

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA J. SHREWSBURY and DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, Philadelphia, PA

*Docket No. 98-1032; Submitted on the Record;
Issued August 10, 1999*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

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

The Board has duly reviewed the case record and finds that appellant has not established that she sustained an injury in the performance of duty, as alleged.

On July 17, 1996 appellant, then a 43-year-old claims representative, filed an occupational disease claim, Form CA-2, alleging that as a result of pulling files and lifting boxes for a year from July 1995 through July 1996, she developed pain in her shoulder, neck and elbow, numbness and tingling in her right arm and tremors in her right hand and that the symptoms increased since February 1996. Appellant stated that in June 1996 she gave up all her lifting and her hobby of bowling. She stated that the weight of boxes she lifted ranged from 30 to 43 pounds. Appellant did not miss any time from work.

Appellant's supervisor stated that appellant's job included assembling shipping boxes, lifting the boxes onto a mail cart and returning the boxes to a holding location pending their shipment. He stated that the boxes weighed from 28 to 45 pounds and after June 19, 1996, appellant delegated the physical labor to new employees.

By letter dated October 11, 1996, the Office of Workers' Compensation Programs informed appellant that more information was necessary to establish her claim including a comprehensive medical report from her treating physician explaining how her federal employment contributed to her condition.

By decision dated November 26, 1996, the Office denied the claim, stating that the evidence of record failed to establish that appellant sustained an injury, as alleged.

By letter dated December 5, 1996, appellant submitted medical evidence consisting of medical reports dated November 4 and 19, 1996, an undated report received by the Office on December 9, 1996 and progress notes dated from August 15 through October 22, 1996 from her

treating physician, Dr. Daniel C. Davidson, a chiropractor. In the progress notes dated from August 15 through October 22, 1996, he documented appellant's ongoing complaints of pain in her neck, back, right elbow and left shoulder and described levels of spinal manipulations he performed, usually at C5, C6, T1, T3 and T7. In the November 4, 1996 report, Dr. Davidson stated that he performed spinal manipulations, opined that appellant reached maximum medical improvement and released her from his care. In the November 19, 1996 report, he reiterated that appellant reached maximum medical improvement. In the report received by the Office on December 9, 1996, Dr. Davidson considered appellant's history of injury, performed a physical examination and diagnosed subacute moderate cervical and thoracic sprain/strain with cervical radiculitis, facet syndrome and paravertebral myofascitis. He stated that over two years ago appellant had been treated in his office for similar complaints of neck and upper back pain and that these complaints resolved at that time. Dr. Davidson opined that there was a "definitive causal relationship between [appellant's] chief complaints" and the June 1996 employment injury.

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 the 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 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 appellant.¹

In the present case, appellant has failed to meet her burden of establishing that she sustained an injury in the performance of duty, as alleged, because the evidence she submitted from her chiropractor, Dr. Davidson, has no probative medical value. Under Section 8101(2) of the Federal Employees' Compensation Act, chiropractors are considered physicians and their reports considered medical evidence, to the extent that they treat spinal subluxations as demonstrated by x-ray to exist.² Dr. Davidson did not indicate in any of his reports or progress notes that appellant had subluxations demonstrated by x-ray to exist. He therefore is not a physician within the meaning of the Act and his opinion is insufficient to establish appellant's claim.

¹ See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

² 5 U.S.C. § 8107(a); *Carolyn M. Leek*, 47 ECAB 374, 380 n. 10 (1996).

The decision of the Office of Workers' Compensation Programs dated December 8, 1997 is hereby affirmed.

Dated, Washington, D.C.
August 10, 1999

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member