

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of WALT A. HOLLER and DEPARTMENT OF THE AIR FORCE,  
AIR FORCE RESERVE, Willow Grove, PA

*Docket No. 00-2025; Oral Argument Held April 17, 2002;  
Issued June 26, 2002*

Appearances: *Walt A. Holler, pro se; Julia Mankata, Esq.,  
for the Director, Office of Workers' Compensation Programs.*

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DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether appellant sustained a recurrence of disability commencing August 10, 1998 causally related to his accepted November 13, 1995 employment injury.

On November 14, 1995 appellant, then a 43-year-old maintenance mechanic, filed a traumatic injury claim (Form CA-1) alleging that on November 13, 1995 he injured his head, back and wrist when he slipped and fell 15 feet while pulling cable through a conduit. The Office of Workers' Compensation Programs accepted the claim for a laceration of the scalp, right distal radius fracture and a lumbar vertebra fracture. Appellant returned to full-time light-duty work on February 15, 1996.

In an August 16, 1996 report, Dr. Noubar A. Didizian, a second opinion Board-certified orthopedic surgeon, concluded that appellant was capable of performing his usual duties. He noted that the neurologic and objective evidence was negative for any pathologies and appellant required no further medical treatment for his accepted employment injuries.

Appellant filed a recurrence of disability claim alleging that his disability commencing August 10, 1998 was due to his November 13, 1995 employment injury. He indicated that he had developed a lump and swelling in his right hand and that his "range of motion becomes limited after working with it."<sup>1</sup>

In an October 2, 1998 report, Dr. T. Robert Takei, an attending Board-certified orthopedic surgeon, diagnosed "right wrist pain of unclear etiology." He stated that appellant did

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<sup>1</sup> In a September 11, 1997 letter, the Office advised that appellant's "physician suspects possible carpal tunnel syndrome which is usually an occupational disease claim, this case was for a traumatic injury."

“not recall any significant history of exact injury, although he has been involved in a moderate degree of heavy lifting and carrying with the use of his right hand.” Dr. Takei reported that an x-ray interpretation revealed a fully healed distal radius fracture.

In a letter dated October 20, 1998, the Office advised appellant that the evidence of record was insufficient to support his claim for a recurrence of disability. The Office also informed appellant as to the type of evidence required to support his claim for a recurrence and provided him with the definition of a recurrence to assist him in determining whether to file a recurrence claim. In addition, the Office noted that appellant had been advised in a September 11, 1997 letter that carpal tunnel is usually an occupational disease claim.

In a report dated October 23, 1998, Dr. Takei diagnosed right dorsal wrist pain and that “[t]he exact cause and etiology of the pain is unclear.”

In a decision dated February 17, 1999, the Office denied appellant’s claim for a recurrence of disability.

In December 23, 1998 treatment notes, Dr John A. Avallone, an attending physician, diagnosed “probable symptomatic post[-]traumatic arthritis right wrist.” He noted that appellant had previously fractured his wrist and currently experienced “some pain with some activities, especially lifting.”

In a February 19, 1999 report, Dr. Takei noted that appellant lacked 10 to 15 degrees of volar tilt which he believed “caused a mechanical alignment of remaining carpal bones” which caused his wrist pain. He further noted that “[f]or this reason, [appellant] probably does have a mechanical cause of the wrist pain directly related to the old injury.” In support of this conclusion, Dr. Takei relied upon the December 2, 1998 bone scan which revealed “focal uptake in the area of the carpal metacarpal joints, suggestive of an inflammatory type of reaction of the area.”

By letter dated March 4, 1999, appellant disagreed with the denial of his claim and requested an oral argument. A hearing was held on October 29, 1999 in which appellant was represented by counsel. At the hearing<sup>2</sup> appellant testified that his arm and wrist bothered him during the summer of 1998 while clearing away brush, trees and debris.

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<sup>2</sup> The hearing representative noted that appellant could file an occupational disease claim, Form CA-2 and not a traumatic injury claim (Form CA-1) as it appeared new work factors aggravated appellant’s injury.

In a decision dated January 18, 2000, the hearing representative affirmed the denial of appellant's claim for a recurrence of disability. The hearing representative found the medical evidence failed to establish a causal relationship between appellant's accepted employment injury and his current symptoms. The hearing representative also found that "the factual evidence suggests that new work factors contributed to claimant's symptoms."<sup>3</sup>

The Board finds that appellant has not sustained a recurrence of disability.

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which he claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.<sup>4</sup>

Causal relationship is a medical issue<sup>5</sup> and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical 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. 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.<sup>6</sup>

In this case, appellant has not submitted rationalized medical evidence establishing that his wrist problems were caused by the accepted November 13, 1995 employment injury. Medical evidence of record, which addressed the cause of appellant's current conditions, included reports dated October 2 and 23, 1998 and February 19, 1999 from Dr. Takei which diagnosed right wrist pain and treatment notes dated December 23, 1997 by Dr. Avallone.

