U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SHIRLEY RICHARDSON and DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE, Gulfport, MS

Docket No. 00-2563; Submitted on the Record;
Issued July 3, 2001

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant established that her claimed condition is causally related to her federal employment.

On August 6, 1999 appellant, a 60-year-old revenue officer, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that she had been experiencing pain in her left wrist, thumb and forearm as a result of her federal employment. She explained that her current job required her to work on a computer the majority of the day. Appellant identified June 16, 1998 as the date she first became aware of her condition.[1] Additionally, she identified July 23, 1999 as the date she realized her condition was caused or aggravated by her employment.

By letter dated September 20, 1999, the Office requested that appellant submit additional factual and medical information. Appellant was further advised that the case would remain open for approximately 30 days in order to submit the requested information. Appellant did not respond to the Office's request in a timely manner.

In a decision dated October 27, 1999, the Office denied appellant's claim on the basis that she failed to establish that she sustained an injury as alleged.

On November 24, 1999 appellant requested reconsideration. The Office denied reconsideration by decision dated January 27, 2000.

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[1] Appellant sustained a prior employment-related injury on June 16, 1998, which the Office of Workers' Compensation Programs accepted for left hand wrist sprain and right hip sprain (A13-1165275). In the instant case, appellant explained that the pain associated with her initial June 1998 injury subsided following treatment. However, she experienced occasional flare-ups. She further indicated that her current duties aggravated her prior injury and that the pain is constant.

Appellant filed a second request for reconsideration on February 9, 2000. The request was accompanied by additional medical evidence.[2]

By decision dated May 5, 2000, the Office found that, while appellant established fact of injury, she failed to establish that her claimed condition was causally related to her employment.

The Board finds that appellant has not met her burden of proof in establishing that her claimed condition is causally related to her Federal employment.

In an occupational disease claim, in order to establish that an injury was sustained in the performance of duty, 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 appellant 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.[3]

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 the condition was caused, precipitated or aggravated by her employment is sufficient to establish a causal relationship.[4] A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.[5] Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors.[6]

In a report dated October 6, 1999, Dr. Marshall, an internist, noted that he began treating appellant in August 1999 for complaints of left wrist pain, which he diagnosed as overuse syndrome.[7] On October 7, 1999 Dr. Marshall advised that appellant should decrease her workload to five hours per day. In a subsequent report dated November 18, 1999, he again noted that appellant had left wrist pain due to overuse syndrome. Dr. Marshall explained that

[2] In support of her claim, appellant submitted reports and treatment records from Dr. Nyron T. Marshall, an internist and two reports from Dr. Joe A. Jackson, a Board-certified neurologist.

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

[4] *Robert G. Morris*, 48 ECAB 238-39 (1996).

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

[6] *Id.*

[7] The record also includes Dr. Marshall's initial treatment records dated August 24, 1999 and follow-up treatment records dated September 7, 1999, at which time appellant presented with complaints of spasms in her neck and shoulder.

appellant's symptoms had improved with rest, but may be exaggerated with overuse. He further indicated that appellant's symptoms were directly related to her employment duties, which he described as "prolonged repetitive motion of typing."

Dr. Marshall's reports and treatment records are insufficient to meet appellant's burden of proof because[8] he did not specifically comment on appellant's June 16, 1998 left wrist injury and how it impacts her current claim. Dr. Marshall's opinion as to the cause of appellant's current condition is, therefore, based on an incomplete factual and medical background.[9] This evidence is insufficient to establish a causal relationship between appellant's current condition and her specific employment factors.

The reports of Dr. Jackson, a Board-certified neurologist, are similarly insufficient to satisfy appellant's burden of proof. In his initial report dated December 29, 1999, Dr. Jackson diagnosed overuse-type syndrome involving the left arm and forearm. He further indicated that appellant's condition was "related to her work at a computer initially brought out and apparently caused by a fall at work in June of 1998." Dr. Jackson did not otherwise explain how appellant's current condition was "related to her work at a computer." However, after reviewing objective studies administered on January 5, 2000 which were essentially normal, he explained that appellant's current symptoms were "principally due to the earlier blunt trauma to the left forearm…." While Dr. Jackson noted that appellant felt that "work significantly exacerbates her pain," he did not specifically attribute appellant's current condition to her specific employment factors. Consequently, Dr. Jackson's opinion fails to establish a causal relationship between appellant's diagnosed condition and her specific employment factors.

In the absence of rationalized medical opinion evidence establishing a causal relationship between appellant's current condition and her specific employment factors, appellant has failed to demonstrate that she sustained an injury in the performance of duty.[10]

[8] The employing establishment also advised that appellant had been performing her duties for less than six weeks when she filed the instant claim on August 6, 1999.

[9] *Victor J. Woodhams*, *supra* note 3.

[10] *Id.*

The May 5, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.[11]

Dated, Washington, DC
July 3, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

[11] The record on appeal includes evidence that was not submitted to the Office prior to the issuance of its May 5, 2000 decision. Inasmuch as the Board's review is limited to the evidence of record that was before the Office at the time of its final decision, the Board cannot consider appellant's newly submitted evidence. 20 C.F.R. § 501.2(c).