

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KEITH G. RYAN and DEPARTMENT OF LABOR, MINE SAFETY &
HEALTH ADMINISTRATION, Morganfield, KY

*Docket No. 03-218; Submitted on the Record;
Issued April 22, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
DAVID S. GERSON

The issues are: (1) whether appellant established that his claimed right cubital tunnel syndrome was causally related to his August 2, 2001 employment injury; and (2) whether the Office of Workers' Compensation Programs properly denied authorization for surgery.

The Office accepted that appellant, a 45-year-old mine inspector, sustained employment-related contusions to his left hip and right shoulder when he slipped and fell on August 2, 2001 while walking on a catwalk. Appellant resumed his full-time, regular duties on August 6, 2001.

Approximately three and a half months, after his August 2, 2001 employment injury, appellant complained of pain and numbness in his right arm and fingers. He requested authorization to see an orthopedist, which the Office granted on November 28, 2001. On December 5, 2001 Dr. Jacob M. O'Neill, a Board-certified orthopedic surgeon, diagnosed right hip sprain with underlying degenerative arthritis and right cubital tunnel syndrome.

In May 2002, Dr. O'Neill recommended surgery and he sought authorization from the Office to perform a right cubital tunnel release with anterior transposition of the ulnar nerve. He explained in a June 3, 2002 letter that his initial diagnosis of cubital tunnel syndrome on December 5, 2001 was confirmed by a December 13, 2001 electromyography and nerve conduction study. Dr. O'Neill further explained that appellant stated in the past that he did not have any numbness at his right hand prior to his August 2, 2001 traumatic work-related injury. Therefore, he opined that appellant's cubital tunnel syndrome was traumatic in nature and not due to repetitive use of the right upper extremity.

The Office referred the case record to its medical adviser for an opinion as to whether appellant's claim should be expanded to include right traumatic cubital tunnel syndrome and whether the requested surgery should be authorized. In a report dated June 12, 2002, the Office medical adviser recommended that the claim not be expanded and that the requested surgery not be authorized. He noted that the then-current record did not document an injury to the right elbow on August 2, 2001. The Office medical adviser also noted that there was no bridging

information from the time of injury until November 21, 2001. The medical adviser suggested that the Office obtain appellant's August 3, 2001 emergency room treatment records to ascertain whether there was any documentation of a right elbow injury at that time.

By letter dated June 18, 2002, the Office advised appellant that it was presently unable to expand his claim to include cubital tunnel syndrome or authorize a cubital tunnel release. As recommended by its medical adviser, the Office requested additional medical evidence and explained that the information was necessary to determine the work-related nature of appellant's cubital tunnel syndrome. The Office afforded appellant 30 days to submit the requested information.

As requested, appellant submitted additional medical evidence, including his August 3, 2001 emergency room treatment records. The Office again referred the case file to its medical adviser for review and in a report dated July 10, 2002, the Office medical adviser indicated that the claim should not be expanded and the requested cubital tunnel release should not be authorized as employment related.

By decision dated July 31, 2002, the Office found that the medical evidence failed to establish that appellant's right cubital tunnel syndrome was causally related to his August 2, 2001 employment injury. Accordingly, the Office declined to expand appellant's claim and also declined to authorize surgery.

Appellant requested reconsideration on September 4, 2002 and he submitted recent treatment notes from Dr. O'Neill. The Office reviewed appellant's claim on the merits and in a decision dated October 3, 2002 the Office denied modification.

The Board finds that appellant failed to establish that his claimed right cubital tunnel syndrome was causally related to his August 2, 2001 employment injury.

A claimant seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that any specific condition or disability for work for which he claims compensation is causally related to the employment injury.²

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.³ Where appellant claims that a condition not accepted or approved by the Office was due to his employment injury, he bears the burden of proof to

¹ 5 U.S.C. §§ 8101-8193.

² *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

³ *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

establish that the condition is causally related to the employment injury.⁴ The fact that the etiology of a disease or condition is unknown or obscure neither relieves appellant of the burden of establishing a causal relationship by the weight of the medical evidence nor does it shift the burden of proof to the Office to disprove an employment relationship.⁵

In a report dated November 28, 2001, Dr. Douglas J. Johnson, a Board-certified family practitioner, noted that he last treated appellant on August 21, 2001 for injuries to his left hip and right shoulder due to an August 2, 2001 employment injury. At the time of his initial examination in August 2001, Dr. Johnson diagnosed left greater trochanteric bursitis and a right shoulder contusion with impingement syndrome and subacromial bursitis. On current physical examination he noted full range of motion of the right shoulder with no difficulty and normal and symmetric reflexes to the upper extremities. Dr. Johnson also noted some tenderness over the lateral epicondyle of the right elbow, which he explained he had not noted on appellant's prior examination. He further stated there was some discomfort with dorsiflexion of the right wrist against resistance and with supination against resistance of the right forearm. Dr. Johnson diagnosed "[r]ight lateral epicondylitis to the elbow, which may be unrelated to [appellant's] prior injury."

