

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MICHELINA A. PAULSON and U.S. POSTAL SERVICE,  
MAIN POST OFFICE, Worcester, MA

*Docket No. 99-1185; Submitted on the Record;  
Issued August 8, 2000*

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DECISION and ORDER

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

The issues are: (1) whether appellant has met her burden of proof to establish that she sustained reflex sympathetic dystrophy in the performance of duty; and (2) whether appellant has met her burden of proof to establish that she sustained a recurrence of disability causally related to her December 27, 1990 employment-related left wrist sprain.

On December 28, 1990 appellant, then a 34-year-old part-time flexible flat sorter operator, filed a traumatic injury claim (Form CA-1), assigned number A1-289686 alleging that on December 27, 1990 she sprained her left wrist while pulling pouches.

By decision dated March 28, 1991, the Office of Workers' Compensation Programs found the evidence of record insufficient to establish that appellant sustained an injury as alleged.

In a March 21, 1992 letter, appellant requested reconsideration of the Office's decision. Appellant alleged that her diagnosis had changed since her initial request. She stated that she was diagnosed as having reflex sympathetic dystrophy on February 27, 1991. Appellant's request was accompanied by medical evidence.

By decision dated June 22, 1992, the Office denied appellant's request for modification based on a merit review of the claim. In an accompanying memorandum, the Office found the medical evidence of record insufficient to establish that appellant sustained an injury as alleged. The Office also found that appellant should have filed a claim for an occupational disease (Form CA-2) rather than a Form CA-1 because the evidence of record established that her left wrist condition developed after her work duties on more than one shift. The Office advised appellant to file a Form CA-2. The Office then found that appellant failed to submit medical evidence establishing that her condition developed as a result of pulling pouches on December 27, 1990. The Office further found that appellant had established that she developed a condition as a result of her duties as a flat sorter operator.

On March 10, 1993 the Office received a Form CA-2 signed by appellant on February 19, 1992 and assigned number A1-308661 alleging that she first realized that her reflex sympathetic dystrophy was caused or aggravated by her employment on February 27, 1991. Appellant stated that she experienced severe pain in her left arm while pitching the mail. Her claim was accompanied by factual evidence.

By letter dated May 12, 1993, the Office accepted appellant's claim for left wrist sprain.<sup>1</sup>

In an August 2, 1995 report of telephone call, the Office indicated that appellant contended that she had reflex sympathetic dystrophy, but that the evidence on quick review failed to support this allegation. The Office also indicated that appellant was advised to file a recurrence claim (Form CA-2a). The Office further indicated that appellant contended that she could not perform her job duties because she could not perform repetitive motion and that she would be fired by the employing establishment if she did not perform all the duties of her position. An August 3, 1995 report of telephone call also indicated that the Office advised appellant to submit a Form CA-2a.

On June 19, 1996 appellant filed a Form CA-2a alleging that she sustained a recurrence of disability accompanied by medical evidence.<sup>2</sup>

In a July 3, 1996 letter, the Office advised appellant to submit factual and medical evidence supportive of her recurrence claim. On July 5, 1996 the Office received factual and medical evidence submitted by the employing establishment.

By decision dated August 29, 1996, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability causally related to her December 27, 1990 employment injury. In an August 4, 1998 letter, appellant, through her counsel, requested reconsideration of the Office's decision denying her recurrence claim and requested reconsideration of the Office's decision denying her claim that she sustained reflex sympathetic dystrophy in the performance of duty.

In an October 28, 1998 decision, the Office denied appellant's request for modification based on a merit review of the claim. In an accompanying memorandum, the Office found the medical evidence of record insufficient to establish a diagnosis of reflex sympathetic dystrophy. The Office further found the medical evidence of record insufficient to establish that appellant sustained a recurrence of disability due to her December 27, 1990 employment injury.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet her burden of proof to establish that she sustained reflex sympathetic dystrophy in the performance of duty.

