U. S. DEPARTMENT OF LABOR

# Employees' Compensation Appeals Board

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In the Matter of SHEILA M. MARROW and U.S. POSTAL SERVICE,
POST OFFICE, Brooklyn, NY

*Docket No. 00-1041; Oral Argument Held December 4, 2001;*
*Issued January 16, 2002*

Appearances: *Shelia M. Marrow, pro se*; *Miriam D. Ozur, Esq.*,
for the Director, Office of Workers' Compensation Programs.

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issues are: (1) whether appellant had any disability for work or residuals requiring further medical treatment on or after December 21, 1999 causally related to her September 30, 1997 employment-related carpal tunnel syndrome; and (2) whether appellant sustained a cervical condition causally related to factors of her federal employment.

The Office of Workers' Compensation Programs accepted that on February 24, 1998 appellant, then a 39-year-old casual clerk, sustained an aggravation of bilateral carpal tunnel syndrome.[1]

Appellant was initially treated for her condition in March 1998 by Dr. James C. Edmondson, a Board-certified neurologist, who stated that her bilateral carpal tunnel syndrome was worsened by repetitive movements such as sorting mail and heavy lifting. He added that keypunching and sorting activities contributed to appellant's condition.

On April 23, 1998 appellant's casual employment was terminated by the employing establishment.

By report dated June 25, 1998, Dr. Edmondson indicated that appellant was capable of working eight hours a day with restrictions. He later amended the release to four hours per day effective September 22, 1998 and indicated that appellant suffered from carpal tunnel syndrome and right thigh neuralgia paresthetica related to repetitive duties at work. She returned to work in a modified capacity for two hours a day in August 1998.

[1] The claim form filed by appellant on February 24, 1998 stated: "I went to pick up a letter and I had pain in my right arm." The initial medical reports diagnosed carpal tunnel syndrome and did not identify evidence of neck or shoulder conditions or injuries.

On October 7, 1998 the Office obtained a second opinion medical examination from Dr. Robert J. Orlandi, a Board-certified orthopedic surgeon. He reviewed appellant's factual and medical history and noted her present symptomatology. Dr. Orlandi found no evidence of compressive neuropathy and no objective findings of a musculoskeletal injury to the right or left wrists or hands. He further found that appellant had a nonwork-related cervical strain. Dr. Orlandi concluded that there was no clinical evidence of carpal tunnel syndrome and opined that appellant had reached maximum medical improvement and could be returned to her regular duty position.

The Office determined that a conflict existed between Drs. Edmondson and Orlandi and referred appellant, together with a statement of accepted facts, the relevant case record and questions to be addressed, to Dr. Hubert S. Pearlman, a Board-certified orthopedic surgeon, for an impartial medical evaluation.

By report dated January 5, 1999, Dr. Pearlman noted appellant's factual and medical history, reviewed her medical records and reported inconsistent findings upon physical examination. He noted that a specially ordered EMG (electromyogram) performed on January 28, 1999 was reported as revealing no evidence of carpal tunnel syndrome, but was suggestive of mild bilateral C5-6 radiculitis. In a subsequent report dated February 25, 1999, Dr. Pearlman opined that there was no evidence of carpal tunnel syndrome and indicated that appellant could return to her date-of-injury position. However, he did recommend that appellant undergo a psychiatric evaluation for severe psychological overlay.

On July 14, 1999 appellant was evaluated at the request of the Office by Michael Bernstein, a Board-certified psychiatrist, who stated that there was no evidence of a psychiatric disorder and that appellant suffered from a chronic pain condition. In an August 25, 1999 addendum Dr. Bernstein opined that appellant did not have a psychiatric disorder that would prevent her from returning to work in her date-of-injury position.

Appellant submitted an April 16, 1999 medical report from Dr. Nahid K. Nainzadeh, Board-certified in physical medicine and rehabilitation, who noted that appellant was seen for neck, shoulder, elbow and hand pain and was treated with trigger point injections.

Appellant submitted an April 26, 1999 request for authorization of surgery from Dr. Elizabeth Kann, a medical resident, who diagnosed right lateral epicondylitis, right shoulder tendinitis, right carpal tunnel syndrome and right thoracic outlet syndrome.

