

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MAYNETTE L. WILLIS and DEPARTMENT OF THE NAVY,
NAVY PUBLIC WORKS CENTER, San Diego, CA

*Docket No. 02-2230; Submitted on the Record;
Issued February 25, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant's cervical condition is causally related to her federal employment.

On September 5, 2000 appellant, then a 40-year-old budget analyst, filed a claim alleging that the pain in her neck and left shoulder and as the numbness and loss of strength in her left arm and hand, were a result of her federal employment. She explained the relationship as follows:

“When I first started having pain in my neck and left shoulder, I just assumed that it was due to job stress or tension, being that I would only have these pains at work. At first I could sit at work and when the pain started I would just take a minute; take [a] deep breath and try to relax my shoulders. That worked for a while. As time went by the pain became more intense and traveled farther down my left arm, causing pain in my elbow, at that time I also started to lose strength in my left arm and hand.”¹

The Office of Workers' Compensation Programs requested that appellant submit additional information to support her claim, including a comprehensive medical report with her doctor's reasoned opinion on the cause of her condition.

Appellant submitted a September 28, 2000 report from Dr. A. David Tahernia, an orthopedist, who noted that appellant had a long history of paresthesias in her hands and had undergone carpal tunnel surgery bilaterally two years earlier. She was doing reasonably well until approximately three months ago when, during work, she began to develop pain in her neck radiating down her arm. Appellant's pain became more severe and was, in fact, constant with

¹ Appellant filed prior claims accepted for right thumb sprain, right thumb tendinitis, bilateral carpal tunnel syndrome with surgical releases, left wrist tendinitis and de Quervain's syndrome.

global numbness in her left hand and associated weakness. She noted some difficulty with her gait and standing, losing her balance when she stands for a period of time. She had trouble with proprioception. All of her symptoms seemed to be progressive over the three-month period.

Dr. Tahernia described his findings on physical examination. X-rays revealed some mild spondylosis and some loss of cervical lordosis. A computerized tomography (CT) myelogram revealed spinal cord compression at C4-5 and C5-6 with a major component of compression just distal to the C5-6 disc space. Dr. Tahernia recommended surgery. He concluded by stating: "In terms of the causation of this particular injury, it does appear that [appellant's] symptoms are causally related to a work-related episode where repetitive episodes that have exacerbated the preexisting condition."

In a decision dated November 20, 2000, the Office denied appellant's claim for compensation on the grounds that the evidence was insufficient to establish that her condition was caused by her federal employment.

On May 21, 2001 an Office hearing representative reviewed the written record, set aside the denial of appellant's claim and remanded the case for further development of the evidence.

The Office referred appellant, together with the medical record and a statement of accepted facts, to specialists in orthopedics and neurology.

In a report dated September 20, 2001, Dr. Robert Moore, a Board-certified neurologist, related appellant's history and complaints. He reviewed appellant's medical records and described his findings on examination. Dr. Moore diagnosed status-post-bilateral carpal tunnel releases, cervical spondylosis, status-post multi-level decompression and fusion surgery and biomechanical low back pain. He reported that he found no neurological damage to the back resulting in problems in the extremities. Preoperatively, appellant's findings on clinical examination were consistent with a cervical radiculopathy, but the medical records noted that appellant had electrodiagnostic studies in 1997, that revealed no evidence of cervical radiculopathy. Dr. Moore reported that she currently appeared to have no pain in an affected extremity, though preoperatively she did. After appellant's neck operation she had improvement in radicular symptomatology in the left upper extremity. Dr. Moore affirmed that objective findings supported subjective complaints and found no evidence of exaggeration of symptomatology.

In a report dated September 21, 2001, Dr. Thomas R. Dorsey, a Board-certified orthopedic surgeon, related to appellant's history and complaints. He reviewed her medical records and described his findings on examination. Dr. Dorsey diagnosed the following: status post right thumb A-1 pulley release, May 10, 1996; status post right carpal tunnel release, July 27, 1998; status post left de Quervain's tenovagotomy, March 9, 2000; and status post anterior cervical discectomy and fusion, October 10, 2000. He reviewed Dr. Moore's report and stated that their examination findings were in agreement. On the issue of causal relationship, Dr. Dorsey offered the following opinion:

"In my opinion, [appellant's] sedentary work as a budget analyst was not causative of her cervical condition. [She] underwent anterior cervical discectomy

and fusion on October 10, 2000. The imaging studies leading up to that indicate that [appellant] had advanced multi-level degenerative disc disease with focal herniation, uncovertebral spondylosis, posterior longitudinal ligament thickening, spinal canal stenosis, cord compression and neural foraminal narrowing.

