United States Department of Labor
Employees' Compensation Appeals Board

F.C., Appellant	)	
and	)	**Docket No. 07-2407**
	)	**Issued: March 12, 2008**
DEPARTMENT OF THE AIR FORCE, PETERSON AIR FORCE BASE, Denver, CO, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 26, 2007 appellant filed a timely appeal from the September 29, 2006 and August 30, 2007 merit decisions of the Office of Workers' Compensation Programs, which denied her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of her claim.

ISSUE

The issue is whether appellant's left arm and right thumb conditions are causally related to her former federal employment.

FACTUAL HISTORY

On April 7, 2003 appellant, then a 57-year-old retired fiscal quality specialist,[1] filed a claim alleging that her left arm and right thumb conditions were causally related to her former

[1] Appellant retired on January 26, 2002.

federal employment: "The positions held from around 1994 to January 2002 required hours of using handheld telephone sets, direct input to the which [sic] included processing new applications for special pay programs manual input or 200-400 monthly statements." She offered more details:

> "The physical problems increased around 1994 when the Directorate of Annuity Pay opened the first telephone call center and each employee used hand held telephones to answer incoming calls from customers from 4 to 8 hours several times during a week. All of my job positions held issued prior to that date required daily computer input and use of a calculator of at least 6 hours a day. After January 1996 my job positions a Pay and [f]iscal [q]uality [s]pecialist required hours of daily manual input of new account for special pay programs, monthly payment of 200-400 manual payments for these accounts, typing audit and other reports and maintaining several excel spreadsheets.
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> "This caused increasing pain radiating from the left hand to the shoulder and neck area, also stiffness and numbness in the hand and wrist area. The right thumb problem began with stiffness and pain and gradually I was unable to bend the thumb backwards. An ergonomic evaluation was performed on July 9, 1997 by Health South (Atch __). Since My retirement on January 26, 2002, I started noticing more pain and tingling and weakness in the left hand and right thumb."

On April 28, 2003 the Office asked appellant to provide a comprehensive medical report from her treating physician, one that described her symptoms, the results of examinations and tests, her diagnosis, the treatment provided, the effect of treatment and the doctor's opinion, which medical reasons, on the cause of her condition. The Office advised appellant that this evidence was crucial to her claim.

A July 17, 2000 medical report stated that appellant had osteoarthritis and fibromyalgia, which "has been worse recently." A neurological examination on December 11, 2002 revealed normal strength, motor and sensation. Nerve conduction studies were reported to be consistent with very mild carpal tunnel syndrome bilaterally. The impression was: "Some of her symptoms are consistent with carpal tunnel syndrome, although her electrical studies are not very impressive. Other contributing factors could be overuse syndrome, as well as tendinitis."

In a decision dated June 4, 2003, the Office denied appellant's claim for compensation. The Office accepted that the factual evidence was sufficient to establish the occupational exposures to which appellant attributed her diagnosed condition. It found that she submitted medical evidence connecting her diagnosed condition to the established exposure.

Appellant submitted an October 2, 2002 diagnosis of left carpal tunnel syndrome, left lateral epicondylitis and right thumb triggering finger and deformity in respect to the distal interphalangeal joint. Neurologic testing was recommended, however, for a better evaluation of the left wrist. Appellant submitted a September 11, 2003 diagnosis: "Left carpal tunnel syndrome and left shoulder rotator cuff syndrome. I believe these two entities are separate. Her hand symptoms are more indicative of a neurological entrapment syndrome, whereas her shoulder is more indicative of an inflammatory tendinopathy or bursitis." She also submitted an

October 6, 2003 prescription note from Dr. Jaime A. Panchon, a rheumatologist, who noted: "[Appellant's] carpal tunnel syndrome and shoulder bursitis most likely as a result of cumulative movement disorder."

In a decision dated December 24, 2003, the Office denied modification of its June 4, 2003 decision. The Office found that appellants did not provide sufficient medical evidence to support a causal relationship between her current medical conditions and factors of her employment.

Appellant submitted additional medical reports on the state of her physical condition dated 1994 to 1997. In a decision dated March 23, 2005, the Office reviewed the merits of her claim and denied modification of its December 24, 2003 decision. The Office found that the new evidence was sufficient to support that appellant's medical condition was causally related to her federal employment.[2]

Appellant submitted the official position description for a fiscal quality specialist. She submitted an October 28, 2002 medical report assessing right trigger thumb, left carpal tunnel syndrome and left de Quervain's tenosynovitis. An October 30, 2002 radiology report showed degenerative changes in the right carpal bones. Appellant also submitted a hand therapy note.