Also submitted was an October 27, 1999 report from Dr. Elizabeth Wilk-Rivard, a physician of unlisted specialty, who opined that appellant was unable to work "due to multiple work-related musculoskeletal disorders" including carpal tunnel syndrome, elbow tendinitis, shoulder tendinitis and a neck problem. Dr. Wilk-Rivard did not provide a review of the records or her findings upon examination and she omitted any medical rationale for her opinion.

On October 12, 1999 the Office issued a notice of proposed termination of compensation and medical benefits and it advised appellant that she had 30 days to submit further medical evidence supporting continuing disability. Appellant replied on October 17, 1999 claiming that

she had been undergoing treatment since she first filed her claim, that her pain had not subsided and that she remained in need of physical therapy.

By decision dated December 21, 1999, the Office terminated appellant's wage loss and medical benefits, finding that she had no further disability for work or residuals requiring medical treatment.

Appellant requested an oral hearing before an Office hearing representative which was held on June 13, 2000. She testified that she began working for the employing establishment in December 1993, that in December 1997 she noticed a weakness in her hands and arms, that an EMG confirmed carpal tunnel syndrome and that she was treated at that time by Dr. Edmondson. Appellant further testified that she had had neck problems since she filed her original claim which continued through to the present and which she felt were due to her duties keying at work. She stated that she stopped work on April 23, 1998 when she was dismissed, as the employing establishment was unable to accommodate her work restrictions. Appellant was currently in treatment with Dr. Nainzadeh suffering from neck, shoulder and elbow problems.

At the hearing appellant submitted a medical progress note which indicated that a recent cervical magnetic resonance imaging (MRI) scan revealed a herniated disc at C5-6. She also submitted an April 21, 2000 statement from Dr. Nainzadeh stating that she was seen for neck, shoulder and upper extremity pain. Dr. Nainzadeh diagnosed cervical radiculopathy and bilateral carpal tunnel syndrome. In a subsequent June 16, 2000 report she diagnosed cervical radiculopathy, bilateral carpal tunnel syndrome and right shoulder tenderness and stated that these symptoms started in September 1994 when appellant was employed at the employing establishment doing keypunching. Dr. Nainzadeh opined that these conditions were work related.

Appellant also submitted a June 16, 2000 report from Dr. Nainzadeh diagnosed cervical spine radiculopathy, bilateral carpal tunnel syndrome and right shoulder tendinitis which she alleged started September 30, 1994 and which were work related.

By decision dated August 30, 2000 and finalized August 31, 2000, the Office hearing representative affirmed the termination of compensation and affirmed the rejection of a cervical condition as being causally related to appellant's employment.

The Board finds that appellant had no disability for work or residuals of her accepted bilateral carpal tunnel syndrome on or after December 21, 1999.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.[2] After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.[3] Further, the right to medical benefits for an accepted condition is not limited to

[2] *Harold S. McGough*, 36 ECAB 332 (1984).

[3] *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

the period of entitlement to compensation for wage loss.[4] To terminate authorization for medical treatment, the Office must establish that appellant no loner has residuals of an employment-related condition that require further medical treatment.[5]

Appellant's treating physician, Dr. Edmondson, opined that she was disabled due to bilateral carpal tunnel syndrome worsened by keypunching duties, sorting mail and heavy lifting.

However, the Office second opinion specialist, Dr. Orlandi, opined on the lack of objective evidence of carpal tunnel syndrome upon examination, that appellant had no evidence of compressive neuropathy and no evidence of objective musculoskeletal injury to either wrist. He concluded that appellant had no evidence of carpal tunnel syndrome, that she had reached maximum medical improvement and that she could return to her regular-duty position.

The Office properly found a conflict in medical evidence existed between Drs. Edmondson and Orlandi and referred appellant to Dr. Pearlman, for an impartial medical evaluation.

In a series of reports Dr. Pearlman reviewed appellant's factual and medical history, conducted a thorough physical examination, noted objective testing results and concluded in a well-rationalized report that a January 1999 EMG revealed no evidence of carpal tunnel syndrome. He further opined that appellant could return to her date-of-injury job, but recommended a psychiatric evaluation for severe psychological overlay. The Board finds that the reports of Dr. Pearlman are well rationalized and constitute the weight of medical opinion.

Following Dr. Pearlman's recommendation, a psychiatric evaluation was performed by Dr. Bernstein, who found no evidence of a psychiatric disorder that would prevent her from returning to her date-of-injury job.

