

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELVA M. SIMMONS and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Asheville, NC

*Docket No. 03-1811; Submitted on the Record;
Issued October 16, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
MICHAEL E. GROOM

The issue is whether appellant sustained an injury in the performance of duty.

On May 7, 2003 appellant, then a 55-year-old program support assistant, filed a notice of occupational disease and claim for compensation (Form CA-2) for carpal tunnel syndrome of both wrists. She noted, since November 1, 2001, pain in both hands when she typed. By letter dated May 12, 2003, the Office of Workers' Compensation Programs requested that appellant submit further information. The Office asked appellant to submit a detailed description of the employment activities which she believed contributed to her condition and a comprehensive medical report from her treating physician. In response, the Office received a choice of physician form from appellant designating Dr. Gordon Groh as her physician. The Office also received a partially completed duty status report (Form CA-17), dated May 6, 2003, indicating that appellant had carpal tunnel syndrome in both wrists and was limited to seven hours a day of fine manipulation. This form does not contain a legible physician's signature.

By decision dated June 12, 2003, the Office denied appellant's claim, as it found that the evidence was not sufficient to establish that appellant sustained an injury as defined by the Federal Employees' Compensation Act. The Office noted that the evidence was insufficient to establish that the events occurred as alleged and was further denied as there was no medical evidence that provided a diagnosis which could be connected to the claimed events.

The Board finds that appellant has not submitted sufficient evidence to establish that she sustained an injury in the performance of duty.

An employee seeking benefits under the Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of

¹ 5 U.S.C. §§ 8101-8193.

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; (2) a factual statement identifying the 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 diagnosed condition is causally related to the employment factors identified by the claimant.³ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion 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,⁴ must be of reasonable medical certainty,⁵ 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.⁶

In the present case, appellant did not respond to the Office's request to provide a factual statement identifying the specific employment factors which she alleged caused or contributed to the alleged condition. Furthermore, appellant submitted no medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by appellant. The only medical evidence in the record, the May 6, 2003 duty status report, does not constitute a rationalized medical opinion. Although this report does indicate: "Carpal tunnel -- Both Wrist," the form was not complete and did not contain a legible physician's signature. Moreover, this report did not attribute appellant's condition to her employment. Accordingly, appellant has not met the requirements of establishing that she sustained an occupational disease causally related to her federal employment.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997); *Jerry D. Osterman*, 46 ECAB 500 (1995); see also *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ See *Morris Scanlon*, 11 ECAB 384, 384-85 (1960).

⁶ See *William E. Enright*, 31 ECAB 426, 430 (1980).

The decision of the Office of Workers' Compensation Programs dated June 12, 2003 is hereby affirmed.⁷

Dated, Washington, DC
October 16, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

⁷ Appellant submitted additional evidence on appeal. Inasmuch as the Board's review is limited to the evidence of record that was before the Office at the time of its final decision, the Board cannot consider appellant's newly submitted evidence. 20 C.F.R. § 501.2(c).