

On August 14, 2009 appellant, then a 43-year-old practical nurse, filed a traumatic injury claim alleging that on August 13, 2009 she sustained a minor left wrist injury when a patient grabbed her wrist while she was attempting to administer medication. The Office accepted her claim for left wrist sprain. Appellant did not stop work.

Appellant was treated at an employing establishment medical center from August 13 to 19, 2009, for left wrist pain which occurred after the altercation with a patient. She was initially treated by Dr. Bruce J. Hinkle, Board-certified in emergency medicine, who noted examination findings of no tenderness in the elbow, wrist, hand or snuffbox, mild tenderness in the distal radius with no swelling and full range of motion. Dr. Hinkle diagnosed left wrist sprain, prescribed a splint and returned appellant to work full duty. On August 14, 2009 appellant was treated by Dr. Shubha R. Acharya, a Board-certified internist, for left wrist pain. Dr. Acharya diagnosed resolving left wrist strain and intermittent paresthesias of the left hand. He returned appellant to work full duty. Similarly, on August 19, 2009 appellant was treated by a physician's assistant for resolving left wrist strain and intermittent paresthesias of the left hand. A November 12, 2009 electromyogram (EMG) revealed evidence of left median entrapment neuropathy at the wrist consistent with carpal tunnel syndrome.

Appellant came under the treatment of Dr. David G. Kuntz, Jr., a Board-certified orthopedist, from November 6, 2009 to February 4, 2010, for a left wrist injury which occurred at work on August 13, 2009. She reported persistent pain and numbness in the thumb, third and fourth digits. On November 20, 2009 Dr. Kuntz diagnosed mild left carpal tunnels syndrome pursuant to an EMG, left wrist pain and probable tenosynovitis and recommended continued conservative treatment including splinting and physical therapy. On December 18, 2009 he advised that appellant continued to have left wrist pain despite injections, therapy and bracing. Dr. Kuntz opined that he did not see any surgical indication and recommended a short-arm cast. On January 22, 2010 he noted appellant's persistent symptoms of left wrist pain, numbness and tingling despite being casted. Dr. Kuntz diagnosed diffuse left wrist pain and left carpal tunnel syndrome and recommended a magnetic resonance imaging (MRI) scan. On February 4, 2010 he noted appellant's continued symptoms of persistent left wrist pain, left carpal tunnel syndrome. Dr. Kuntz noted tenderness over the dorsum of the left wrist and snuffbox, positive Tinel's and Phalen's signs over the carpal tunnel, weak grip strength on the left with decreased left flexion. He opined that conservative treatment failed including bracing, injections, activity modifications, immobilization and medication. Dr. Kuntz recommended surgical intervention, left carpal tunnel release and left wrist arthroscopy with debridement and advised that appellant may have a ligament tear. Appellant submitted physical therapy notes from November 20 to December 16, 2009.

In a decision dated February 17, 2010, the Office denied the request for surgery on the grounds that the proposed surgery was neither warranted nor causally related to appellant's accepted work-related injury of August 13, 2009.

LEGAL PRECEDENT

Section 8103 of the Federal Employees' Compensation Act¹ provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Office considers likely to cure, give relief, reduce the degree or the period of disability or aid in

¹ 5 U.S.C. §§ 8101-8193.

lessening the amount of monthly compensation.² In interpreting this section of the Act, the Board has recognized that the Office has broad discretion in approving services provided under section 8103, with the only limitation on the Office's authority being that of reasonableness.³ Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.⁴ In order to be entitled to reimbursement for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury.⁵

Proof of causal relationship in a case such as this must include supporting rationalized medical evidence. Thus, in order for a surgery to be authorized, appellant must submit evidence to show that the requested procedure is for a condition causally related to the employment injury and that it is medically warranted. Both of these criteria must be met in order for the Office to authorize payment.⁶

ANALYSIS

The Office accepted that appellant sustained an employment-related left wrist sprain. Appellant did not stop work. On February 9, 2010 Dr. Kuntz requested that the Office authorize left carpal tunnel surgery and wrist arthroscopy. The Board finds that the Office did not abuse its discretion in denying appellant's request for left carpal tunnel surgery and wrist arthroscopy for her wrist condition.

