

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HATTIE HALL and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Ann Arbor, MI

*Docket No. 03-2170; Submitted on the Record;
Issued November 18, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
MICHAEL E. GROOM

The issues are: (1) whether appellant met her burden of proof to establish that she sustained an injury causally related to factors of her federal employment; and (2) whether the Office of Workers' Compensation Programs properly denied appellant's July 25, 2003 request for reconsideration.

On April 28, 2003 appellant, then a 54-year-old housekeeping aid, filed a claim for occupational disease alleging that her carpal tunnel syndrome was caused by factors of her federal employment. By letter dated May 14, 2003, the Office informed appellant of the type of evidence needed to support her claim.

An electromyogram (EMG) dated April 9, 2003, noted an abnormal study consistent with bilateral carpal tunnel syndrome. In a report dated April 11, 2003, Dr. Darryll Patterson, appellant's treating physician Board-certified in internal medicine, placed appellant on total disability for one week based on a diagnosis of bilateral carpal tunnel syndrome. In a report dated May 12, 2003, Dr. Patterson stated that appellant had progressive numbness of the median nerve distribution and noted physical examination findings consistent with carpal tunnel syndrome. He stated that April 9, 2003 hand and wrist x-rays revealed mild to moderate degenerative changes and an April 9, 2003 EMG revealed mild to moderate carpal tunnel syndrome without evident axon loss. Dr. Patterson reviewed appellant's history of repetitive hand and wrist tasks as a housekeeping aid, laundry aid and maintenance provider since 1984. He referred appellant to a surgeon because five weeks of conservative treatment had not resulted in any improvement in her condition. Dr. Patterson concluded that appellant's bilateral carpal tunnel syndrome was causally related to her work conditions, stating: "her repetitive trauma to the wrist from repetitive motions to the upper extremities may have precluded her to this disorder."

The record includes appellant's position descriptions and a list of daily scheduled activities for the housekeeping staff at the Ann Arbor Medical Center from July 1996 to May 1999. These records covered appellant's jobs from October 12, 1997.

By decision dated July 24, 2003, the Office denied appellant's claim on the grounds that the medical evidence failed to establish that her current medical condition was causally related to her employment. On July 25, 2003 appellant requested reconsideration and submitted additional medical evidence.

In a report dated May 20, 2003, Dr. Douglas Hintzman, an osteopath, advised that appellant attended an appointment with him that day. In a report dated July 24, 2003, Dr. Patterson placed appellant on work restrictions for one month, consisting of no repetitive gripping or grabbing. Appellant was required to wear a wrist brace at work. She also submitted position descriptions from the Buffalo Medical Center covering her positions from 1981 to 1997.

By decision dated August 7, 2003, the Office denied review of appellant's request for reconsideration on the grounds that the evidence submitted was irrelevant and of no evidentiary value.

The Board finds that appellant failed to meet her burden of proof to establish that she sustained an employment injury causally related to factors of employment.

An employee seeking benefits under the Federal Employees' Compensation Act 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 filed within the applicable time limitation of the Act; that an injury was sustained while 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.¹ Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.² 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 incident or factor of employment. 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 established incident or factor of employment.³ Neither the fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁴

Dr. Patterson, appellant's treating physician, submitted a report dated April 11, 2003 which diagnosed appellant with bilateral carpal tunnel syndrome but, did not include any opinion concerning the causal relationship of her condition to her federal employment. This report is of

¹ *Michael E. Smith*, 50 ECAB 313 (1999).

² *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

³ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁴ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

limited probative value as it did not offer an opinion that appellant's condition was caused by her employment.⁵ In a May 12, 2003 report, Dr. Patterson first attributed appellant's bilateral carpal tunnel syndrome to her working conditions, stating: "her repetitive trauma to the wrist from repetitive motions to the upper extremities may have precluded her to this disorder." The Board finds this opinion on causal relationship to be vague and not well rationalized. Dr. Patterson did not refer to specific functions associated with the various positions that appellant had held since 1984 that required repetitive wrist movements. Further, he indicated that repetitive upper extremity body motions "may have" precluded her to the diagnosed disorder. His report is speculative regarding the causal relationship of appellant's bilateral carpal tunnel syndrome to her federal employment job activities. The Board has held that medical opinions based on an incomplete history or which are speculative or equivocal in character have diminished probative value.⁶ The Board finds that, as appellant did not provide the necessary medical evidence to establish that employment factors caused her bilateral carpal tunnel syndrome, she did not establish that she sustained an employment-related injury.⁷ The Office properly denied her claim.

The Board further finds that the Office properly denied appellant's July 25, 2003 request for a merit review.

Section 8128(a) of the Act⁸ vests the Office with the discretionary authority to determine whether it will review an award for or against compensation:

"The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review may --

- (1) end, decrease or increase the compensation awarded; or
- (2) award compensation previously refused or discontinued."⁹

Under 20 C.F.R. § 10.606(b)(2), a claimant may obtain review of the merits of his or her claim by showing that the Office erroneously applied or interpreted a specific point of law, by advancing a relevant legal argument not previously considered by the Office or by constituting relevant and pertinent new evidence not previously considered by the Office.¹⁰

Section 10.608(b) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements the Office will deny the application for

⁵ *Michael E. Smith, supra* note 1.

⁶ *Vahed Mokhtarians*, 51 ECAB 190 (1999).

⁷ *Supra* note 1.

⁸ 5 U.S.C. §§ 8101-8193.

⁹ 5 U.S.C. § 8128(a).

¹⁰ 20 C.F.R. § 10.606(b)(2).

review without reviewing the merits of the claim.¹¹ Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.¹² Evidence that does not address the particular issue involved does not constitute a basis for reopening a case.¹³

Appellant's request for reconsideration did not include an argument that the Office's prior decision erroneously applied or interpreted a point of law, nor did it advance a relevant legal argument not previously considered by the Office. Consequently, she is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under section 10.606(b)(2).

Appellant submitted new evidence, including a note from Dr. Hintzman indicating that appellant had an appointment with him that day. However, this report is not relevant to the underlying issue of causal relationship. Dr. Patterson's July 24, 2003 report placed restrictions on appellant for one month. The Board notes that Dr. Patterson did not provide any opinion on the causal relationship of appellant's condition to her federal employment. For this reason, the report is not relevant to the issue in this case. Accordingly, appellant is not entitled to a review of the merits of her claim based on the third requirement under section 10.606(b)(2). The Board finds that the Office properly exercised its discretion in denying appellant's July 25, 2003 request for reconsideration. Therefore, the Office's August 7, 2003 decision denying appellant's request for a merit review was proper under the law and the facts of this case.

¹¹ 20 C.F.R. § 10.608(b).

¹² *David J. McDonald*, 50 ECAB 185 (1998).

¹³ *Id.*

The decisions of the Office of Workers' Compensation Programs dated August 7 and July 24, 2003 are hereby affirmed.

Dated, Washington, DC
November 18, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member