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<sup>1</sup> The Board notes that the Office accepted appellant's claim for left wrist sprain based on the medical evidence in appellant's claim assigned number A1-289686.

<sup>2</sup> The Board notes that appellant did not specifically indicate the date she sustained a recurrence of disability.

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.<sup>3</sup> The medical evidence required to establish a causal relationship, generally, 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,<sup>4</sup> must be one of reasonable medical certainty,<sup>5</sup> 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.<sup>6</sup>

In the present case, appellant has failed to submit rationalized medical evidence establishing that her reflex sympathetic dystrophy was caused by factors of her federal employment. In support of her claim, appellant submitted the February 27, 1991 attending physician's report (Form CA-20) of Dr. Robert D. Ouellette, an anesthesiologist, finding that her reflex sympathetic dystrophy was caused by repetitive motion of the left wrist at work. He, however, did not explain how or why appellant's condition was caused by repetitive motion of her left wrist.

Dr. Ouellette's February 27 through March 13, 1991 medical treatment notes indicated that appellant "most probably" had reflex sympathetic dystrophy by virtue of elimination of the other possibilities and appellant's medical treatment. He did not provide a definite diagnosis or medical rationale explaining whether appellant's condition was caused by factors of her employment.

A March 11, 1991 Form CA-20 of Dr. Gary Wolf, a Board-certified internist, provided a diagnosis of left upper extreme reflex sympathetic dystrophy syndrome. He also provided that appellant's condition was caused or aggravated by employment activities by placing a checkmark in the box marked "yes." Dr. Wolf explained that appellant's symptoms began following work activities. He, however, failed to specifically identify the work activities that caused appellant's condition and to explain how appellant's condition was caused by these work activities.

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<sup>3</sup> See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>4</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>5</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>6</sup> See *James D. Carter*, 43 ECAB 113 (1991); *George A. Ross*, 43 ECAB 346 (1991); *William E. Enright*, 31 ECAB 426, 430 (1980).

In a March 21, 1991 duty status report (Form CA-17), Dr. Ouellette provided a diagnosis of reflex sympathetic dystrophy and appellant's physical restrictions. This report failed to address a causal relationship between appellant's condition and factors of her employment.

Dr. Ouellette's disability certificate dated March 27, 1991 indicated that appellant could return to light-duty work for four hours per day. He stated that hopefully this would permit greater relief from appellant's chronic reflex sympathetic dystrophy. Dr. Ouellette's certificate, however, failed to address how or why appellant's condition was caused by factors of her employment.

Dr. Ouellette's April 9, 1991 and February 13, 1992 medical reports indicated a diagnosis of reflex sympathetic dystrophy. In his April 9, 1991 medical report, he stated that his diagnosis was based on findings providing a history and trauma to the left arm and hand that would bring about such a condition. Dr. Ouellette also noted appellant's medical treatment and that appellant experienced problems with her left arm. He concluded that appellant was completely disabled regarding her left arm in the sense that if she had to do any kind of repetitive type of movement all day long or partially. In his February 13, 1992 medical report, Dr. Ouellette noted appellant's medical treatment. He stated that appellant's prognosis remained good provided that she did not use her left hand in any repetitive type of activity as she was doing prior to being seen which he attributed to the cause of her problem. Dr. Ouellette also stated that he repeatedly signed notes to the employing establishment allowing appellant to perform light-duty work, eight hours per day for five days a week if she performed most of the work with her right hand. He failed to provide medical rationale in both reports explaining how or why appellant's condition was caused by factors of her employment.

In a March 2, 1992 medical report, Dr. Ouellette stated in regard to appellant's ability to return to regular duty that appellant had a chronic problem that was going to be with her for quite some time. He further stated that reflex sympathetic dystrophy was a condition that would probably continue to bother appellant for some period of time insofar that she would be required to use her left hand in the manner that she was doing previously. Dr. Ouellette did not provide any medical rationale explaining how or why appellant's condition was caused by factors of her employment.