Dr. Johnson's November 28, 2001 report is insufficient to meet appellant's burden of proof. His opinion on causation is equivocal and also suggests that appellant's current right elbow condition is unrelated to his August 2, 2001 employment injury.

Dr. O'Neill's June 3, 2002 opinion that appellant's right cubital tunnel syndrome was traumatic in nature is the only medical evidence of record specifically linking appellant's condition to his August 2, 2001 employment injury. However, the only explanation provided by Dr. O'Neill in support of his opinion was that appellant "stated in the past that he did not have any numbness at his right hand prior to the ... work-related injury."

As previously noted, in order to be considered rationalized, a physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁶

The fact that appellant's symptoms post-dated his August 2, 2001 employment injury does not of itself establish a causal relationship between the diagnosed condition and appellant's August 2, 2001 employment injury. The Office medical adviser initially questioned the purported causal relationship between appellant's right cubital tunnel syndrome and his August 2, 2001 employment injury because of the apparent lack of bridging information between the initial injury and November 21, 2001, when appellant first advised the employing establishment he was experiencing pain and numbness in his right arm and fingers.

⁴ *Jacquelyn L. Oliver, supra* note 2.

⁵ *Judith J. Montage*, 48 ECAB 292, 294-95 (1997).

⁶ *Victor J. Woodhams, supra* note 3.

The Office later obtained appellant's August 3, 2001 emergency room treatment records as suggested by the Office medical adviser. While the emergency room treatment records make reference to appellant's right elbow, Dr. James Spiller, the emergency room attending physician, reported that appellant stated he "pulled some muscles between his elbow and shoulder" and appellant denied "any actual pain to the elbow." Dr. Spiller's examination of appellant's right elbow revealed no specific tenderness and full range of motion of the elbow and right shoulder. He further stated that appellant "seems to have some tenderness in the musculature between his right shoulder and right elbow. Dr. Spiller diagnosed right arm strain in addition to left hip contusion.

When appellant saw Dr. Johnson approximately three weeks later on August 21, 2001, he complained of persistent left hip and right shoulder pain, but no mention was made of any symptoms referable to appellant's right elbow. With respect to the right upper extremity, Dr. Johnson diagnosed right shoulder contusion with impingement syndrome and right subacromial bursitis. It was not until three months later that Dr. Johnson first documented evidence of some tenderness over the lateral epicondyle of the right elbow. In his November 28, 1991 treatment notes, Dr. Johnson specifically stated that the current symptoms referable to appellant's right elbow had not been noted on appellant's prior examination. And he further indicated that appellant's right lateral epicondylitis of the elbow "may be unrelated to his prior injury." At that time, Dr. Johnson referred appellant to an orthopedist for further evaluation.

As previously indicated, Dr. O'Neill initially examined appellant on December 5, 2001 and diagnosed right cubital tunnel syndrome, which he attributed to appellant's August 2, 2001 employment injury.

After reviewing the emergency room records, Dr. Johnson's August 21 and November 28, 2001 reports, and Dr. O'Neill's various treatment notes and June 3, 2002 report, the Office medical adviser recommended that the claimed right cubital tunnel syndrome and the requested surgery not be accepted as causally related to the August 2, 2001 employment injury. He explained that the four-month delay of onset of symptoms consistent with a diagnosis of cubital tunnel syndrome precluded acceptance of this condition as related to the August 2, 2001 employment injury.

Once again, Dr. O'Neill's only explanation for attributing appellant's current condition to his employment injury was that appellant did not have any symptoms prior to the August 2, 2001 injury. While appellant's symptoms may have developed after the August 2, 2001 employment injury, Dr. O'Neill offered no explanation for why this purported employment-related condition manifested itself some four months after the alleged precipitating traumatic event. In this instance, appellant failed to submit rationalized medical opinion evidence establishing a causal relationship between his August 2, 2001 employment injury and his claimed right cubital tunnel syndrome. Accordingly, the Office properly declined to expand appellant's claim to include right cubital tunnel syndrome as an accepted condition.

The Board further finds that the Office properly exercised its discretion in refusing to authorize appellant's request for surgery.

While the Office is obligated to pay for treatment of employment-related conditions, appellant has the burden of establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.⁷ In order to be entitled to reimbursement for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury. Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.⁸ Therefore, in order to prove that the surgical procedure is warranted appellant must submit evidence to show that the procedure was for a condition causally related to the employment injury and that the surgery was medically warranted. Both of these criteria must be met in order for the Office to authorize payment.⁹

As previously discussed, appellant failed to establish that his claimed right cubital tunnel syndrome was causally related to his August 2, 2001 employment injury. Accordingly, the Office was under no obligation to pay for surgery to address this condition.

The decisions of the Office of Workers' Compensation Programs dated October 3 and July 31, 2002 are hereby affirmed.

Dated, Washington, DC
April 22, 2003

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

⁷ *Debra S. King*, 44 ECAB 203, 209 (1992).

⁸ *See Debra S. King, supra* note 7; *Bertha L. Arnold*, 38 ECAB 282 (1986).

⁹ *Cathy B. Millin*, 51 ECAB 331, 333 (2000).