United States Department of Labor
Employees' Compensation Appeals Board

M.J., Appellant	)	
and	)	**Docket No. 07-2299**
	)	**Issued: March 4, 2008**
U.S. POSTAL SERVICE, POST OFFICE, Alexandria, LA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 6, 2007 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated July 13, 2007 which denied his claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he has a wrist or cervical condition causally related to factors of his federal employment.

FACTUAL HISTORY

On May 15, 2007 appellant, then a 44-year-old mail processing clerk, filed a Form CA-2, occupational disease claim, alleging that employment factors caused carpal tunnel syndrome and C6-7 radiculopathy. He stated that he became aware of the condition on November 6, 2006 and its relationship to his employment on April 25, 2007, when he stopped work. Appellant returned to light duty on May 8, 2007. He stated that his physician had taken him off work for two weeks.

By letters dated June 4, 2007, the Office informed appellant of the type evidence needed to support his claim and asked the employing establishment to respond. The employing establishment controverted the claim noting that appellant had requested light duty in the past because he had a shunt in his right arm for receiving dialysis prior to a kidney and pancreas transplant in 2002.

In support of his claim, appellant submitted a report dated November 3, 2000 in which Dr. Mark M. Wilson, a Board-certified nephrologist, noted that appellant was treated for hypoglycemia in the emergency room, reports from nurses dated May 3, 2001, October 9, 2003, January 1 and May 11, 2005 and evidence with illegible signatures dated December 8, 2003, June 7, 2004, April 7, 2005 and March 2006. In a September 27, 2005 report, Dr. Wilson provided restrictions to appellant's physical activity and on September 7, 2006 Dr. Kathryn V. Bain, a resident in internal medicine, advised that appellant should work limited duty and provided restrictions to his activity. In a report dated October 9, 2006, Dr. Gonzalo I. Hidalgo, a Board-certified neurologist, noted a history of kidney transplant and right arm shunt placement and appellant's complaint of numbness and tingling of the right arm. He noted examination findings and diagnosed right upper extremity cervical paresthesia radiculopathy versus carpal tunnel syndrome and recommended electromyography (EMG) and magnetic resonance imaging (MRI) scan. An MRI scan of the cervical spine dated November 6, 2006 demonstrated a C6-7 disc protrusion with no evidence of compression. In reports dated February 1 and April 26, 2007, Dr. Hidalgo noted the MRI scan findings and diagnosed right carpal tunnel syndrome, right disc protrusion affecting the right C7 root and likely tendinitis of the extensor digitorum commonus. In an undated report, he advised that appellant should be off work for two weeks due to carpal tunnel syndrome and C6-7 radiculopathy.

In a May 7, 2007 report, Dr. Troy M. Vaughn, Board-certified in neurosurgery, noted appellant's complaints of right neck, shoulder and arm pain radiating into the hand with intermittent numbness and examination findings. He reviewed the MRI scan findings and EMG findings and diagnosed herniated nucleus pulpous right C6-7, radiculopathy secondary to disc protrusion C6-7, carpal tunnel syndrome right wrist and previous kidney and pancreas transplant. On May 10, 2007 appellant underwent a C7 epidural and by report dated May 23, 2007, Dr. Hidalgo advised that appellant's examination was unchanged. On May 25, 2007 Dr. Vaughn advised that appellant reported significant improvement following the nerve block. On June 5, 2007 Dr. Hidalgo reiterated his diagnosis and opined that "this problem began in October 2006 and has progressively gotten worse until he was unable to work on April 26, 2007." He advised that appellant could perform light duty full time and could not perform heavy duty with his right arm. In an attending physician's report also dated June 5, 2007, Dr. Hidalgo noted complaints of right upper extremity numbness and discomfort and cervicalgia and checked a "yes" box, indicating that the condition was caused or aggravated by employment. Kevin Murphy, a physician's assistant in Dr. Vaughn's office, submitted a May 25, 2007 report with physical restrictions and an attending physician's report dated June 5, 2007. Appellant also submitted

evidence regarding light-duty assignments dating from March 26, 2002 to June 20, 2007[1] and a publication regarding radial tunnel syndrome.

By decision dated July 13, 2007, the Office denied the claim on the grounds that the medical evidence submitted was insufficient to establish causal relationship.

LEGAL PRECEDENT

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 the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period 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 is causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.[3]

Office regulations define the term "occupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift."[4] 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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.[5]

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.[6] Rationalized medical 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 on a complete factual and

[1] For example, a light-duty assignment signed on September 28, 2005 indicated that Dr. Wilson had provided right arm restrictions and no above shoulder work, sitting five hours at a manual letter case. On March 6, 2006 appellant was to work in automation, the OGP letter case and SCF letter case with a 25-pound weight restriction. On April 12, 2006 lifting was increased to 50 pounds.

[2] 5 U.S.C. §§ 8101-8193.

[3] *Gary J. Watling*, 52 ECAB 278 (2001).

[4] 20 C.F.R. § 10.5(ee).

[5] *Solomon Polen*, 51 ECAB 341 (2000).

[6] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

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.[7] Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[8]

ANALYSIS

The Board agrees that appellant's work duties included repetitive motion and lifting but finds that he failed to meet his burden of proof to establish that he sustained a wrist or cervical condition caused by these employment factors.

The Board initially notes that excerpts from publications have little probative value in resolving medical questions unless a physician shows the applicability of the general medical principles discussed in the articles to the specific factual situation at issue in the case.[9] Such was not the case here. Furthermore, neither a nurse nor a physician's assistant is a physician as defined under the Act and therefore any report from such individual does not constitute competent medical evidence which, in general, can only be given by a qualified physician.[10] None of the additional medical reports submitted by appellant are sufficient to meet his burden of proof. The MRI scan and reports from Drs. Wilson, Bain and Vaughn did not contain an opinion regarding the cause of any diagnosed condition and medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[11] The fact that work activities produced pain or discomfort revelatory of an underlying condition does not raise an inference of causal relationship[12] and a diagnosis of "pain" does not constitute the basis for payment of compensation.[13] On an Office form report dated June 5, 2007, Dr. Hidalgo checked the "yes" box indicating that appellant's condition was employment related. On that report, however, he did not provide a diagnosis and did not include further explanation as to how or why appellant's employment caused any condition. When a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.[14]

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[7] *Id.*

[8] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[9] *Roger G. Payne*, 55 ECAB 535 (2004).

[10] 5 U.S.C. § 8101(2); *Sean O'Connell*, 56 ECAB 195 (2004).

[11] *Willie M. Miller*, 53 ECAB 697 (2002).

[12] *Jimmie H. Duckett*, 52 ECAB 332 (2001).

[13] *Robert Broome*, 55 ECAB 339 (2004).

[14] *D.D.*, 57 ECAB ____ Docket No. 06-1315 (issued September 14, 2006).

While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.[15] Appellant submitted no evidence in this case to establish causal relationship.

CONCLUSION

The Board finds that appellant did not establish that he sustained an employment-related condition.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 13, 2007 be affirmed.

Issued: March 4, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

[15] *Patricia J. Glenn*, 53 ECAB 159 (2001).