing work activities such as opening cabinets, picking up files, turning, twisting and grabbing, pulling files and typing. Appellant submitted statements from coworkers indicating that she had difficulty using her left arm at work.

Appellant submitted a report dated January 3, 2006 from Dr. David Kirchinger, a family practitioner, who noted elbow pain, left worse than right. Dr. Kirchinger indicated that she handled case files and did lots of lifting and twisting. He diagnosed bilateral epicondylitis. Appellant also submitted reports from a physician's assistant.

By decision dated September 7, 2006, the Office denied the claim for compensation. It found that the medical evidence was insufficient to establish the claim. Appellant requested an oral hearing before an Office hearing representative which was held on March 30, 2007. She indicated that she started to use her left arm to perform work duties after she injured her right arm and she stopped working in July 2006.

In a decision dated July 24, 2007, the Office hearing representative affirmed the September 7, 2006 decision.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.²

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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 diagnosed condition is causally related to the employment factors identified by the claimant.³

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁵

¹ 5 U.S.C. §§ 8101-8193.

² 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

³ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁴ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁵ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁶

ANALYSIS

The claim for compensation in this case was for a left arm condition as a result of repetitive work duties during federal employment. The Office did not dispute that appellant performed the identified work duties. To meet her burden of proof, however, appellant must submit rationalized medical evidence on the issue of causal relationship. The physician must have an accurate background and provide a medical opinion, with supporting rationale, supporting causal relationship between a diagnosed condition and the identified work factors.

As to medical evidence from a physician's assistant, this does not constitute competent medical evidence as a physician's assistant is not a "physician" as defined under 5 U.S.C. § 8101(2).⁷ The only evidence from a physician in this case is the brief note from Dr. Kirchinger dated January 3, 2006. He diagnosed bilateral epicondylitis and noted that appellant performed repetitive activity such as lifting and twisting. Dr. Kirchinger did not provide a complete history, nor did he provide an opinion that a left elbow epicondylitis was casually related to appellant's federal employment. His note is of diminished probative value to the medical issue presented.

It is appellant's burden of proof to submit the medical evidence necessary to establish an injury casually related to factors of her federal employment. She did not meet her burden of proof in this case.

CONCLUSION

Appellant did not submit probative medical evidence establishing a left arm condition causally related to her federal employment.

⁶ *Id.*

⁷ *George H. Clark*, 56 ECAB 162 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated July 24, 2007 and September 7, 2006 are affirmed.

Issued: March 7, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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