“In my opinion, the nature of [appellant’s] work exposure and job duties have not caused those anatomic factors, because of the relatively sedentary position. There is no basis on which to believe that such job duties would either be causative of or be a significant factor to aggravate, precipitate or accelerate such a condition.”

In a decision dated October 16, 2001, the Office denied appellant’s claim for compensation on the grounds that causal relationship was not established. The Office found that the weight of the medical opinion evidence rested with the report of Dr. Dorsey.

In a decision dated June 19, 2002, an Office hearing representative affirmed the denial of appellant’s claim. The hearing representative found that the weight of the medical evidence indicated that her cervical condition was not causally related to employment factors.

The Board finds that appellant has not met her burden of proof to establish that her cervical condition is causally related to her federal employment.

An employee seeking benefits under the Federal Employees’ Compensation Act² has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.³

The Office does not dispute the duties that appellant performed in her position as a budget analyst. The record establishes that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question for determination is whether those duties caused an injury.

Causal relationship is a medical issue⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician’s rationalized opinion on whether there is a causal relationship between the claimant’s diagnosed condition and the established

² 5 U.S.C. §§ 8101-8193.

³ See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

To support her claim appellant submitted the September 28, 2000 report of Dr. Tahernia, an orthopedist. He noted that appellant was doing reasonably well until approximately three months earlier when during work she began to develop pain in her neck radiating down her arm. The mere fact that a condition manifests itself or worsens during a period of federal employment, however, raises no inference of causal relationship between the two.⁸ Studies revealed some mild spondylosis as well as spinal cord compression at C4-5 and C5-6, with a major component of compression just distal to the C5-6 disc space. Dr. Tahernia addressed the issue of causal relationship by stating that “it does appear that her symptoms are causally related to a work-related episode where repetitive episodes that have exacerbated the preexisting condition.” He did not describe these repetitive episodes or explain how, on an orthopedic basis, such episodes physiologically affected or altered appellant’s spondylosis or spinal cord compression. Dr. Tahernia has offered only a general conclusion with no medical reasoning.⁹ The Board finds that his opinion is not well rationalized of diminished probative value and is insufficient to establish the critical element of causal relationship.

Upon further development of the evidence, the Office obtained the September 21, 2001 report of Dr. Dorsey, a Board-certified orthopedic surgeon, who reported that appellant’s sedentary work as a budget analyst was not causative of her cervical condition. Noting that imaging studies leading up to appellant’s October 10, 2000 surgery indicated that she had advanced multi-level degenerative disc disease with focal herniation, uncovertebral spondylosis, posterior longitudinal ligament thickening, spinal canal stenosis, cord compression and neural foraminal narrowing, Dr. Dorsey reported that “the nature of her work exposure and job duties have not caused those anatomic factors, because of the relatively sedentary position.” He saw no basis to believe that such job duties would either be causative of or be a significant factor to aggravate, precipitate or accelerate such conditions.

The Board finds that Dr. Dorsey’s opinion is more probative than the opinion offered by Dr. Tahernia because Dr. Dorsey explained his reason for negating causal relationship and his

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *See William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *Steven R. Piper*, 39 ECAB 312 (1987). That an employee suffers a heart attack at work, for example, does not in itself imply that the work caused or contributed to the attack. Mere temporal relationships are thus distinguished from relationships of causation.

⁹ Medical conclusions unsupported by rationale are of little probative value. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954). It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt in the mind of a medical scientist. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical. *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983).

reason appears to be rational, sound and logical: Relatively sedentary activities such as appellant performed as a budget analyst do not cause the conditions seen in her preoperative imaging studies and are not significant factors in aggravating or accelerating such conditions. The medical opinion of Dr. Dorsey fails to establish causal relationship. Dr. Tahernia's report is of diminished probative value and was insufficient to establish this critical element. The Office obtained additional medical opinion evidence that failed to support appellant's claim. Because the medical opinion evidence fails to establish that appellant's cervical condition is causally related to her federal employment, she has not met her burden of proof.

The June 19, 2002 and October 16, 2001 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
February 25, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member