On April 11, 2006 Dr. Pachon reported as follows:

> "[Appellant] has been evaluated at our center on three separate occasions since September 11, 2003. Most recent visit occurred on April 10, 2006 for reevaluation of her chronic left carpal tunnel syndrome, right trigger thumb and left shoulder rotator cuff syndrome. Unfortunately, she has not responded favorably to conservative treatments. [Appellant] continues to report persistent left hand/wrist and shoulder pain. Prior surgery in 1983 to remove left wrist dorsum ganglion has not played a role or cause her above noted findings.
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> "[Appellant] was employed by a government agency where she worked [40] hour[s] [a] week performing daily computer input, manual filing, daily telephone usage and classroom training. It is possible that after numerous years of exposure to repetitive movements this has influenced her present symptoms.
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> "Important to note, that [appellant's] old medical records reflect a diagnosis of fibromyalgia. She has not exhibited findings of this condition while under my care."

In a decision dated September 29, 2006, the Office reviewed the merits of appellant's claim and denied modification of its March 23, 2005 decision. The Office found that Dr. Panchon's opinion was speculative.

[2] Because the Office did not send its March 23, 2005 decision to appellant's last known address, the Office sent a copy of the decision, with appeal rights, to her current address on March 15, 2006 and advised that time limitations would start anew that date.

On May 29, 2007 Dr. Patrick W. Owens, an assistant professor of clinical orthopedics, reported as follows:

> "I am writing in response to your inquiry regarding the relation of your current symptoms and diagnoses to your previous work position as a [f]iscal [q]uality [s]pecialist. Please note that in the package of records received by my office, there was no report of the ganglion surgery other than the billing statement.
>
> "The current diagnoses of right trigger thumb, left carpal tunnel syndrome and left [de] [Q]uervain's tenosynovitis can each be seen as occupational illness due [to] repetitive strain.
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> "Although nerve conduction studies done in 1995 did not show any evidence of nerve dysfunction, those performed by Dr. [Brad] Herskowitz in December 2002 do show evidence of carpal tunnel syndrome in both hands. Given the proximity of these studies to your retirement, it is likely that the function of the nerve declined during your employment and may explain some of the pain you were experiencing in your left hand during that time as noted by Dr. [Michael C.] Fagan. The previous injury/surgery that you described would not likely cause carpal tunnel syndrome, which I believe is what I told you when you saw me. The repetitive stress of your previous occupation, however, is a much more likely cause.
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> "I cannot find any mention of problems with your right thumb dated prior to Dr. [Janet M.] Baker's first examination on October 28, 2002, so I am unable to contribute this symptom directly to your previous job based on the records that you forwarded. This problem is mentioned in the [F]orm CA-2, which is unsigned and not dated.
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> "The same holds true for the [d]e [Q]uervain's tenosynovitis. Radiographs that were performed during your initial consultation with Dr. Baker demonstrate degenerative changes in the left scaphotrapezial joint at the base of the thumb, which can be a cause of [d]e [Q]uervain's tenosynovitis. It is unclear if this arthritis is secondary to the injury which led to the previous excision of the ganglion from your wrist since I do not have the medical report. However, there is evidence that certain ligament injuries of the wrist that are associated with ganglion cysts are also associated with degeneration at this joint.
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> "As for your shoulder, there is clearly documented pain in this area that was related to your job and this required an ergonomic workspace evaluation as part of the treatment."

In a decision dated August 30, 2007, the Office denied modification of its September 29, 2006 decision. The Office found that Dr. Owens did not have a complete and accurate medical history of appellant's upper extremities and did not list one particular job factor that he could say caused her condition with reasonable medical certainty and medical rationale.

LEGAL PRECEDENT

The United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.[3] An employee seeking benefits under the Federal Employees' Compensation Act has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.[4]

Causal relationship is a medical issue[5] and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,[6] must be one of reasonable medical certainty[7] and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.[8]

ANALYSIS

The Office does not dispute the duties appellant performed as a fiscal quality specialist. The Office accepts that she experienced repetitive exposures as alleged. The question that remains is whether the specific duties appellant performed prior to her retirement on January 26, 2002 caused an injury.

