

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NANCY J. REECE and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Coatesville, PA

*Docket No. 01-2240; Submitted on the Record;
Issued May 16, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant established that she sustained a recurrence of disability due to her employment-related carpal tunnel syndrome.

The Board has duly reviewed the case record in the present appeal and finds that appellant has not met her burden of proof.

On June 16, 1996 appellant, then a 46-year-old laundry worker, filed an occupational disease claim, alleging that factors of employment caused constant pain and weakness of her left hand, wrist and fingers. She underwent left carpal tunnel release and left wrist ganglionectomy on August 27, 1996, and on September 16, 1996 filed a claim for compensation for the period August 27 to September 24, 1996. Upon her return to work, she was on limited duty for one week and then returned to regular duty. By letter dated October 30, 1996, the Office of Workers' Compensation Programs accepted that appellant sustained employment-related left carpal tunnel syndrome and authorized the August 27, 1996 surgery.

On April 30, 2001 appellant filed a recurrence claim, alleging that her condition had progressively worsened. She stated that the date of recurrence was January 11, 2000. She did not stop work. By letter dated June 21, 2001, the Office informed appellant of the type of evidence needed to support her recurrence claim. In a response dated July 10, 2001, appellant described her work duties and stated that she wore braces and took medication for hand pain. She also submitted medical evidence.

By decision dated August 7, 2001, the Office denied the recurrence claim on the grounds that the medical evidence did not address the claimed recurrence of disability on January 11, 2000. The instant appeal follows.

Initially, the Board notes that on appeal appellant contended that her claim should be considered under the Workers' Compensation Act of the Commonwealth of Pennsylvania. Employment-related injuries to federal employees, however, are governed by the Federal

Employees' Compensation Act and not by the workers' compensation statutes of the various states.¹

The Board further notes that, on August 22, 2001, the date appellant filed her appeal with the Board, she also submitted a reconsideration request to the Office. In a November 15, 2001 decision, the Office denied her reconsideration request, finding the argument submitted immaterial. The Board and the Office, however, may not have concurrent jurisdiction over the same issue in the same case.² Thus, the Office decision issued on November 15, 2001 is null and void.

An individual 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 recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.³ This burden includes the necessity of furnishing evidence from a qualified 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.⁴ Causal relationship is a medical issue, 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.⁵

The medical evidence⁶ in the instant case consists of a February 13, 2001 report in which Dr. Michael S. Rosen, a Board-certified rheumatologist, advised that appellant was under his care for degenerative arthritis in both thumbs. He also provided lifting restrictions of no more than 10 pounds and further advised that she should perform no repetitive activities. In a report dated March 20, 2001, Dr. Rosen advised that appellant had significant osteoarthritis of her hands which was made worse by repetitive motion. He again provided restrictions to her physical activity.

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

¹ 5 U.S.C. §§ 8101-8193; 20 C.F.R. § 10.0.

² *Douglas E. Billings*, 41 ECAB 880 (1990).

³ *Ronald C. Hand*, 49 ECAB 113 (1997).

⁴ *Helen K. Holt*, 50 ECAB 279 (1999).

⁵ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ Appellant further submitted copies of forms indicating dates of medical treatment and insurance coverage. These, however, do not constitute probative medical evidence under the Act. *Id.*

employment.⁷ While Dr. Rosen indicated that repetitive motion made appellant's osteoarthritis worse, the accepted condition in the instant case is carpal tunnel syndrome. The Board therefore finds that, as appellant failed to submit any medical evidence to indicate that her current hand condition is causally related to the accepted condition, she has failed to establish that she sustained a recurrence of disability and the Office properly denied her claim.⁸

The decision of the Office of Workers' Compensation Programs dated August 7, 2001 is hereby affirmed.

Dated, Washington, DC
May 16, 2002

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ *Donald W. Long*, 41 ECAB 142 (1989).

⁸ The Board notes that appellant has the right to file an occupational disease claim for her current hand condition.