

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EMMA L. BARTELS and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Fort Meade, SD

*Docket No. 03-1092; Submitted on the Record;
Issued July 22, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury causally related to her federal employment as alleged.

On January 16, 2002 appellant, then a 55-year-old food service worker, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she was "having tingling in the tips of the fingers, numbness in the left thumb" and "pain up and down [her] left arm." She indicated that at the time of her injury, she was unable to use her right arm due to a rotator cuff tear and that this caused overuse of her left arm.

By letter dated February 8, 2002, the Office asked appellant to submit further information.

In response, appellant submitted, *inter alia*, a January 8, 2002 report by a nurse practitioner and approved by Dr. Robert M. Vosler, a Board-certified internist, wherein appellant's assessment was listed as "[w]rist pain, rule out carpal tunnel syndrome. Cannot confirm that this is directly related to her employment duties." She submitted the results of a February 8, 2002 electromyography (EMG), interpreted as showing a left median neuropathy at the wrist. Appellant further submitted a December 20, 2001 report by her kinesiotherapist and a January 9, 2002 report by an occupational therapist. She also submitted her unsigned statement noting that in September 2001 she started to have problems with her left hand. Appellant further indicated that she wears a wrist cuff at night for sleeping, wears vibration gloves when driving the electric tugger at work and does carpal tunnel exercises two or three times day.

By decision dated May 9, 2002, the Office denied the claim and noted that, although the evidence supported that appellant actually experienced the claimed employment factor, it determined that there was no diagnosis of a specific illness or injury.

Appellant requested reconsideration. In support thereof, she submitted, *inter alia*, a December 3, 2001 note by Dr. Timothy J. Gill, who indicated that appellant had numbness and

tingling of the left arm and that he believed that it was appropriate to precede with an EMG and nerve conduction studies to clarify the situation. He indicated: "The problem with the left extremity is probably related to the right since she probably overused it."

Appellant submitted progress notes dated August 29 and October 9, 2002 by Dr. D.A. Lauer, an osteopath. He indicated that her EMG study of the left upper extremity on February 8, 2002 was compatible with carpal tunnel syndrome. Dr. Lauer indicated: "[Appellant] runs a motorized device at work, which requires repetitive use of her wrists to operate and it is my opinion that this repetitive action has contributed to her symptoms and carpal tunnel disorder."

In a statement dated October 25, 2002, Dr. Dale R. Anderson, a Board-certified orthopedic surgeon, opined that appellant's work activities probably aggravate or contribute to the carpal tunnel syndrome but that he did not believe that her work activities caused all of her symptoms. He further noted: "[Appellant] states that while she was recovering from her right shoulder surgery she was required to use the left hand and this made her symptoms worse. Extra use of the left hand would not cause carpal tunnel syndrome but if she had symptoms of pressure on the median nerve then overuse of the left hand would make her symptoms worse and, therefore, aggravate her problem." Dr. Anderson further indicated that there was "EMG evidence of carpal tunnel syndrome and I believe that surgery for release of the nerve is indicated."

The Office reviewed appellant's claim on the merits and by decision dated January 9, 2003, denied modification of its earlier decision. The Office noted that the reports by Drs. Anderson and Lauer could not be considered probative in determining that a definitive diagnosis had been rendered as they did not discuss any type of examination that supports their current presence of carpal tunnel syndrome and that without a definitive diagnosis of carpal tunnel syndrome causal relationship could not be addressed.

The Board finds that appellant has not established that she sustained an injury due to her federal employment.

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 the 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.¹ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical 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 employment factors. The opinion of the physician must be based on a complete factual and medical background of the

¹ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

claimant,² must be one of reasonable medical certainty³ 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.⁴ The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused or aggravated by employment conditions is sufficient to establish causal relation.⁵

Appellant has established that she actually experienced the claimed employment factor. However, there is no rationalized medical report in the record establishing a medical condition caused by her employment. In the January 8, 2002 report by a nurse practitioner and signed by Dr. Vosler, it was noted that it could not be confirmed that appellant's wrist pain was related to her employment activities. Dr. Gill described "numbness and tingling in the left extremity" and recommended further tests including and EMG and nerve conduction studies to clarify the situation. Neither of these doctors made a definitive diagnosis or related appellant's condition to her employment. Although Dr. Lauer does indicate that appellant had carpal tunnel syndrome in his October 9, 2002 note, his opinion does not meet the requirements for a rationalized medical opinion as he does not clearly indicate the basis for his conclusion. He does state: "[Appellant] apparently had an EMG study of the left upper extremity on February 8, 2002, which was compatible with carpal tunnel syndrome." It appears that Dr. Lauer made his conclusion based on what appellant stated rather than on a review of the tests or a physical examination. Dr. Anderson's report is similarly deficient. He indicated that there was EMG evidence of carpal tunnel syndrome and that he believed that surgery for the release of the nerve was indicated. Dr. Anderson indicated that appellant's work activities probably aggravate or contribute to the carpal tunnel syndrome, but indicated that he did not believe that her work activities caused all of her symptoms. His opinion is not probative because it is equivocal in nature and fails to offer a well-rationalized medical opinion explaining how or why appellant's conditions arose out of her employment duties.⁶ Accordingly, appellant failed to provide medical evidence establishing that she sustained a condition causally related to her federal employment.

² *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

³ *Morris Scanlon*, 11 ECAB 384-85 (1960).

⁴ *William E. Enright*, 31 ECAB 426, 430 (1980).

⁵ *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

⁶ *See Wendell D. Harrell*, 49 ECAB 289, 291 (1998)

The decisions of the Office of Workers' Compensation Programs dated January 9, 2003 and May 9, 2002 are hereby affirmed.

Dated, Washington, DC
July 22, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member