Appellant submitted brief medical reports from a medical resident without Board-certification and from an unlisted physician, who merely stated appellant's subjective complaints and conclusorily found that they were related to her work duties. No rationale was present and no indication of which duties or incidents were implicated was presented. Consequently, these reports are of diminished probative value and are insufficient to outweigh the well-rationalized reports of Dr. Pearlman. Moreover, the Board has held that the opinion of a physician who has specialized training in a particular field of medicine has greater probative value on issues involving that particular field than opinions of other physicians.[6] As neither Dr. Kann nor Dr. Wilk-Rivard have any listed specialty, there reports are of diminished probative value on the accepted condition.

Dr. Nainzadeh opined that appellant had diagnosable conditions, including carpal tunnel syndrome, which were related to her job duties, but this opinion on causal relation is conclusory

[4] *Marlene G. Owens*, 39 ECAB 1320 (1988).

[5] *See Calvin S. Mays*, 39 ECAB 993 (1988); *Patricia Brazzell*, 38 ECAB 299 (1986); *Amy R. Rogers*, 32 ECAB 1429 (1981).

[6] *See Effie Davenport (James O. Davenport)*, 8 ECAB 136 (1955).

and is not supported by objective evidence which demonstrated that appellant had no EMG evidence of carpal tunnel syndrome. The Board has held that conclusory statements, unaccompanied by medical explanation, are of diminished probative value.[7]

The weight of medical opinion evidence is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the opinion.[8] The opinion of a physician supporting causal relation must be one of reasonable medical certainty, supported with affirmative evidence, explained by medical rationale and based on a complete and accurate factual and medical background.[9] In this case, Dr. Nainzadeh did not have appellant's previous medical records for review, he did not have testing results to support his diagnosis and he did not offer any medical rationale as to how appellant's actual work duties caused or contributed to her cervical symptoms or ongoing carpal tunnel symptoms. Therefore, Dr. Nainzadeh's report is of diminished probative value and is insufficient to create a conflict with the well-rationalized reports of Dr. Pearlman.

Rationalized medical opinion evidence is medical evidence that 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. Such an 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 appellant.[10]

Where there exists a conflict of medical opinion and the case is referred to an impartial specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, is entitled to special weight.[11]

As the reports of appellant's treating physicians are unrationalized, the impartial medical examination reports by Dr. Pearlman, based upon a proper factual and medical background, are entitled to that special weight and represent the weight of the medical evidence.

The Board also finds that appellant has not established that she sustained a cervical condition, causally related to her federal employment.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which she claims compensation was caused or adversely affected by employment factors.[12] This burden includes the submission of a detailed

[7] *Ruth S. Johnson*, 46 ECAB 237 (1994); *William C. Thomas*, 45 ECAB 591 (1994).

[8] *Anna C. Leanza*, 48 ECAB 115 (1996).

[9] *Connie Johns*, 44 ECAB 560 (1993).

[10] *See Donna Faye Cardwell*, 41 ECAB 730 (1990); *Lillian Cutler* 28 ECAB 125 (1976).

[11] *Aubrey Belnavis*, 37 ECAB 206, 212 (1985).

[12] *Pamela R. Rice*, 38 ECAB 838 (1987).

description of the employment factors or conditions which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.[13]

In this case, appellant has not presented any medical evidence identifying what employment factors are being implicated in the development of her cervical condition. In this case the contemporaneous medical evidence omits any mention of a cervical problem at or around the time of the accepted February 24, 1998 incident. The Board has stated that a physician's contemporaneous medical opinion was found to be of greater probative value on appellant's ability to work than the opinion of another physician who did not examine appellant or offer an opinion on her ability to work until some time after the incident in question time in question.[14] Although several physicians mention a cervical condition, none of them relate it to appellant's employment factors. These reports are of diminished probative value in establishing appellant's claim.

Accordingly, decisions of the Office of Workers' Compensation Programs dated August 31, 2000 and December 21, 1999 are hereby affirmed.

Dated, Washington, DC
January 16, 2002

David S. Gerson
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member

[13] *Effie O. Morris*, 44 ECAB 470 (1993).

[14] *See Eileen R. Kates*, 46 ECAB 573 (1995).