

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANGELA M. HALL and U.S. POSTAL SERVICE
POST OFFICE, Philadelphia, PA

*Docket No. 00-434; Submitted on the Record;
Issued December 19, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
VALERIE D. EVANS-HARRELL

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty causally related to factors of her federal employment.

The Board has duly reviewed the case record in the present appeal and finds that the Office of Workers' Compensation Programs properly determined, in its June 29, 1999 decision, that appellant failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty causally related to factors of 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 is 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

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

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

diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is usually rationalized medical evidence. 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.³

On July 7, 1995 appellant, then a 32-year-old mailhandler, filed an occupational disease claim, Form CA-2, alleging that she sustained brachial plexus. She submitted hospital notes dated August or October 1995 showing that she received treatment for head and back aches but which did not mention her employment.

By decision dated December 15, 1995, the Office denied appellant's claim, finding that the fact of injury was not established.

Appellant requested reconsideration of the Office's decision and submitted additional medical evidence. In a statement dated June 30, 1995, appellant stated that her work involved moving and lifting heavy mailbags, moving around "APC"s, and assisting in loading and unloading trucks.

By decision dated March 13, 1997, the Office found that appellant established the employment activities, but failed to show that her complaints were causally related to employment factors and denied appellant's request for modification.

The Office denied appellant's subsequent requests for modification on June 18, 1997 and January 21, 1998.

By letter dated June 4, 1999, appellant requested reconsideration of the Office's decision and submitted a resume' and a medical report from her treating physician, Dr. Chetwynd E. Bowling, an internist, dated January 27, 1999. In her January 27, 1999 report, Dr. Bowling diagnosed bilateral cervical plexopathy. She stated that prolonged and continuous lifting, pulling, straining and stretching over time "can and do lead to damage in the cervical plexus, thus cervical plexopathy." Dr. Bowling stated that the result was chronic pain in the neck, arms and hands associated with significant weakness. She stated that "there is no doubt that [appellant's] occupation at the employing establishment was directly related to her cervical plexopathy and the disability she was experiencing."

By decision dated June 29, 1999, the Office denied appellant's request for modification.

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

In the present case, none of the medical evidence appellant submitted establishes that painful condition in her neck, back, shoulder arms and hands were causally related to factors of her federal employment. In a report dated September 4, 1996, Dr. Bibhuti B. Mishra, a Board-certified neurologist, considered appellant's medical history, reviewed an magnetic resonance imaging (MRI) scan and electromyogram (EMG), and performed a physical examination but opined that many of appellant's symptoms were suggestive of carpal tunnel syndrome and possibly a migraine could be the cause of her symptoms but did not address appellant's employment. His opinion is therefore not probative.

In a report dated January 28, 1997, Dr. David G. Conyack, an osteopath, and Dr. Timothy O'Grady, a Board-certified anesthesiologist, considered appellant's history of injury and reviewed several MRI scans and the EMG which they opined showed abnormal conduction of cervical polyradiculopathy involving the left C8 and right C7-8 nerve roots and noted one MRI scan which showed a disc bulge at C7-8 which was present on other films. They stated that "[w]ith her condition of her disc bulge and entertaining a diagnosis of fibromyalgia it is possible that her working conditions at the [employing establishment] lifting and moving heavy boxes again along with her fibromyalgia may have possibly exacerbated her underlying cervical and rheumatologic condition." While Drs. Conyack and O'Grady addressed causation in stating that "it is possible" that appellant's employment might have exacerbated her underlying cervical and rheumatologic condition, their opinion is speculative and therefore is not probative.⁴

In her report dated January 14, 1997, Dr. Bowling diagnosed cervical plexopathy and stated that for two years appellant was totally disabled and unable to work but did not address the cause of appellant's condition. In his report dated April 9, 1997, Dr. William F. Young, a neurological surgeon, found that diagnostic tests including cervical MRI scans and a brachial plexus MRI scan were normal and an EMG showed radicular changes which could not be correlated with the MRI scans. He did not address the cause of appellant's neck and arm condition.

In her August 15, 1997 report, Dr. Bowling reiterated her diagnosis of bilateral cervical plexopathy with severe pain and weakness with subsequent inability to lift, pull and push and stated that this stemmed directly from a work injury or injuries appellant sustained during her employment with the employing establishment. Her report, however, is not probative because she did not state how the diagnosed condition resulted from specific incidents at work.⁵

Dr. Bowling's January 27, 1999 report is also not probative because even though she stated in that report that appellant's occupation was "directly related to her cervical plexopathy," as she did not provide a rationalized opinion explaining how appellant's employment caused her condition. Rather, she generally stated that prolonged and continuous lifting, pulling, straining and stretching over time "can and do lead to damage" to the cervical plexus resulting in chronic pain in the neck, arms and hands but she did not state that the specific work appellant performed caused appellant's cervical plexopathy.

⁴ See *Alberta S. Williamson*, 47 ECAB 574-75 (1996); *Linda I. Sprague*, 48 ECAB 386, 390 (1997).

⁵ See *Victor J. Woodhams*, *supra* note 3.

The Office advised appellant of the type of medical evidence needed to establish her claim but she did not provide such evidence. Appellant did not submit the requisite medical evidence to establish that her neck, shoulder, back, arm and hand condition were causally related to factors of her federal employment.

The decision of the Office of Workers' Compensation Programs dated June 29, 1999 is hereby affirmed.

Dated, Washington, DC
December 19, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Valerie D. Evans-Harrell
Alternate Member