

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY E. LEMOINE and U.S. POSTAL SERVICE,
POST OFFICE, Baton Rouge, LA

*Docket No. 99-2088; Submitted on the Record;
Issued April 6, 2001*

DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant's claimed hand and wrist condition is causally related to her federal employment.

On August 6, 1995 appellant, a 52-year-old clerk, filed an occupational disease claim, alleging that she sustained gouty arthritis as a result of her federal employment. Appellant identified February 7, 1991 as the date she first realized her condition was employment related. Appellant explained that she experienced pain in her hands and wrists when performing continuous, repetitive tasks for long periods of time.¹

By decision dated November 1, 1995, the Office of Workers' Compensation Programs denied appellant's claim based upon her failure to establish fact of injury.² Appellant requested an oral hearing and the Office hearing representative remanded the case for further development of the record.³

The Office referred appellant for examination to Dr. Merlin R. Wilson, a Board-certified rheumatologist, who in a report dated July 1, 1998, diagnosed diabetes mellitus and early

¹ Appellant also indicated that in 1994 she began experiencing problems with her feet due to continuous standing and walking. She previously filed a claim (A16-240041) which was denied on the basis that her foot condition was not employment related.

² The Office explained that, while the evidence of record supported the fact that the claimed events, incidents or exposures occurred at the times, places and in the manners alleged, a medical condition resulting from the accepted exposure had not been established. The Office specifically noted that, while the medical evidence indicated appellant had been diagnosed and treated for gouty arthritis of the ankle, there was no similar diagnosis provided with respect to appellant's claimed wrist condition.

³ The hearing representative found that a November 7, 1995 report from appellant's treating physician, Dr. James W. O'Neal, while insufficient to satisfy appellant's burden of proof, nonetheless raised an uncontested inference that appellant's claimed condition was causally related to her federal employment.

osteoarthritis of the first carpal metacarpal of the right hand. He indicated that neither condition was employment related. Additionally, Dr. Wilson did not think appellant had Sjögren's syndrome.⁴ He explained that evidence of dry eyes, enlarged salivary glands and an elevated erythrocyte sedimentation rate are findings seen in patients with diabetes mellitus; thus, a separate diagnosis of Sjögren's syndrome was unnecessary. Lastly, Dr. Wilson stated that appellant did not have any clinical evidence of gouty arthritis.

The Office again denied benefits in a decision dated July 13, 1998.

On December 7, 1998 appellant requested reconsideration. She submitted recent treatment records and a November 16, 1998 report from Dr. O'Neal, which noted a diagnosis of Sjögren's syndrome. Appellant also submitted July and August 1998 treatment records from Dr. Hector R. Mena, a rheumatologist, who administered a lip biopsy that was positive for Sjögren's syndrome. Appellant argued that the newly submitted evidence confirmed her previous diagnosis of Sjögren's syndrome.

The Office determined that a conflict in medical opinion existed regarding the issue of whether appellant had Sjögren's syndrome and whether this condition was related to her federal employment. Accordingly, the Office referred appellant for an impartial medical examination.

In a report dated April 5, 1999, Dr. Robert E. Goodman, a Board-certified rheumatologist and independent medical examiner, diagnosed Sjögren's syndrome, fibromyalgia, diabetes mellitus and hypertension. In response to questions posed by the Office, Dr. Goodman stated that appellant's Sjögren's syndrome was not caused, accelerated or precipitated by her federal employment. He further indicated that appellant did not have associated conditions such as polyarthritis or lupus. Dr. Goodman advised that appellant should be limited to light-duty work because of her fibromyalgia and Sjögren's syndrome and that she should be free to drink water or apply eye drops as needed while at work.

In a decision dated April 19, 1999, the Office denied appellant's claim for compensation. The Office found that the independent medical examiner's April 5, 1999 report represented the weight of the medical opinion evidence.

The Board finds that the case is not in posture for a decision.

The Federal Employees' Compensation Act⁵ provides that, if there is disagreement between the physician making the examination for the Office and the employee's physician, the Office shall appoint a third physician who shall make an examination.⁶ In cases where the

⁴ Sjögren's syndrome is defined as “[a] chronic, systemic inflammatory disorder of unknown etiology, characterized by dryness of the mouth, eyes, and other mucous membranes and often associated with rheumatic disorders sharing certain autoimmune features ... and in which lymphocytes infiltrate mucosal and other tissues.” *The Merck Manual*, § 5, Chapter 50 (17th ed. 1999). In a report dated October 8, 1996, Dr. Herbert R. Dyer, a Board-certified rheumatologist, indicated that he was treating appellant for Sjögren's syndrome with arthralgia and advised that she should be on permanent light duty.

⁵ 5 U.S.C. §§ 8101-8193.

⁶ 5 U.S.C. § 8123(a); 20 C.F.R. § 10.321(b)(1999); *Shirley L. Steib*, 46 ECAB 309, 317 (1994).

Office has referred appellant to an impartial medical examiner to resolve a conflict in the medical evidence, the opinion of such a specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.⁷

In this case, the Office accorded determinative weight to Dr. Goodman's April 5, 1999 independent medical evaluation. Dr. Goodman's report, however, is not sufficiently rationalized to constitute the weight of the evidence. The Office specifically asked Dr. Goodman whether appellant had "polyarthritis or gouty arthritis of her hands and wrists," and if so, whether the arthritis was "related to the specific factors of her federal employment...?"

In his April 5, 1999 report, Dr. Goodman rephrased the question as follows: "Does [appellant] have associated conditions such as polyarthritis or lupus?" He responded "No" to this question. This response, however, appears to be at odds with Dr. Goodman's interpretation of an April 5, 1999 x-ray of appellant's hands, which showed "changes suggestive of an inflammatory polyarthritic condition." Thus, it is unclear why Dr. Goodman noted x-ray changes suggestive of an inflammatory polyarthritic condition yet concluded that appellant did not have polyarthritis.

Inasmuch as Dr. Goodman's April 5, 1999 opinion is not sufficiently rationalized, the Office erred in according his findings determinative weight. There remains an unresolved conflict in medical opinion and therefore the case is remanded to the Office for further development of the record.

The April 19, 1999 decision of the Office of Workers' Compensation Programs is hereby set aside, and the case is remanded to the Office for further consideration consistent with this decision.

Dated, Washington, DC
April 6, 2001

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁷ *Gary R. Sieber*, 46 ECAB 215, 225 (1994).