In his October 23, 1998 report, Dr. Takei opined that appellant's pain in his right wrist was of unclear etiology. As appellant's right wrist pain is of unknown etiology, the connection between appellant's current condition and the accepted 1995 work injury is not established. The

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<sup>3</sup> Once appellant returned to work, a claim for a period of disability is either a claim for a recurrence of disability or if new employment factors are implicated, a claim for a new injury. A recurrence of disability includes a work stoppage caused by a spontaneous material change in the employment-related condition without an intervening injury. If the disability results from new exposure to work factors, an appropriate new claim should be filed; *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (May 1997).

<sup>4</sup> *Alfredo Rodriguez*, 47 ECAB 437 (1996); *Jose Hernandez*, 47 ECAB 288 (1996); *Carolyn F. Allen*, 47 ECAB 240 (1995); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

<sup>5</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>6</sup> *Joe L. Wilkerson*, 47 ECAB 604 (1996); *Alberta S. Williamson*, 47 ECAB 569 (1996); *Kurt R. Ellis*, 47 ECAB 505 (1996); *Thomas L. Hogan*, 47 ECAB 323 (1996); *Charles E. Burke*, 47 ECAB 185 (1995); *Victor J. Woodhams*, 41 ECAB 345 (1989).

fact that the etiology of the disease is unknown or obscure does not shift the burden of proof to the Office to disprove an employment relationship, neither does the absence of a known etiology for his condition relieve appellant of the burden of establishing a causal relationship by the weight of the evidence, which includes an affirmative medical opinion based on material facts with supporting rationale.<sup>7</sup> Thus, this report is insufficient to meet appellant's burden.

Dr. Takei noted, in his February 19, 1990 report, that appellant's right wrist pain was probably related to his employment. However, the Board notes that, without any further explanation or rationale for the conclusion reached, such a report is insufficient to establish a causal relationship.<sup>8</sup> Instead, he couched his opinion in speculative terms and Dr. Takei did not reference any particular employment factors as causing appellant's condition.<sup>9</sup> Furthermore, Dr. Takei did not explain how the November 13, 1995 injury caused appellant's disability almost three years later, particularly in light of the fact that the objective evidence showed that the accepted right distal radius fracture had healed. Dr. Takei did not address the relationship of the diagnosed condition to the original employment injury nor explain how appellant could work for several years before having a recurrence of disability due to his 1995 employment injury. Dr. Takei's report lacks a rationalized explanation of the relationship between the original employment injury and appellant's recurrence of disability. This report has little probative value and is insufficient to support appellant's burden of proof.

The report of Dr. Avallone is also insufficient to meet appellant's burden of proof. He noted that appellant had previously fractured his wrist and diagnosed "probably symptomatic post[-]traumatic arthritis right wrist." Dr. Avallone failed to offer an opinion as to the causal relationship between appellant's disability and his accepted employment injury beyond noting that he had previously fractured his wrist. Thus, since this opinion fails to address the causal relation of appellant's disability to his accepted employment injury of laceration of the scalp, right distal radius fracture and lumbar spinal fracture, it is insufficient to establish appellant's burden.

There is no rationalized medical opinion linking his current condition to the accepted work-related injury. As noted above, a physician's opinion must be supported by medical reasoning.<sup>10</sup> The Office advised appellant that additional medical evidence must be submitted to support his claim, but the subsequent medical evidence is insufficient to establish a causal relationship between appellant's work-related injury and his current condition.

An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's own belief that there is causal relationship between his claimed condition and

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<sup>7</sup> *Ronald K. White*, 37 ECAB 176 (1985).

<sup>8</sup> *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

<sup>9</sup> *Wendell D. Harrell*, 49 ECAB 289 (1998); *Jacquelyn L. Oliver*, 48 ECAB 232, 237 (1996).

<sup>10</sup> See *Jose Hernandez*, 47 ECAB 288, 294 (1996) (finding that medical reports that failed to address directly the causal relationship between appellant's recurrence of disability and his work-related injuries were insufficient to meet appellant's burden of proof).

his employment.<sup>11</sup> To establish causal relationship, appellant must submit a medical report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and his medical history, state whether the employment injury caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his or her opinion. Appellant failed to submit such evidence in this case and, therefore, has failed to meet his burden of proof.

The decision of the Office of Workers' Compensation Programs dated January 18, 2000 is hereby affirmed.<sup>12</sup>

Dated, Washington, DC  
June 26, 2002

Alec J. Koromilas  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

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<sup>11</sup> *Donald W. Long*, 41 ECAB 142 (1989).

<sup>12</sup> The Board notes that the disposition of this case does not preclude appellant from filing a claim for a schedule award.