

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARGARET P. FRANTZ and DEPARTMENT OF JUSTICE,
NATIONAL DRUG INTELLIGENCE CENTER, Johnstown, PA

*Docket No. 00-2196; Submitted on the Record;
Issued July 27, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she developed carpal tunnel syndrome in the performance of duty.

On June 22, 1999 appellant, then a 54-year-old computer operator, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that her bilateral hand condition was employment related. She stated that she first became aware of her hand condition on February 26, 1999, while typing at a keyboard.

Accompanying appellant's claim were x-rays of the wrists dated July 21, 1998; an x-ray of the right shoulder dated February 12, 1999; an electromyography study dated February 26, 1999; a magnetic resonance imaging (MRI) scan of the joint upper extremity and right shoulder dated April 12, 1999; and an employment description. The x-rays of the wrists revealed no abnormalities. The x-ray of the right shoulder revealed mild degenerative changes but was otherwise normal. The electromyograph (EMG) study dated February 26, 1999 revealed electrical changes suggesting lower motor neuron involvement. The MRI scan of the joint upper extremity and right shoulder revealed advanced joint degenerative changes with findings suggestive of impingement of the superior surface of the rotator cuff complex; stigmata of rotator cuff supraspinatus tendinitis and mild acromion process configuration with subacromial spur formation.

In a letter dated July 28, 1999, 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 a medical status report prepared by Dr. J. Michael Moses, an internist, dated August 9, 1999; and a narrative statement. The medical status report indicated that appellant had been treated since April 12, 1999 for an

ongoing problem of numbness in the right hand. Dr. Moses noted that appellant was employed as a computer operator. He indicated a diagnosis of symptomatic right carpal tunnel syndrome. He noted that appellant underwent a right median nerve neurolysis on July 22, 1999. Dr. Moses indicated that appellant's prognosis was good. Appellant's narrative statement noted that she was employed as a computer operator and used the mouse and keyboard six to seven hours per day, five days a week. She indicated that she first noticed numbness and cramping in her hands three years ago. Appellant noted that in 1998 she sustained an injury to her shoulder and underwent surgery to repair her collarbone on July 22, 1999. She indicated that Dr. Moses also diagnosed her with carpal tunnel syndrome and performed carpal tunnel release at this same time he repaired her collarbone. Appellant noted that she was diagnosed with Charcot Marie Tooth (CMT) disease in 1999, a disease which affects the peripheral nerves. She indicated that her ankle condition was attributed to CMT.

On October 4, 1999 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.

On October 31, 1999 appellant requested a review of the written record. She submitted additional medical records, many of which were duplicates of those already in the record and a report from Dr. John J. Seeber, Board-certified in physical medicine and rehabilitation, dated February 26, 1999. Dr. Seeber documented appellant's complaints of numbness in the right middle finger and ring finger. He indicated that on physical examination the Tinel's sign was positive over the right median nerve at the wrist; pinprick sensation appeared to be intact in the right upper extremity; grip strength was good in the right upper extremity; no tenderness along the right shoulder girdle area; and pain was observed with movement of the right arm. Dr. Seeber noted that electrodiagnostic studies were performed which revealed a delay in the distal motor latency of the right median nerve compatible with right carpal tunnel syndrome. He indicated that the motor nerve conduction velocity of both the right median and right ulnar nerves were in the lower limits of normal. Dr. Seeber noted that electrical changes suggest lower motor neuron involvement of the intrinsic hand muscles that were tested innervated by both the right median and ulnar nerves. He indicated that these studies "might reflect peripheral neuropathy with a superimposed right carpal tunnel syndrome." Dr. Seeber noted that in 1997 appellant underwent electrodiagnostic studies of the lower extremities, which revealed peripheral neuropathy. He further noted that appellant had been diagnosed with CMT disease and the EMG changes in the intrinsic hand muscles may also be on the basis of a peripheral neuropathy. Dr. Seeber indicated that appellant operated a computer and this can be a risk factor in developing carpal tunnel syndrome. Appellant also submitted a letter from the employing establishment dated August 9, 1999 which indicated that appellant typed six hours a day five days a week. The letter also noted that ergonomic keyboards, mouse and footrests were installed in appellant's computer workstation in January 1999.

¹ 5 U.S.C. §§ 8101-8193.

On March 9, 2000 the hearing representative affirmed the decision of the Office dated October 4, 1999 on the basis 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 carpal tunnel syndrome in the performance of duty.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or his 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 was a computer operator. 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. In a letter dated July 28, 1999, the Office advised appellant of the type of factual and medical evidence needed to establish her claim. Appellant submitted a medical status report prepared by Dr. Moses, dated August 9, 1999, which indicated a diagnosis of symptomatic right carpal tunnel syndrome and noted appellant was employed as a computer operator. This report, documented appellant’s continued carpal tunnel symptomology;

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

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

⁴ *Id.*

however, Dr. Moses did not address how specific employment factors may have caused or aggravated her hand condition he merely noted that appellant was employed as a computer operator.

The only other medical report submitted by appellant was Dr. Seeber's report dated February 26, 1999 which diagnosed appellant with right carpal tunnel syndrome with a peripheral neuropathy. Dr. Seeber noted that electrodiagnostic studies were performed which revealed a delay in the distal motor latency of the right median nerve compatible with right carpal tunnel syndrome. He noted that electrical changes suggest lower motor neuron involvement of the intrinsic hand muscles that were tested innervated by both the right median and ulnar nerves. Dr. Seeber indicated these studies "might reflect peripheral neuropathy with a super-imposed right carpal tunnel syndrome." He further noted that appellant had been diagnosed with CMT disease, a peripheral neuropathy, and noted "the EMG changes in the intrinsic hand muscles may also be on the basis of a peripheral neuropathy." Dr. Seeber did not indicate whether appellant's hand condition was caused by her peripheral nerve condition (CMT disease) or by employment factors. He only offered speculative support for causal relationship by opining that appellant operated a computer and this can be a risk factor in developing carpal tunnel syndrome. The Board has held that speculative and equivocal medical opinions regarding causal relationship have no probative value.⁵ Dr. Seeber's report neither noted a history of the injury or the employment factors believed to have caused or contributed to the appellant's hand condition,⁶ nor did it include a rationalized opinion regarding the causal relationship between appellant's hand condition and the factors of employment believed to have caused or contributed to such condition.⁷ Therefore, this report is insufficient to meet appellant's burden of proof.

The remainder of the medical evidence fails to provide an opinion on the causal relationship between this incident and appellant's diagnosed condition. For this reason, this evidence is not sufficient to meet appellant's burden of proof.

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 his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁸ Causal relationships must be established by

⁵ Speculative and equivocal medical opinions regarding causal relationship have no probative value; *see Alberta S. Williamson*, 47 ECAB 569 (1996); *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Paul E. Davis*, 30 ECAB 461 (1979).

⁶ *See Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

⁷ *See Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

⁸ *See Victor J. Woodhams*, *supra* note 3.

rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied appellant's claim for compensation.⁹

The decision of the Office of Workers' Compensation Programs dated March 9, 2000 is affirmed.

Dated, Washington, DC
July 27, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁹ 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).