U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CAROLYN R. FORTHMAN and DEPARTMENT OF THE ARMY, Fort Leonard Wood, MO

Docket No. 99-1725; Submitted on the Record;
Issued August 17, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS, MICHAEL E. GROOM

The issue is whether appellant has met her burden of proof in establishing that she developed a hand or wrist condition in the performance of duty.

On July 14, 1998 appellant, then a 59-year-old medical clerk, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that her bilateral hand condition was employment related. Appellant stated that she first became aware of her hand condition on March 1, 1991, while sorting and transferring medical records.

Accompanying appellant's claim were medical progress notes from May 1993 to February 1996, a therapy report dated July 8, 1998 and a personal narrative dated July 13, 1998. The progress notes from the employing establishment documented appellant's complaints of bilateral hand and wrist pain with numbness for a period of two years with a diagnosis of probable osteoarthritis. The physical therapy notes indicated numbness and swelling bilaterally of appellant's hands. The narrative noted appellant's work duties.

In a letter dated July 28, 1998, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors.

In response to the Office's request, appellant submitted various medical records and a personal statement. The medical records dated February to July 1998 indicated that appellant was issued a splint to stabilize the basil joint on her hand. Appellant's narrative indicated that appellant since 1991 has been experiencing a gradual lack of strength in her hands with swelling of her joints.

On September 18, 1998 the Office issued a decision and denied appellant's claim for compensation under the Federal Employees' Compensation Act.[1] The Office found that the medical evidence was not sufficient to establish that her medical condition was caused by employment factors.

The Board finds that appellant has not met her burden of proof in establishing that she developed a hand or wrist condition in the performance of duty.

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 the 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.[2] These are the essential elements of each and every 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) 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 claimant. The medical evidence required to establish causal relationship is generally 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 the instant case, it is not disputed that appellant sorted and transferred medical records. However, she has not submitted sufficient medical evidence to support that a condition has been diagnosed in connection with the employment factor and that any alleged hand injury is causally related to the employment factors or conditions. On July 28, 1998 the Office advised appellant of the type of medical evidence needed to establish her claim. Appellant did not submit any

[1] 5 U.S.C. §§ 8101-8193.

[2] *Joe Cameron,* 42 ECAB 153 (1989); *Elaine Pendleton,* 40 ECAB 1143 (1989).

[3] *Victor J. Woodhams,* 41 ECAB 345 (1989).

[4] *Id.*

medical report from an attending physician addressing how specific employment factors may have caused or aggravated her hand condition.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.[5] Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office, therefore, properly denied appellant's claim for compensation.[6]

The decision of the Office of Workers' Compensation Programs dated September 18, 1998 is affirmed.

Dated, Washington, D.C.
August 17, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

[5] *See Victor J. Woodhams, supra* note 3.

[6] With her appeal appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c). This decision does not preclude appellant from submitting new evidence to the Office and request reconsideration pursuant to 5 U.S.C. § 8128(a).