In his March 3, 1993 treatment notes, Dr. Ouellette indicated that appellant had recovered completely from reflex sympathetic dystrophy.

In a September 19, 1994 medical report, Dr. Ouellette stated that appellant originally had a diagnosis of reflex sympathetic dystrophy and that she should not return to her old job where she would be using her left arm extensively. He stated that he believed that this was the cause of her condition and thus, it would be to her advantage if she continued to perform the type of work she described to him on a more permanent basis. Dr. Ouellette did not explain how or why appellant's condition was caused by her employment.

Dr. Ouellette's June 22, 1995 medical report indicated a diagnosis of reflex sympathetic dystrophy and that appellant had responded very well to treatment. He opined that if appellant returned to the job that she was doing at the time she was injured, there was a distinct possibility that she was going to have the same problem all over again. Namely, Dr. Ouellette stated that

appellant would fall into an acute stage of reflex sympathetic dystrophy and will have to be treated again. He further stated this particular type of condition, reflex sympathetic dystrophy, was something that can be affected by repetitive type of movements particularly in appellant's case. Dr. Ouellette concluded that appellant should not be employed or ordered to go back to the same type of occupation and work that she was doing at the time she was injured. He did not explain why repetitive type of movements caused appellant's condition.

In his July 17, 1996 medical report, Dr. Ouellette attempted to clarify problems regarding appellant's original diagnosis of reflex sympathetic dystrophy of the left wrist. He stated that the original diagnosis was made by him following the accident which occurred due to appellant's work, namely the wrist sprain that she developed as a result of repetitive type of movement involving her left arm as required by her occupation. Dr. Ouellette noted appellant's medical treatment and stated that at the time appellant was discharged from the unit at his office, she was at maximum recovery. Regarding appellant's future, he stated that unless appellant was changed as far as her job description was concerned, any form of return to her job which involved continuous repetitive type of movement with her left wrist and arm would result probably in a reoccurrence of the reflex sympathetic dystrophy. He further stated that his diagnosis was based on physical examination and the signs that appellant exhibited at that time. Dr. Ouellette failed to provide medical rationale explaining how appellant's condition was caused by factors of her employment.

Inasmuch as appellant has failed to submit sufficiently rationalized medical evidence establishing that her reflex sympathetic dystrophy of the left wrist was caused by factors of her employment, the Board finds that appellant has failed to satisfy her burden of proof in this case.

The Board further finds that appellant has failed to meet her burden of proof to establish that she sustained a recurrence of disability causally related to her December 27, 1990 employment-related injury.

An employee returning to light duty or whose medical evidence shows the ability to perform light duty has the burden of proof to establish a recurrence of temporary total disability by the weight of substantial, reliable and probative evidence, and to show that he or she cannot perform the light duty.<sup>7</sup> As part of her burden, the employee must show a change in the nature and extent of the injury-related conditions or a change in the nature and extent of the light-duty requirements.<sup>8</sup>

In the present case, appellant has neither shown a change in the nature and extent of her injury-related condition or a change in the nature and extent of the light-duty requirements. The record shows that following the December 27, 1990 left wrist sprain appellant returned to light-duty work for two hours per day at the employing establishment in January 1991. The Board finds that appellant has not submitted sufficient medical evidence establishing that the accepted condition of left wrist sprain has materially changed or worsened since her return to work in

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<sup>7</sup> *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

<sup>8</sup> *Daniel Deparini*, 44 ECAB 657, 659 (1993).

1991. In support of her recurrence claim, appellant submitted Dr. Ouellette's medical treatment notes dated February 27 through March 13, 1991 and March 3, 1993 and his April 9, 1991, February 13 and March 2, 1992, September 19, 1994, June 22, 1995 and July 17, 1996 medical reports previously discussed above. None of this medical evidence concludes that appellant's condition had worsened to the point where she was unable to perform the specified duties of the light-duty position.

