

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEPHEN D. FOWLER and U.S. POSTAL SERVICE,
DOWNTOWN STATION, Colorado Springs, Colo.

*Docket No. 96-2152; Submitted on the Record;
Issued August 4, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has established his entitlement to medical treatment benefits for his left hand carpal tunnel syndrome after October 6, 1994.

Appellant's initial claim, filed on October 21, 1991, was accepted for left carpal tunnel syndrome in January 1992. Previously, appellant's claim for right carpal tunnel syndrome had been accepted by the Office of Workers' Compensation Programs and he had undergone release surgery in January 1991.

On January 10, 1995 appellant filed a notice of recurrence of disability, indicating October 6, 1994 as the date of recurrence but stating that his claim was not a recurrence because his left hand and wrist condition had persisted since it was diagnosed and accepted. Appellant added that he did not lose time from work but had sought medical treatment for his left wrist, which lost sensation and became numb more often, regularly interrupting his sleep.

On June 14, 1995 the Office denied the claim on the grounds that appellant had failed to establish any causal relationship between work factors and his carpal tunnel syndrome condition.

Appellant requested a hearing, which was held on January 25, 1996. Appellant testified that while he no longer performed the duties that initially caused the left carpal tunnel syndrome, he had experienced constant problems with his left wrist and hand. He added that his physician had recommended surgery in October 1994 and he now felt his condition was just going to get worse if it was not corrected.

On March 18, 1996 the hearing representative denied the claim on the grounds that the medical evidence failed to establish that appellant's current left wrist condition was causally related to the accepted carpal tunnel syndrome in 1991. The hearing representative noted that the medical evidence was insufficiently probative to carry appellant's burden of proof.

The Board finds that this case is not in posture for decision and must be remanded for further evidentiary development.

Section 8103 of the Federal Employees' Compensation Act¹ provides for the furnishing of "services, appliances, and supplies prescribed or recommended by a qualified physician" which the Office, under authority delegated by the Secretary, "considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation."

While the Office is obligated to pay for treatment of employment-related conditions, appellant has the burden of establishing that the expenditure was incurred for treatment of the effects of an employment-related injury or condition.² Thus, to be entitled to reimbursement of medical expenses by the Office, appellant must establish a causal relationship between the expenditure and the treatment by submitting rationalized medical evidence that supports such a connection and demonstrates that the treatment is necessary and reasonable.³

In this case, appellant's left carpal tunnel syndrome was accepted by the Office as employment related. Subsequent to the oral hearing, appellant submitted additional medical evidence consisting of office notes from Dr. Gary A. Tarshis, appellant's treating physician, and Dr. Mark W. Walton, an osteopathic practitioner, covering the period from October 21, 1991 through June 1, 1995. These notes indicated that appellant was regularly seen for complaints of pain in both wrists and hands since he returned to full duty as a window clerk in 1991. Further, Dr. Walton stated in a July 20, 1995 letter that appellant could no longer case mail or work overtime and that it was "perfectly feasible" that the work conditions that caused his initial injury were responsible for the "continuing deterioration" of his left hand and wrist. In a January 24, 1996 letter, Dr. Walton added that the repetitive nature and chronic upper extremity stress of appellant's job was the cause of his bilateral carpal tunnel syndrome.

The Board has long held that proceedings under the Act are not adversarial in nature, and the Office is not a disinterested arbiter.⁴ While appellant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.⁵ The Office's procedures provide that, while an employee claiming compensation must show sufficient cause for the Office to proceed with processing and adjudicating a claim, the Office has the obligation to aid in this process by giving detailed instructions for developing the required evidence.⁶ The Office's procedure manual states that the claims examiner is responsible for notifying the claimant of unresolved issues which, if not satisfied, will lead to the denial of a claim.⁷

¹ 5 U.S.C. §§ 8101-8193 (1974); 5 U.S.C. § 8103.

² *Mamie L. Morgan*, 41 ECAB 661, 667 (1990); see 5 U.S.C. § 8103(a).

³ *Debra S. King*, 44 ECAB 203, 209 (1992).

⁴ *Richard Kendall*, 43 ECAB 790, 799 (1992) and cases cited therein.

⁵ *Katharine J. Friday*, 47 ECAB ____ (Docket No. 95-646, issued May 17, 1996).

⁶ Federal (FECA) Procedure Manual, *supra* note 2, Chapter 2.800.3.a.

⁷ *Id.*, Chapter 2.800.3.c.(5).

In this case, the Board finds that appellant has submitted sufficient medical evidence to require the Office to develop the evidentiary record more thoroughly.⁸ While Dr. Walton's opinion is not fully rationalized, he twice attempted to explain why the deterioration of appellant's left wrist condition was employment related and nothing in the record refutes his statement.⁹ Therefore, appellant's case shall be remanded for further development of the evidence.¹⁰

On remand, the Office shall submit a statement of accepted facts, together with appellant's medical records, to an appropriate Board-certified specialist for an examination and a reasoned medical opinion on whether appellant's current employment duties as a window clerk aggravated his accepted carpal tunnel syndrome to the point that he needs further medical treatment. Following such further development as it deems necessary, the Office shall issue a *de novo* decision.

The March 18, 1996 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this opinion.

Dated, Washington, D.C.

August 4, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁸ See *John J. Carlone*, 41 ECAB 354, 358 (1989) (finding that medical evidence submitted by appellant is sufficient, absent any opposing medical evidence, to require further development of the record).

⁹ See *Thelma Rogers*, 42 ECAB 866, 870 (1991) (finding that, regardless of the employee's health condition, if employment factors constitute the precipitating cause of disability such disability is compensable as having resulted from accidental injury arising out of the employment); *Charles A. Duffy*, 6 ECAB 470, 471 (1954) (finding that the aggravation of a preexisting disease or defect is as compensable as an original or new injury).

¹⁰ See *Delores C. Ellyett*, 41 ECAB 992, 995 (1990) (finding that the Office may not completely disregard medical opinions of diminished probative value but rather must further develop the record).