

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GERARD P. McKENNA and U.S. POSTAL SERVICE,
POST OFFICE, Lansdowne, PA

*Docket No. 98-2545; Submitted on the Record;
Issued August 16, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof in establishing that he sustained an injury to his right wrist in the performance of duty.

On February 17, 1998 appellant, then a 39-year-old letter carrier filed notice of occupational disease and claim for compensation, Form CA-2, alleging that his right wrist injury arose from his employment. On the reverse of the form, appellant's supervisor indicated that appellant did not stop working.

Evidence accompanying the claim included medical reports from Dr. William H. Kirkpatrick, a Board-certified orthopedic surgeon, dated December 30, 1997, January 6 and February 10, 16 and 18, 1998. Dr. Kirkpatrick noted tenderness and inflammation of the triangular fibrocartilage complex. He limited appellant to 90 minutes of casing mail per day. The employing establishment also forwarded a work restriction request limiting the time appellant can case mail to 90 minutes a day.

In a March 12, 1998 letter, the Office of Workers' Compensation Programs advised appellant that the information submitted in his claim was not sufficient to determine whether appellant was eligible for benefits under the Federal Employees' Compensation Act. The Office advised appellant of the additional medical and factual evidence needed to support his claim. On that date, the Office also sent a letter to the employing establishment, requesting additional information regarding appellant's duties.

In response to the Office's request, on March 26, 1998 appellant submitted a medical report from Dr. Kirkpatrick dated February 25, 1998, and a magnetic resonance imaging report from Dr. Raymond L. Baraldi, Jr., a Board-certified radiologist, dated February 13, 1998. Dr. Baraldi concluded that there was no evidence of a tear of the triangular fibrocartilage complex. By letter dated April 1, 1998, appellant forwarded copies of previously filed medical reports.

By letter dated April 21, 1998, the Office informed appellant of the need for a comprehensive medical report.

Appellant also forwarded a medical report from Dr. Kirkpatrick dated April 21, 1998. Dr. Kirkpatrick noted that appellant continued to experience tenderness over the triangular fibrocartilage complex when palpated, but there was no pain over the remainder of the wrist. He further noted that radiographs brought to him by appellant showed no obvious bony abnormalities. Dr. Kirkpatrick stated that appellant's condition was work related, noting that appellant had experienced worsening symptoms of right wrist pain since early 1997 and that appellant's type of work "certainly aggravated" his condition.

In a letter to Dr. Kirkpatrick, dated May 7, 1998, the Office requested a comprehensive medical report, including the doctor's opinion in whether employment factors caused appellant's medical condition. On May 12, 1998 his office responded, and informed the Office that there would be a charge of \$550.00 for a full narrative report. Dr. Kirkpatrick also forwarded a May 4, 1998 attending physician's report, Form CA-20, in which he documented appellant's history of right ulnar wrist pain since June 7, 1996, caused by casing mail, and lifting bundles, with no prior injury. He particularly opined that appellant's symptoms were aggravated by the kind of work he performed (casing mail) and had worsened over time.

By decision dated June 2, 1998, the Office denied appellant's claim. The Office found that the medical evidence was insufficient to establish that his right wrist condition was caused by employment factors.

The Board finds that this case is not in posture for decision and must be remanded for further evidentiary development.

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 are causally related to the employment injury.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;³ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁴ and (3) medical evidence establishing that

¹ 5 U.S.C. §§ 8101-8193.

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

³ *See Ronald K. White*, 37 ECAB 176, 178 (1985).

⁴ *See John A. Snowberger*, 34 ECAB 1262, 1271 (1983); *Walter D. Morehead*, 31 ECAB 188, 194 (1979); *Rocco Izzo*, 5 ECAB 161, 164 (1952).

the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed⁵ or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.⁷ 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, 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.⁸

In the present case, it is not disputed that appellant is an employee, or that he has an injury to his right wrist. Appellant submitted reports from Dr. Kirkpatrick, a Board-certified orthopedic surgeon, in which the doctor opined that casing mail aggravated appellant's wrist condition. Dr. Kirkpatrick noted that appellant's condition had worsened over time, that appellant has no prior injury, and that specific employment factors such as casing mail and picking up bundles aggravated appellant's condition. Although the medical evidence submitted by appellant is not sufficiently rationalized to meet his burden of proof, the medical evidence of record raises an uncontroverted inference of causal relationship between appellant's right ulnar wrist condition and his employment duties, and is sufficient to require further development of the case record by the Office.⁹

On remand, the Office should further develop the medical evidence by obtaining a rationalized medical opinion on whether appellant has a right ulnar wrist injury causally related to factors of his federal employment. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

⁵ See *Georgia R. Cameron*, 4 ECAB 311, 312 (1951); *Arthur C. Hamer*, 1 ECAB 62, 64 (1947).

⁶ See generally *Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

⁷ See *Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959).

⁸ See *James Mack*, 43 ECAB 321 (1991).

⁹ *Rebel L. Cantrell*, 44 ECAB 660 (1993); see *John J. Carlone*, 41 ECAB 354 (1989).

The decision of the Office of Workers' Compensation Programs dated June 2, 1998 is hereby set aside and remanded for further development consistent with this opinion.

Dated, Washington, D.C.
August 16, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member