

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SUSAN C. DEMPSEY and DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE, Charleston, WV

*Docket No. 02-757; Submitted on the Record;  
Issued December 20, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,  
MICHAEL E. GROOM

The issue is whether appellant has established that her left carpal tunnel syndrome condition is causally related to her employment duties.

On June 14, 2001 appellant, then a 27-year-old agent, filed an occupational disease claim (Form CA-2) alleging that on September 16, 1998 she first realized that her left carpal tunnel condition was employment related.<sup>1</sup> On the reverse side of the form, the employing establishment contested the claim and noted that appellant had been on maternity leave from January 2000 until her return to work on May 23, 2001.

In a report dated January 17, 2001, Dr. Ted A. Jackson, a Board-certified plastic surgeon, diagnosed severe left carpal tunnel syndrome. Appellant related increased left hand tingling and pain at night and with use. She related the symptoms had been increasing for the past year. Physical examination revealed diminished sensation in the left media nerve, an absent Tinel's sign and a Phalen's test that was "positive at only 10 seconds on the left." Dr. Jackson attributed her condition to her keyboard work and carrying of heavy files.

In a letter dated July 17, 2001, the Office informed appellant that the evidence was insufficient to support her claim and advised her as to the type of medical and factual evidence required to support her claim that her left carpal tunnel syndrome was due to her employment. The Office also requested appellant to identify the work activities she believed caused or aggravated her condition.

In an August 1, 2001 response, appellant indicated the duties causing her condition were typing, writing and carrying heavy equipment. She noted that she had pain, numbness and tingling over the past six years and that the pain has gotten much worse.

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<sup>1</sup> This was assigned claim number 03-2001150. Under claim number 03-0238383, the Office of Workers' Compensation Programs accepted her claim for right carpal tunnel syndrome and authorized surgical release.

In an August 6, 2001 report, the employing establishment contested appellant's claim, noting that she had been placed on light duty for the period January 25, 1999 until released to her usual work on April 24, 2001. Moreover, the employing establishment stated that appellant had worked as an instructor for the period October through December 1999 and was off work from January 2000 through May 23, 2001 for maternity leave.

On September 24, 2001 the Office sent appellant a second letter informing her that the evidence was insufficient to support her claim and advising her as to the type of information required to support her claim. Appellant responded by letter dated October 17, 2001 and stated that the duties causing her condition were typing, writing and carrying heavy equipment. She noted that she had pain, numbness and tingling over the past six years and that the pain has gotten much worse.

In a report dated November 15, 2001, Dr. Jackson noted appellant's symptoms in her left hand had grown in severity and intensity. He noted a physical examination revealed an absent Tinel's sign bilaterally, a positive Phalen's test at 10 seconds on the left and absent on the right, and diminished sensation on the left. He attributed appellant's condition to her carrying job duties which included "carrying heavy charts and files and the use of the keyboard."

By decision dated December 20, 2001, the Office denied appellant's claim on the basis that the evidence was insufficient to establish a causal relationship between her left carpal tunnel syndrome and employment factors. The Office determined Dr. Jackson's opinion was insufficient to support her claim as he failed to address the fact that she has been on maternity leave from January 2000 until her return in May 2001.

An employee seeking benefits under the Federal Employees' Compensation 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 an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.<sup>2</sup>

The medical evidence required to establish a causal relationship generally, is 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 a 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 factors identified by claimant.<sup>3</sup>

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<sup>2</sup> *Kathryn A. Tuel-Gillem*, 52 ECAB \_\_\_\_ (Docket No. 00-2124, issued July 18, 2001).

<sup>3</sup> *Manuel Gill*, 52 ECAB \_\_\_\_ (Docket No. 99-915, issued March 2, 2001); *Victor J. Woodhams*, 41 ECAB 345 (1989).

In the instant case, Dr. Jackson, in his January 17 and November 15, 2001 reports, attributed appellant's condition to her carrying job duties which included "carrying heavy charts and files and the use of the keyboard." While Dr. Jackson's reports are insufficiently rationalized to discharge appellant's burden of establishing that her left carpal tunnel syndrome was causally related to her employment duties, the report constitutes sufficient evidence in support of appellant's claim to require further development of the record by the Office.<sup>4</sup> In addition, there is no contrary evidence of record.

It is well established that proceedings under the Act<sup>5</sup> are not adversarial in nature,<sup>6</sup> and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.<sup>7</sup> Only in rare instances where the evidence indicates that no additional information could possibly overcome one or more defects in the claim is it proper for the Office to deny a case without further development.<sup>8</sup> On remand the Office should compile a statement of accepted facts and refer appellant, together with the complete case record and questions to be answered, to a Board-certified specialist for a detailed opinion on the relationship of appellant's left carpal tunnel syndrome and her employment duties and any period of disability therefrom. After such development as the Office deems necessary, a *de novo* decision shall be issued.

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<sup>4</sup> See *Mark A. Cacchione*, 46 ECAB 148, 152 (1994); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> 5 U.S.C. §§ 8101-8193.

<sup>6</sup> See, e.g., *Walter A. Fundinger, Jr.*, 37 ECAB 200 (1985).

<sup>7</sup> See *Dorothy L. Sidwell*, 36 ECAB 699 (1985).

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.800.5c (April 1993).

The December 20, 2001 decision of the Office of Workers' Compensation Programs is hereby set aside and the case remanded for further development consistent with the above opinion.

Dated, Washington, DC  
December 20, 2002

Michael J. Walsh  
Chairman

Colleen Duffy Kiko  
Member

Michael E. Groom  
Alternate Member