Appellant was treated by Dr. Kuntz from November 6 to December 18, 2009, who diagnosed mild left carpal tunnel syndrome pursuant to an EMG and probable tenosynovitis. Similarly, on January 22, 2010 Dr. Kuntz noted appellant's complaints of left wrist pain, numbness and tingling and diagnosed diffuse left wrist pain and left carpal tunnel syndrome. However, the Board notes that appellant's claim was not accepted for left carpal tunnel syndrome and tenosynovitis. None of Dr. Kuntz's reports explained the causal connection between the carpal tunnel syndrome and tenosynovitis and the original left wrist sprain of August 13, 2009.⁷

In a report dated February 4, 2010, Dr. Kuntz diagnosed persistent left wrist pain, carpal tunnel syndrome and opined that appellant failed all conservative treatment including bracing, injections, activity modifications, immobilization and medication. He recommended surgical

² *Id.* at § 8103; *see Thomas W. Stevens*, 50 ECAB 288 (1999).

³ *James R. Bell*, 52 ECAB 414 (2001).

⁴ *Claudia L. Yantis*, 48 ECAB 495 (1997).

⁵ *Cathy B. Mullin*, 51 ECAB 331 (2000).

⁶ *Id.*

⁷ *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

intervention, left carpal tunnel release and left wrist arthroscopy with debridement. Dr. Kuntz explained that appellant needed the surgery because conservative treatment had failed. However, his report failed to provide a rationalized opinion regarding the causal relationship of the proposed carpal tunnel syndrome and left wrist arthroscopy to the employment injury. The Office never accepted that appellant developed carpal tunnel syndrome as a result of her August 13, 2009 work injury and the medical opinion evidence of record is not sufficient to establish that the procedure in question is necessary for treatment of appellant's accepted work injury of left wrist sprain.

Other medical records submitted most contemporaneous with the date of the alleged injury, specifically employing establishment records from August 13 to 19, 2009 diagnosed left wrist sprain and returned appellant to work full duty. Similarly, on August 14, 2009 Dr. Acharya treated appellant for left wrist pain with intermittent paresthesias and diagnosed resolving left wrist strain and intermittent paresthesias of the left hand. However, none of the physicians diagnosed carpal tunnel syndrome nor did they recommend surgical intervention, rather, they suggest that appellant's accepted left wrist sprain was resolving. A November 12, 2009 EMG report did not provide an opinion on the causal relationship between appellant's job and his diagnosed carpal tunnel syndrome.

Appellant also submitted records from a physician's assistant as well as physical therapy notes, however; the Board has held that treatment notes signed by a physician's assistant and physical therapist are not considered medical evidence as these providers are not physicians under the Act.⁸

In order for a surgical procedure to be authorized, a claimant must show that the surgery is medically warranted and is for a condition causally related to an employment injury.⁹ Because appellant did not submit a reasoned medical opinion explaining that the left carpal tunnel surgery and wrist arthroscopic surgery was caused by employment factors, the Office properly acted within its discretionary authority to deny authorization for the requested surgery. Therefore, the Board finds that the Office did not abuse its discretion under section 8103 in denying approval of left carpal tunnel surgery and wrist arthroscopic surgery.

On appeal appellant asserts that her surgery request should be granted because she has unexplained pain and numbness in her left wrist caused by the work injury of August 13, 2009. As noted above, in order for a surgery to be authorized, she must submit evidence to show that the requested procedure is for a condition causally related to the employment injury and that it is medically warranted. In this instance, as noted above, appellant has not submitted sufficient

⁸ See *David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under the Act); 5 U.S.C. § 8101(2) (this subsection defines a "physician" as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

⁹ 5 U.S.C. § 8103; see also *R.C.*, 58 ECAB 238 (2006) (where the Board found that for a surgery to be authorized, a claimant must submit evidence to show that the requested procedure is for a condition causally related to the employment injury and that it is medically warranted).

evidence to support that the recommended surgery was causally related to her employment injury of August 13, 2009.

CONCLUSION

The Board finds that the Office properly denied appellant's claim for authorization of left carpal tunnel surgery and wrist arthroscopic surgery.¹⁰

ORDER

IT IS HEREBY ORDERED THAT the February 17, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 22, 2010
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

¹⁰ After the Office issued the February 17, 2010 decision, appellant submitted additional medical evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).