Similarly, the additional medical evidence appellant submitted in support of her claim does not conclude that her condition had worsened to the point where she was unable to perform the specified duties of the light-duty position. Dr. Ouellette's May 14, 1991 medical treatment notes indicated that he signed a form based on appellant's request and that appellant was doing fairly well. He stated that with the precautions he devised in the form, appellant can continue to do well. Dr. Ouellette's August 26, 1991 treatment notes provided that appellant experienced tenderness in the mid-dorsal section on the left side and that he was not quite sure what happened. In his October 11, 1991 treatment notes, Dr. Ouellette again indicated that he completed a form for appellant that would keep her from using her left hand excessively due to the underlying injury that was treated. A January 7, 1991 medical report of Dr. Charles A. Paquette, a Board-certified orthopedic surgeon, indicated that he examined appellant subsequent to her December 27, 1990 employment injury. He provided appellant's social history, his findings on physical and neurological examination and a diagnosis of fibromyalgia. Inasmuch as appellant has not submitted evidence establishing that her condition has worsened to the point where she could not perform the requirements of her light-duty position, she did not meet her burden of proof.

Appellant contends that she was unable to perform her job duties because she could not perform repetitive motion. The record does not establish that the claimed recurrence of total disability was caused by a change in the extent of the light-duty job requirements. In a March 3, 1993 narrative statement, Arthur A. LeuDoux, an employing establishment manager, indicated that appellant had not worked in her regular position of flat sorter operator for over two years. He described the physical requirements of the flat sorter operator position. Regarding appellant's light-duty assignment in manual operations, Mr. LeuDoux stated:

"This encompasses pitching letter mail by hand at a rate which has no productive requirements. [Appellant's] job assignments within manual distribution operations are so widely diversified that [her] duties are forever changing. This makes for less repetitive motion and the possibility of one particular body part being over extended highly unlikely.

"[Appellant] states in her letter, accompanied with her CA-2 that she performed most of her manual operations duties with her right hand. The doctors diagnosis was that her 'left' hand had reflex sympathetic d[y]strophy.

"Through her manual light[-]duty assignment no additional stress has been placed on [appellant's] left hand.

“[Appellant] has two (2) fifteen minute breaks and one (1) one-half hour lunch. This off-duty time is dispersed evenly every two (2) hours through her eight (8) hour day.”

In his July 10, 1996 narrative statement, Mr. LeuDoux stated that he had been managing on tour III since 1993, that appellant had been performing light-duty work and that other supervisors on tour III since the move to the current facility in 1991 recalled appellant being on light duty since that time. He further stated:

“[Appellant] works the mixed states manual distribution case and the postage due desk. Both jobs are manual sortation. [Appellant] performs no repetitive motion with her left hand. She also only carries handfuls of mail at a time. [Appellant] never carries trays of mail which average 14 pounds.

“As I have understood [appellant’s] restriction she is not to perform repetitive motion with her left hand nor carry trays over 10 pounds. Manual sortation allows [appellant] to perform her duties without the use of her left arm (hand).”

On the reverse of appellant’s Form CA-2, her supervisor, Gary J. Buelow, stated that appellant was placed on limited duty following her initial report of injury and had not returned to regular duty since that time. He further stated that appellant had not performed any duties of a repetitive nature.

In an undated narrative statement, appellant described the duties of her flat sorter operator position. Regarding her light-duty work, appellant stated that “I am on light duty pitching letters doing most of the work with my right hand.” Although Dr. Ouellette stated in his April 9, 1991, February 13 and March 2, 1992 and September 19, 1994 medical reports that appellant could sustain a recurrence of disability if she were to return to her position which required repetitive movement, the record does not establish that appellant was required to perform the duties of her previous job or to perform repetitive motions in her light-duty position. The Board finds that appellant has not submitted the necessary evidence to establish a change in the nature and extent of her limited-duty requirements and thus, she has failed her burden of proof.

The October 28, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.  
August 8, 2000

David S. Gerson  
Member

Willie T.C. Thomas  
Member

A. Peter Kanjorski  
Alternate Member