The medical evidence appellant initially submitted made no connection between her federal employment and her left arm or right thumb condition. Dr. Panchon's October 6, 2003 prescription note stated that appellant's carpal tunnel syndrome was most likely a result of cumulative movement disorder. He made no mention of her former federal employment. Such evidence has no probative value to establish appellant's entitlement to compensation.

Dr. Panchon's April 11, 2006 report noted that appellant was employed by a government agency, where she worked 40 hours a week performing daily computer input, manual filing, daily telephone usage and classroom training. He stated that it was possible, after numerous years of exposure to repetitive movements, that this had influenced her present symptoms of left hand/wrist and shoulder pain. Dr. Panchon did not state that these employment activities caused

[3] 5 U.S.C. § 8102(a).

[4] *See generally John J. Carlone*, 41 ECAB 354 (1989).

[5] *Mary J. Briggs*, 37 ECAB 578 (1986).

[6] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[7] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[8] *See William E. Enright*, 31 ECAB 426, 430 (1980).

an injury to a reasonable medical certainty; he stated only that it was possible. As such, the medical opinion is speculative. The evidence, however, must show more than a medical possibility. The Board finds that Dr. Panchon's opinion is equivocal and of little probative value.[9] Dr. Panchon did not explain medically how the employment activities "influenced" appellant's diagnosed condition.

The only other medical opinion that connects appellant's current medical condition to her duties as a fiscal quality specialist is Dr. Owens' May 29, 2007 report. Dr. Owens identified appellant's job title but he never mentioned what her duties entailed. He did not describe with any specificity the physical requirements of her position. As such, this medical opinion is not medical opinion is not based on an accurate factual background. It does not address how the specific duties appellant performed as a fiscal quality specialist caused or aggravated her diagnosed condition. Dr. Owens did not demonstrate that he understood the physical requirements of appellant's job and his opinion is of diminished probative value.[10]

Dr. Owens stated that appellant's current diagnoses of right trigger thumb, left carpal tunnel syndrome and left de Quervain's tenosynovitis "can each be seen" as an occupational illness due to repetitive strain. However, this explanation is not adequate to establish the physicians opinion to a reasonable medical certainty. Dr. Owens did not attribute appellant's right thumb problems directly to her previous job based on the records he had before him and the same held true for her de Quervain's tenosynovitis.

Dr. Owens stated that the evidence of bilateral carpal tunnel syndrome in December 2002 made it likely, given its proximity to appellant's retirement, that the function of the (left median) nerve declined during employment.[11] However, he stated that he was unable to attribute her right thumb problems to her employment, as he found no mention of such problems prior to Dr. Baker's examination in October 2002. The distinction Dr. Owens made as to whether the conditions in question manifested themselves in clinical findings prior to appellant's retirement is not well rationalized. The mere fact that a condition manifests itself or worsens during a period of federal employment raises no inference of causal relationship between the two.[12] Such temporal relationships are not sufficient to establish causal relationship.[13]

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[9] *See Philip J. Deroo*, 39 ECAB 1294 (1988) (although 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 medical certainty, neither can such opinion be speculative or equivocal); *Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

[10] *See James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). *See generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

[11] Despite the evidence of bilateral carpal tunnel syndrome in December 2002 and the proximity of that evidence to appellant's retirement, Dr. Owens did not relate her right carpal tunnel syndrome to federal employment.

[12] *Steven R. Piper*, 39 ECAB 312 (1987).

[13] *See Thomas D. Petrylak*, 39 ECAB 276 (1987).

Dr. Owens offered no medical rationale to support his assertion that documented pain in the shoulder area was related to appellant's job. His May 29, 2007 report is not based on a proper factual history and is not soundly reasoned. Dr. Owens' opinion, of limited support to appellant's claim, is insufficient to establish that her diagnosed conditions are causally related to her former federal employment.[14]

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that her left arm and right thumb conditions are causally related to her former federal employment. She has not submitted sufficient the medical opinion evidence to establish causal relationship.

ORDER

IT IS HEREBY ORDERED THAT the August 30, 2007 and September 29, 2006 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 12, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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

[14] Medical conclusions unsupported by rationale are of little probative value. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).