

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SAUNDRA K. WILLIAMS and SMITHSONIAN INSTITUTION,
NATIONAL GALLERY OF ART, Washington, D.C.

*Docket No. 97-1212; Submitted on the Record;
Issued June 21, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant has established that she sustained a cervical strain, neck pain and muscular strain in the performance of duty.

Appellant, a 34-year-old office automation assistant, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that "the neck and shoulder pain is due to sitting at my working station typing and inputting information into the computer hours at a time with minimum or no breaks, this stress occurs 40 hours a week." She alleged that she first became aware of her injury on January 1, 1995 and realized that it was caused or aggravated by her employment on April 22, 1996.

On the reverse of her Form CA-2, appellant noted that she first received medical attention on April 22, 1996 from Dr. Alpana Goswami, a physician at Humana Group Health, specializing in internal medicine, who diagnosed neck pain and cervical strain. Dr. Goswami stated that appellant has had off and on right-sided neck and upper back pain for over two months. He noted that appellant stated that she "works on the computer all day and is an artist and does a lot of etching and sketching with her neck bent down." Dr. Goswami prescribed Motrin 800 and physical therapy as needed and advised appellant to "avoid too much flexing of her neck." He did not discuss any causal relation with specific factors of appellant's employment.

The record contains physical therapy notes which indicate that appellant uses a computer both at work and at home and an easel at home. The notes also indicate that appellant has "cervical and upper trap pain" and notes a diagnosis of muscular strain.

In a report dated February 29, 1996, Dr. Goswami discussed appellant's earlier complaints of upper back pain. He noted that appellant stated that she "probably has been using a chair at work that might be causing the problem." Dr. Goswami diagnosed "upper back pain, probably musculoskeletal" and prescribed Motrin 800 and moist heat as needed. No further

information regarding specific implicated factors of appellant's employment was mentioned or discussed as being the cause of appellant's condition.

On appellant's CA-2 form she indicated that she notified her supervisor of the condition on May 29, 1996. Sergeant Jeroboam Powell, appellant's supervisor, acknowledged notification of appellant's alleged injury and submitted a memorandum dated July 11, 1996. In his memorandum, he stated:

“[Appellant] has been aware of shoulder, neck and back pains that she and her doctor claims that are from hours of work at the computer station at the place of employment since April 22, 1996. [She] receives a 20-minute break in the morning and a 20-minute break in the evening and a 40-minute lunch break during the 8-hour workday. [Appellant] is also allowed any comfort break if she so requested during the day. [She] is allow[ed] but not restricted to any desk or chair that I as a supervisor can provide for her comfort.”

By letter dated July 31, 1996, the Office of Workers' Compensation Programs requested further specific information on appellant's prior medical history and a detailed description of employment factors appellant implicated in causing her condition.

On August 19, 1996 the Office received an August 15, 1996 statement from appellant claiming that she noticed her “neck, back and shoulder began to hurt after spending endless and prolonged hours typing and inputting information into the computer.” She noted that she asked her supervisor for a new chair but that it took months before one was provided. She also stated “I am no longer etching and sketching, but the ... pain continues to exist.”

By letter dated September 26, 1996, the Office advised appellant that additional information was required in reference to her claim for benefits of her neck and shoulder condition under the Federal Employees' Compensation Act¹ and provided a detailed list of questions for appellant to follow. No response was received from appellant.

By decision dated November 8, 1996, the Office denied appellant's claim finding that she failed to submit evidence that established the claimed condition was causally related to the accepted employment factors.

The Board finds that appellant has not established that she sustained an injury in the performance of duty causally related to factors of her federal employment.

An employee seeking benefits under the 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 timely filed within the applicable time limitation period 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

¹ 5 U.S.C. §§ 8101-8193.

related to the employment injury.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or 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 a causal relationship is rationalized medical opinion 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 claimant'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 claimant.⁴

In support of her claim, appellant submitted medical reports from Dr. Goswami, dated February 29 and April 22, 1996, in which he diagnosed neck pain, cervical strain and muscular strain. In order for these conditions to be covered under the Act, the evidence must demonstrate that the essential element of causal relationship has been met. The question of causal relationship is a medical issue which usually requires reasoned medical opinion for resolution. Causal relationship may be established by means of direct causation, aggravation, acceleration or precipitation.

None of the reports from Dr. Goswami are sufficient to establish causal relationship as he does not opine that appellant's neck strain, cervical strain or muscular strain were caused by her employment duties. He reported that appellant states that "she works on a computer all day" and that "using a chair at work might be causing the problem." This statement as the cause of the conditions diagnosed by Dr. Goswami is too speculative to satisfy appellant's burden of proof.

The physical therapy notes are of no probative value. In *Barbara Williams*,⁵ appellant submitted reports from a physical therapist and the Board found that the reports were of no probative value as a physical therapist is not a physician as defined under the Act and is not competent to render a medical opinion.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990).

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁵ 40 ECAB 649 (1989).

Appellant did not submit sufficient medical evidence to establish that she sustained a cervical strain, neck pain or muscular strain in the performance of duty causally related to factors of her employment.

The decision of the Office of Workers' Compensation Programs dated November 8, 1996 is affirmed.

Dated, Washington, D.C.
June 21, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member