

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DIANE M. BECKER and U.S. POSTAL SERVICE,
POST OFFICE, Lehigh Valley, PA

*Docket No. 03-225; Submitted on the Record;
Issued July 2, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant established that she sustained a neck or arm condition in the performance of duty.

On September 24, 2001 appellant, then a 41-year-old mail processor, filed a notice of occupational disease, Form CA-2, alleging that on April 30, 2001 she became aware of the upper extremity condition and on May 10, 2001 she first realized that this condition was caused by factors of her employment. On the reverse of the form, appellant's supervisor did not indicate that she stopped working.

In support of her claim, appellant submitted a letter from Dr. George I. Chovanes, a Board-certified neurological surgeon, dated September 18, 2001. He noted that appellant had intermittent posterior neck pain as well as right lateral neck pain and some right diffuse shoulder pain. Dr. Chovanes also noted that an electromyogram (EMG) report showed mild carpal tunnel syndrome.

In a January 15, 2002 letter, the Office of Workers' Compensation Programs advised appellant of the factual and medical evidence needed to determine whether she was eligible for benefits under the Federal Employees' Compensation Act.¹ In particular, appellant was asked to provide a comprehensive medical report and a physician's opinion, with medical reasons for such opinion, as to how her working conditions caused or aggravated the claimed injury.

By letter dated February 11, 2002, appellant filed a response to the questions posed in the Office's January 15, 2002 letter.

By decision dated March 4, 2002, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that her upper extremity condition was caused

¹ 5 U.S.C. §§ 8101-8193.

by employment factors. The Office noted that there was no medical evidence supporting that her condition was caused or aggravated by her employment.

By letter dated March 19, 2002, appellant requested reconsideration of the Office's March 4, 2002 decision. She also submitted a narrative report from her physician, Dr. Narien K. Grover, a Board-certified family practitioner. He noted that appellant was suffering from neck and right shoulder pain. Dr. Grover opined that the source of the neck pain was from "right C5-6 foramina stenosis and could be associated with radicular pain on the right side in the distribution of C5-6 nerve fiber." He also noted that the nature of appellant's job is a "precondition to aggravate her muscular strain and increase her parasthetic symptoms, since she suffers from narrowing of C5-6."

By merit decision dated September 10, 2002, the Office denied modification of its March 4, 2002 decision. The Office found that the evidence submitted in support of appellant's claim was insufficient to warrant modification of the Office's previous decision, because the medical evidence did not establish that she had a condition caused or aggravated by factors of her federal employment.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an upper extremity condition in the performance of duty.

An employee seeking benefits under the Act² has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupation disease.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence, which 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

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

employment factors. The opinion of the physician must be based on a complete 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

In the instant case, appellant has attributed her upper extremity condition to her federal employment. The medical evidence submitted by appellant, however, is insufficient to establish a causal relationship between the claimed condition and her federal employment. As noted above, the medical evidence must contain an opinion with supporting rationale. Appellant submitted a report from Dr. Chovanes, in which he found that she had a narrowing of her C5-6 foramen on the right side, but he did not address the causation of the condition. Since Dr. Chovanes did not provide a medical rationale explaining why or how appellant's condition was sustained while in the performance of her assigned duties, his report is insufficient to establish her claim.

In her request for reconsideration, the only additional evidence appellant submitted was a narrative report from Dr. Grover. His report noted that appellant was suffering from neck and right shoulder pain, stemming from a right C5-6 foramina stenosis. Dr. Grover indicated that appellant's condition was aggravated by the employment factors which she implicated in her claim. This report lacks rationale explaining why he considered the condition to be related to appellant's employment and, therefore, is insufficient to show her entitlement to compensation. For example, Dr. Grover did not explain the medical mechanics by which any specific aspect of her job would cause or aggravate the diagnosed condition.

As appellant has failed to submit a rationalized medical report based on a complete factual and medical background explaining how her upper extremity condition was caused or aggravated while in the performance of her federal employment, the Office properly denied her claim.

⁵ *Id.*

Accordingly, the decisions of the Office of Workers' Compensation Programs dated September 10 and March 4, 2002 are hereby affirmed.

Dated, Washington, DC
July 2, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member