

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CAROLYN BROUSSARD and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, Temple, TX

*Docket No. 03-415; Submitted on the Record;  
Issued April 22, 2003*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant established that she sustained a cervical condition causally related to employment factors.

On May 10, 2001 appellant, then a 43-year-old surgical clinical nurse reviewer, filed a notice of occupational disease and claim for compensation alleging that she sustained an aggravation of a previous trapezius injury as a result of her federal job duties. Appellant stated that, beginning in March 2001, she experienced right upper extremity numbness and weakness, along with neck discomfort on a consistent basis while performing computer-generated activities at a computer workstation, which prompted her to seek medical treatment. Appellant asserted that following an evaluation by an occupational therapist, including an evaluation of her workstation, she was issued ergonomic office equipment to help relieve her symptoms. She did not stop work.

In support of her claim for compensation, appellant submitted a narrative statement and medical evidence. The employing establishment also submitted information regarding the claim.

In an April 20, 2001 report, Dr. Richard Winkler, attending physician, reported that appellant presented with numbness to the right upper arm, which she had been experiencing for one month, for which the cause was uncertain. The physician indicated that further neurological evaluation was needed at that time.

In a July 18, 2001 attending physician report, Dr. Mark Wilson, a Board-certified family practitioner, noted that appellant sustained a neck injury in April 2001, which reagravated a previous 1994 neck injury. The physician diagnosed C5-radiculopathy and checked a box on the form report "yes" that he believed that the condition was caused or aggravated by an employment activity. In a work status report also dated July 18, 2001, Dr. Wilson issued restrictions of no lifting more than 10 pounds and immediately released appellant to work.

A magnetic resonance imaging (MRI) scan report dated May 1, 2001 indicated that a MRI scan was performed on appellant's cervical spine on April 30, 2001, which revealed chronic disc degenerative changes at C4-5 and C5-6. The report further revealed borderline spinal stenosis, slight compression of the spinal cord and minimal impingement on the C5 nerve roots bilaterally.

By decision dated October 29, 2001, the Office of Workers' Compensation Programs denied appellant's claim. The Office found that the evidence was insufficient to meet the guidelines for establishing that appellant sustained an injury due to the claimed event as required by the Federal Employees' Compensation Act.

In a letter dated November 24, 2001, appellant requested an oral hearing. In support, appellant submitted medical evidence from Dr. Gopal Guttikonda, a Board-certified neurologist.

In a narrative report dated April 26, 2001, Dr. Guttikonda indicated that appellant's right shoulder injury, which occurred approximately 6 years prior, never fully healed and that whenever she lifted any object over 10 pounds she experienced right shoulder pain. The physician noted that approximately two weeks prior appellant had right arm pain over the dorsal aspect of her shoulder to her elbow, with numbness and neck pain.

In an attending physician's report dated May 10, 2002, Dr. Guttikonda noted that appellant's neck injury occurred on April 1, 2001 and that she sustained a preexisting neck injury in 1994, which caused cervical spondylosis. He reported the MRI scan findings noted above and diagnosed C4-5, C5-6 degenerative disc disease and spondylosis, bulging disc and neck pain. He also checked "yes" on the form report, indicating his belief that appellant's condition was caused or aggravated by an employment injury. Treatment notes submitted from Dr. Guttikonda dated from May 3, 2001 to January 10, 2002 reiterated his diagnosis and reported that, although appellant was on restricted work status, she was able to function in her current position.

Appellant testified at the requested hearing held July 24, 2002. She submitted additional documentation on August 12, 2002 in support of the claim.

In a July 25, 2002 report, Dr. Guttikonda indicated that there was a dispute as to whether appellant suffered a reaggravation of a neck injury in April 2001 of a previous 1994 neck injury and provided his opinion. He stated:

"She has neck pain with right shoulder blade pain predominantly above the shoulder blade, below the shoulder blade, as well as trapezius muscle. She also has pain over the right deltoid region with some numbness. She had x-rays of the right shoulder, which showed degenerative changes of the AC and glenohumeral joint and MRI scan of the C-spine showed degenerative disc disease and spondylosis with disc bulge at C4-5, C5-6 level. She has neck pain and spasm associated with the structural abnormalities in the cervical spine with referred pain to the right shoulder blade, right arm; in addition she has right shoulder pain. This is related to the original injury as symptoms continue and with the given injury and exacerbation in April 2001...."

