U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LEE ANN ALLEN and DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Amarillo, TX

Docket No. 01-1411; Submitted on the Record;
Issued January 16, 2002

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant established that she sustained an injury causally related to factors of her federal employment.

On January 19, 2000 appellant, then a 43-year-old staff nurse, filed a traumatic injury claim, alleging that on that day she injured her ribs, neck and left shoulder when transferring a patient to a chair. She did not stop work but was accommodated with limited duty. By letter dated July 27, 2000, the employing establishment informed appellant that, due to her physical limitations, she would be detailed from a staff nurse position to patient services, effective July 16, 2000. On February 2, 2001 she filed a claim for loss of premium pay for the period June 26, 2000 to present and submitted medical evidence. By letters dated February 13, 2001, the Office of Workers' Compensation Programs informed appellant of the type of evidence needed to establish her claim. In a statement dated February 19, 2001, appellant described the incident that occurred on January 19, 2000. She advised that she had been on light duty since the injury, had been taken off nursing in June 2000 and had worked continuously "within the confines of my duty restriction." Appellant also submitted additional medical evidence. By decision dated March 22, 2001, the Office denied the claim. The Office found the incident of January 19, 2000 occurred but that the evidence did not establish that she suffered a medical condition causally related to this incident. The Office further stated that it did not receive a medical report from a physician, noting that the reports from the employing establishment clinic were signed by a nurse. The instant appeal follows.

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

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim[2] including the fact that the

[1] 5 U.S.C. §§ 8101-8193.

[2] *See Daniel R. Hickman*, 34 ECAB 1220 (1983).

individual is an "employee of the United States" within the meaning of the Act,[3] that the claim was timely filed within the applicable time limitation period of the Act,[4] 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.[5] These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6] However, an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong and persuasive evidence.[7]

Causal relationship is a medical issue,[8] and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.[9]

Contrary to the statement in the Office decision dated March 22, 2001, the record in the instant case contains a number of clinic notes signed by a physician, Dr. Grace Stringfellow, who is Board-certified in physical medicine and rehabilitation.[10] In a report dated January 19, 2000, Dr. Stringfellow advised that appellant reported that she sustained an injury to her neck, back and left shoulder while assisting an uncooperative patient. She noted symptoms of pain and numbness and findings on examination. Her impression was cervicothoracic strain and left rotator cuff tear. Dr. Stringfellow continued to file reports regarding appellant's condition, in which she noted appellant's complaints of pain and decreased strength. Dr. Stringfellow diagnosed improving tendinitis and recommended that appellant continue modified duty. By report dated June 22, 2000, she advised that electromyography was unremarkable. In a report dated January 23, 2001, Dr. Stringfellow noted appellant's complaints of left thumb and hand pain and numbness and findings on examination. She diagnosed left upper extremity tendinitis/rule-out neuropathy and recommended that appellant undergo further studies. Dr. Stringfellow also submitted checklists dated January 19 and April 5, 2000, which provided

[3] *See James A. Lynch*, 32 ECAB 216 (1980); *see also* 5 U.S.C. § 8101(1).

[4] 5 U.S.C. § 8122.

[5] *See Melinda C. Epperly*, 45 ECAB 196 (1993).

[6] *See Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[7] *See Robert A. Gregory*, 40 ECAB 478 (1989).

[8] *Mary J. Briggs*, 37 ECAB 578 (1986).

[9] *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams, supra* note 6.

[10] The Board notes that the record before it is an imaged copy and some of the medical reports are of poor quality. The Board is nonetheless able to discern the pertinent facts included in these reports.

restrictions to appellant's activity and further submitted disability slips dating from June 29, 2000 to January 11, 2001, at which time she advised that appellant's "current restrictions" would be permanent.

The record also contains the report of an x-ray of the left shoulder done on January 21, 2000 which revealed mild osteoarthritis of the glenohumeral joint. X-ray of the cervical spine that same day demonstrated a mildly wedged C4 body and a minimal degree of spondylosis with small spurs at C5-7.

In this case, the Office found the January 19, 2000 incident established but that the evidence was insufficient to establish that appellant sustained an injury therefrom. The Board, however, finds that the reports of Dr. Stringfellow constitute sufficient evidence in support of appellant's claim to require further development by the Office as these reports provide a consistent history of injury and indicate that appellant's condition was related to the January 19, 1999 employment incident. While these reports lack detailed medical rationale sufficient to discharge appellant's burden of proof to establish by the weight of reliable, substantial and probative evidence that her back, neck and shoulder conditions were caused or aggravated by employment factors, this does not mean that these reports may be completely disregarded by the Office. It merely means that their probative value is diminished.[11] In the absence of medical evidence to the contrary, Dr. Stringfellow's reports are sufficient to require further development of the record.[12] It is well established that proceedings under the Act are not adversarial in nature,[13] and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.[14] 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 back, neck and shoulder conditions and her federal employment. After such development as the Office deems necessary, a *de novo* decision shall be issued.

[11] *See Delores C. Ellyett, supra* note 6.

[12] *John J. Carlone*, 41 ECAB 354 (1989). The Board notes that the case record does not contain a medical opinion contrary to appellant's claim and further notes that the Office did not seek advice from an Office medical adviser or refer the case for a second opinion evaluation.

[13] *See, e.g., Walter A. Fundinger, Jr.*, 37 ECAB 200 (1985).

[14] *See Dorothy L. Sidwell*, 36 ECAB 699 (1985).

The March 22, 2001 decision of the Office of Workers' Compensation Programs is hereby set aside and the case is remanded to the Office for proceedings consistent with this opinion.

Dated, Washington, DC
January 16, 2002

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member