

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAY A. PIERSON and U.S. POSTAL SERVICE,  
POST OFFICE, Billings, MT

*Docket No. 01-734; Submitted on the Record;  
Issued December 26, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issues are: (1) whether appellant has established that he sustained his bilateral hand condition in the performance of duty; and (2) whether the Office of Workers' Compensation Programs abused its discretion in refusing to reopen appellant's claim for further review of the merits of his claim under 5 U.S.C. § 8128(a).

On January 19, 2000 appellant filed a claim, alleging that he first became aware that the swelling in his hands and arms was due to his federal employment on December 7, 1999.

By letter dated January 27, 2000, the Office informed appellant that the information was insufficient to support his claim for compensation benefits for his tendinitis both hands condition and advised him of the information required to support his claim.

Appellant submitted a February 5, 2000 statement. Additional medical evidence was not received.

By decision dated March 16, 2000, the Office denied appellant's claim for benefits on the basis that he had failed to establish fact of injury.

Appellant requested reconsideration and submitted medical evidence.

By decision dated April 27, 2000, the Office denied modification of its previous decision on the grounds that no medical evidence established a causal relationship between factors of appellant's federal employment and his current medical condition.

By letter dated July 10, 2000, appellant requested reconsideration. Additional medical evidence was also submitted.

By decision dated July 18, 2000, the Office denied modification finding that the evidence submitted in support of the reconsideration application was not sufficient to warrant modification of the prior decision.

By letter dated August 26, 2000, appellant requested reconsideration. Additional evidence was also submitted.

By decision dated September 27, 2000, the Office denied appellant's request for reconsideration on the basis that the evidence submitted was of a cumulative nature.

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

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing that 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 related to the employment injury.<sup>2</sup> 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.<sup>3</sup>

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 causal relationship is usually 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 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.<sup>4</sup>

In this case, appellant filed an occupational disease claim for a reported work exposure that occurred on and prior to December 7, 1999. In his February 5, 2000 statement, appellant

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *Victor J. Woodhams*, *supra* note 3.

reported that he worked as a letter carrier since June 1990 and transferred to the maintenance craft in December 1999. He also reported that he had been repairing sewing machines for 15 months. In a letter dated January 27, 2000, the Office had advised appellant of the type of medical evidence required to establish his claim. Appellant's claim was denied on the basis that the medical evidence did not establish that the claimed condition was causally related to his employment.

In an April 3, 2000 medical report, Dr. David W. Lechner, a Board-certified family practitioner, advised that appellant first saw him on January 19, 2000 complaining of his hands falling asleep, stiffness and numbness without pain or weakness that began the day he started his new job position on December 6, 1999. Dr. Lechner opined that appellant's symptoms were related to his work at the post office changing over to the custodial and maintenance position. He stated that this position affected appellant's hands and produced carpal tunnel syndrome, which is managed with braces and anti-inflammatories. This report contains a brief, conclusive statement summarily indicating that appellant's carpal tunnel condition was due to appellant's change in work status, but does not provide a probative, rationalized opinion that appellant's carpal tunnel syndrome was caused or aggravated by factors or conditions of his federal employment. Moreover, in a treatment note of March 29, 2000, Dr. Lechner advised that the diagnosis of carpal tunnel syndrome was not clear as he suspects appellant may have some tendinitis secondary to the new work position.

In an April 13, 2000 medical report, Dr. Art Snyder, a rheumatologist, noted a history of appellant starting a new job in a custodial capacity and developing severe, swelling about both arms and hands the next day after working the first night on the job. Appellant reported working with his hands in cleaning activities in addition to using a floor buffer with lots of lateral stress that first evening. A complete history and physical and neurologic examination was conducted. He stated that appellant clearly has a mild carpal tunnel syndrome and bilateral displaced ulnar nerves. This is associated with over musculature of the forearms and Dr. Snyder stated that he believed the use of the buffer provided a lot of lateral stress on these nerves and caused an acute neuropathy. In addition, Dr. Snyder stated that appellant's thoracic outlet syndrome bilaterally cut off the circulation acutely to both his upper extremities and made the neuropathy worse. He further advised that appellant may have cervical ribs in this spot and a cervical spinal series was needed to rule this out. Amyloidosis was another thing Dr. Snyder thought required consideration of appellant's condition.

In a May 16, 2000 medical report, Dr. Charles B. Anderson, a Board-certified neurologist, noted appellant's work history, including his change of position to a custodial job and subsequent symptoms which began about six months earlier. He advised that appellant met the electrodiagnostic criteria for median neuropathies at the wrists, electrophysiologically mild on the right and very mild on the left. Electromyography of the median innervated hand muscles on the right showed no evidence of denervation. Dr. Anderson advised that carpal tunnel release was not mandatory, but noted that his symptoms might dictate a step in that direction at some future time. However, he did not render an opinion regarding causal relationship.

In a June 7, 2000 medical report, Dr. Lechner advised that appellant's wrist tendinitis and carpal tunnel were work related and not the result of outside activities. He stated that appellant had no symptoms of the tendinitis and resulting carpal tunnel prior to his starting work on

December 6, 1999 and symptoms evolved in direct relationship to his employment. Dr. Lechner stated that this opinion is supported by a follow-up consultation by Dr. Snyder, rheumatologist, who reviewed appellant's case for other contributing factors and diagnoses. A subsequent electromyogram confirmed the carpal tunnel syndrome with a median nerve velocity delay. Dr. Lechner stated that the particular custodial/maintenance duties causing appellant's condition were the repetitive motions in sweeping and cleaning particular to that job description. He opined that the resulting tendinitis was the contributing cause to the nerve entrapment and the conduction delays.

Although the medical reports of record are insufficient by themselves to discharge appellant's burden of proof, the Board finds that, given the absence of any contrary medical evidence, Dr. Lechner's reports along with the report of Dr. Snyder, although lacking sufficient rationale, are sufficient to require further development of the record by the Office.<sup>5</sup>

On remand the Office should prepare a statement of accepted facts and refer it along with appellant and his medical records for a second opinion examination to obtain a rationalized opinion as to whether appellant's hand conditions are caused or aggravated by factors or conditions of his federal employment and whether any disability resulted therefrom.<sup>6</sup>

The September 27, July 18, April 27 and March 16, 2000 decisions of the Office of Workers' Compensation Programs are hereby set aside and the case is remanded for further development consistent with this decision.

Dated, Washington, DC  
December 26, 2001

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Willie T.C. Thomas  
Member

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<sup>5</sup> *Rebel L. Cantrell*, 44 ECAB 660 (1993); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> As this case will be remanded for further medical development, the issue relating to whether the Office abused its discretion in refusing to reopen appellant's claim for a merit review in its decision of September 27, 2000 is moot.