

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NELIDO ARBELO-JIMINEZ and DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, Arecibo, P.R.

*Docket No. 95-2521; Submitted on the Record;
Issued February 18, 1998*

DECISION and ORDER

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

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty causally related to factors of her federal employment.

The Board has duly reviewed the case record in the present appeal and finds that the Office of Workers' Compensation Programs properly determined that appellant did not meet her burden of proof in establishing that she sustained an injury in the performance of duty causally related to factors of her federal employment.

On April 4, 1994 appellant, then a 38-year-old claims representative, filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that she developed chronic cervical myositis, bilateral thoracic outlet syndrome, C6 radiculopathy and right elbow epicondylitis performing her work. Appellant stopped work on March 9, 1994 and has not returned to work since that date. The Office accepted appellant's claim for another condition, bilateral carpal tunnel syndrome, No. 020664900, occurring on the same date of injury as the injury for this claim for which appellant was receiving total disability. In a June 28, 1994 statement, appellant stated that she used a computer for all of her work and that she used a telephone for daily interviews which caused pain in her neck and shoulders.

To support her claim, appellant submitted disability notes diagnosing her condition and an attending physician's report dated March 9, 1994 from Dr. Roberto Rivera Rivera, a Board-certified internist with a subspecialty in rheumatology. In the March 9, 1994 report, Dr. Rivera checked the "yes" box indicating that appellant's condition of cervical myositis, bilateral carpal tunnel syndrome and right elbow epicondylitis was related to her alleged March 24, 1993 employment injury. By letter dated May 16, 1994, the Office requested that appellant submit additional information including a description of the specific conditions at work which caused her condition. A letter dated June 3, 1994 from a supervisor stated that appellant had been complaining of conditions alleged in her claim, that her tasks were light in nature, and all

employees in her position were provided with ergonomic chairs, adjustable keyboards, wrist rests, foot rests, and communication headsets. Appellant subsequently stated, however, that she did not have an ergonomic work station but had an old desk and a normal phone. She stated that the computer and keyboard were at chest level causing her to keep her shoulders shrugged all day in order to be able to type which caused spasm and pain in her neck, shoulders and arms, using the phone for the interviews caused numbness in her hands and tension and spasm in her neck which radiated into her back, and the desk drawers were difficult to open and close.

By decision dated June 30, 1994, the Office denied appellant's claim stating that the evidence of record failed to establish that an injury was sustained as alleged.

By letter dated July 10, 1994, appellant requested reconsideration of the Office's decision and submitted additional evidence including the June 28, 1994 statement about the nature of her work and two medical reports from Dr. Rivera, dated August 18, 1993 and July 8, 1994. In his August 18, 1993 report, Dr. Rivera diagnosed cervical myositis and bilateral carpal tunnel syndrome and stated that "these two conditions can be aggravated or can be related to her present job." He stated that appellant was presently working at an office using a computer and that the bending movement of the wrists might cause numbness and paresthesia of the hands while she was using the keyboard. In his July 8, 1994 report, Dr. Rivera diagnosed bilateral carpal tunnel syndrome, C6 bilateral radiculopathy and epicondylitis of the right elbow. He stated that some of appellant's tasks at her job "can aggravate her condition[,] mainly bending of her wrists while she [was] using the computer keyboard; prolonged sitting; and pulling or pushing file drawers."

By decision dated October 13, 1994, the Office denied appellant's reconsideration request.

By letter dated January 12, 1994, appellant requested reconsideration of the Office's decision and submitted additional evidence including a medical report from Dr. Rivera dated January 11, 1995. In the January 11, 1995 report, Dr. Rivera reiterated his diagnoses of appellant's condition and additionally diagnosed cervical trapezius muscular spasm. He stated that "based on [appellant's] work activity there is no doubt that all conditions listed above are aggravated by her constant sitting position at [a] non-ergonomic work station. Based on [appellant's] average workday she causes severe strain and stress on [her] neck, shoulder and back muscles in conjunction with bilateral carpal tunnel syndrome." He further stated that appellant had her conditions since March 24, 1993 and "there is no doubt that employment factors have aggravated [appellant's] condition."

By decision dated February 4, 1995, the Office denied appellant's reconsideration request.

An employee seeking benefits under the Federal Employees' Compensation Act 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 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.¹ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.²

To establish that an injury was sustained in the performance of duty, an appellant must submit the following: (1) medical evidence establishing the presence or existence of the condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the 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 claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical 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 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 the claimant, 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 the appellant.³

In the present case, none of Dr. Rivera's reports provide a rationalized opinion as to how appellant's factors of employment contributed to her claimed condition of chronic cervical myositis, bilateral thoracic outlet syndrome, C6 radiculopathy and right elbow epicondylitis. In his August 18, 1993 report, Dr. Rivera's statements that cervical myositis and bilateral carpal tunnel syndrome "can be" aggravated or related to her present job and the bending movement of the wrists while using a computer might cause numbness and paresthesia of the hand is speculative and therefore his report is not probative.⁴ Dr. Rivera's March 9, 1994 report in which he checked the "yes" box on an Office form indicating that appellant's condition was causally related to employment factors, is also not probative, as the Board has held that merely checking a "yes" box on an Office form is insufficient to establish causal relationship.⁵ Further, Dr. Rivera's statement in his July 8, 1994 report that appellant's tasks on her job consisting of using a computer keyboard, prolonged sitting and pulling or pushing file drawers could aggravate her condition is also speculative. Dr. Rivera's January 11, 1995 report is also not sufficiently rationalized to establish causal relationship. Although Dr. Rivera stated in his report that appellant's average workday caused severe strain and stress on her neck, shoulder and back muscles in conjunction with carpal tunnel syndrome and that "there was no doubt" that employment factors aggravated appellant's condition, he did not specifically describe how the

¹ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

² *Daniel J. Overfield*, 42 ECAB 718, 721 (1991).

³ *See Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ *See William S. Wright*, 45 ECAB 498, 504 (1994).

⁵ *See Debra S. King*, 44 ECAB 203, 210 (1992).

factors of employment aggravated appellant's condition. Although the Office advised appellant of the type of medical evidence needed to establish her claim, appellant did not submit medical evidence responsive to the request. As there is no rationalized medical evidence of record relating appellant's condition of chronic cervical myositis, bilateral thoracic outlet syndrome, C6 radiculopathy and right elbow epicondylitis to factors of her employment, appellant has not established that she sustained an injury in the performance of her duty, as alleged.

The decisions of the Office of Workers' Compensation Programs dated February 4, 1995, October 13 and June 30, 1994 are hereby affirmed.

Dated, Washington, D.C.
February 18, 1998

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member