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“It is my judgment, it is related to the injury and an ongoing problem. However, an injury can contribute to osteoarthritis, degenerative disc disease and these degenerative changes can contribute to the persistence of symptoms. Full-duty type work can aggravate her symptoms and they do. She can function in a restricted work status.”

In an August 5, 2002 report, Dr. Guttikonda stated that appellant’s multilevel degenerative disc disease and cervical spondylosis might have been triggered by the March 1994 injury and that her pain and spasms were chronologically associated with that injury. The physician further stated that appellant had recurrent exacerbations depending upon the activity, external temperature and emotional state.

By decision dated October 3, 2002, an Office hearing representative affirmed the October 29, 2001 decision, however, modified the decision to show that appellant failed to establish causal relationship. The Office hearing representative found that, while the medical evidence of record supported causal relationship, it was speculative and insufficient to establish the claim.

The Board finds that appellant failed to establish that she sustained a cervical condition causally related to employment factors.

An employee seeking benefits under the Act<sup>1</sup> 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 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.<sup>2</sup> These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an appellant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition, for which compensation is alleged; (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 appellant 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 appellant.<sup>4</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.<sup>5</sup> Rationalized medical opinion evidence is medical evidence, which includes a

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> 20 C.F.R. § 10.115 (1999); *Joe D Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *Victor J. Woodhams*, *supra* note 3.

<sup>5</sup> *Ern Reynolds*, 45 ECAB 690 (1994).

physician's rationalized opinion on the issue of whether there is a causal relationship between appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of appellant, 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 appellant.<sup>6</sup>

The Office hearing representative modified the prior October 3, 2002 decision to reflect that appellant had failed to establish causal relationship. The Office hearing representative in effect determined that the evidence of record established that appellant actually experienced the claimed injury in April 2001. The medical record including the reports of Dr. Guttikonda, a Board-certified neurologist and Dr. Wilson, a Board-certified family practitioner, corroborate appellant's allegation that she experienced neck and shoulder pain in April 2001. Further, both physicians attributed the claimed condition to an employment activity in their respective attending physician reports. Because appellant established that an employment incident occurred at the time and in the manner alleged, the issue to be determined is whether the medical evidence is sufficient to establish a causal relationship between appellant's alleged neck condition and factors of her federal employment.

Appellant alleged in the claim and on appeal that she experienced neck and shoulder pain as a result of performing computer generated activities at work. She contends that the neck and shoulder pain she experienced in April 2001 reaggravated a previous 1994 neck injury. While the evidence of record establishes that appellant experienced neck and shoulder pain in April 2001 it is insufficient to establish that the diagnosed condition resulted from the implicated factors of appellant's federal employment.

In reports dated July 25 and August 5, 2002, Dr. Guttikonda reported that appellant had neck pain and spasm associated with the structural abnormalities in the cervical spine including degenerative disc disease, cervical spondylosis and osteoarthritis and related her condition to the original injury in March 1994. The physician opined that appellant's symptoms were exacerbated in April 2001 and stated only generally that full-duty type work aggravates her symptoms. Dr. Guttikonda focused more on explaining that appellant's multilevel degenerative disc disease and cervical spondylosis might have been triggered by the March 1994 injury and that her pain and spasms were chronologically associated with that injury. The physician did not identify any specific factors of employment as being causative and no opinion on causal relationship was provided. Consequently, these reports are of greatly reduced probative value and are insufficient to support appellant's claim.<sup>7</sup>

As discussed above, both Drs. Wilson and Guttikonda completed attending physician's reports on July 18, 2001 and May 10, 2002, which diagnosed C4-5, C5-6 degenerative disc disease and spondylosis, bulging disc and neck pain and checked "yes" to indicate that appellant's condition was causally related to her employment. However, no further explanation of causal relationship was provided. The Board has held that an opinion on causal relationship,

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<sup>6</sup> *Kathy Marshall*, 45 ECAB 827, 832 (1994).

<sup>7</sup> *See William E. Enright*, 31 ECAB 426 (1980).

which consists only of a physician checking “yes” to a medical form report question on whether the claimant’s disability was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.<sup>8</sup>

The remaining medical evidence did not address appellant’s history of injury and did not support a causal relationship between appellant’s condition and factors of her federal employment. As appellant failed to submit the necessary medical evidence to support her occupational disease claim, she failed to meet her burden of proof and the Office properly denied her claim.

The decision of the Office of Workers’ Compensation Programs dated October 3, 2002 is hereby affirmed.

Dated, Washington, DC  
April 22, 2003

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>8</sup> See *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).