United States Department of Labor
Employees' Compensation Appeals Board

SHAWNETTE L. GUYDON, Appellant	)	
and	)	**Docket No. 04-882**
	)	**Issued: July 20, 2004**
U.S. POSTAL SERVICE, GRAND RAPIDS POST OFFICE, Grand Rapids, MI, Employer	)	

Appearances:
Alan Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On February 17, 2004 appellant filed a timely appeal from a January 20, 2004 decision by an Office of Workers' Compensation Programs' hearing representative who found that appellant had not establishing that her cervical strain was sustained as a result of her work duties. The Board has jurisdiction over the merits of this case pursuant to 20 C.F.R. §§ 501.2(c) and 501.3.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that her cervical strain was sustained in the performance of duty as a letter carrier.

FACTUAL HISTORY

On January 6, 2003 appellant filed a claim for a recurrence of disability, beginning December 3, 2002. She submitted a December 4, 2002 form report from Dr. Walter S. Metcalfe, a Board-certified family practitioner, who stated that she had a recurrent left cervical strain and

muscle sprain probably due to overuse. He noted that appellant previously had a right shoulder muscle tear treated with surgical fixation.

The Office, in a January 15, 2003 letter, requested further information. In a January 30, 2003 statement, appellant noted that, before December 2, 2002, her duties included sorting the mail for her route and for two or more additional routes. She loaded and unloaded trays of mail into her vehicle and made mail deliveries. She noted that for three months she was restricted to working in the employing establishment, sorting flats into cases as well as sorting her route for delivery. She indicated that she sustained her original injury when she was bitten by a dog and dragged down a set of stairs when the dog attacked her.[1]

In a February 27, 2003 memorandum, an Office claims examiner stated that appellant had a traumatic injury on August 3, 1999 when she strained her right trapezius muscle while lifting a heavy mail satchel. Appellant had filed an occupational injury claim on October 14, 1999 due to carrying her mail satchel throughout the day which was accepted for a right trapezius strain, Office File No. 09-458917. The claims examiner reviewed appellant's factual statement and noted that the current diagnosis was not the same as the prior injuries. She therefore concluded that appellant's claim should be treated as a new claim for occupational injury.

In a March 24, 2003 letter, the Office advised appellant that, since she had introduced new factors of employment, it was treating her claim as an occupational injury claim. The Office instructed appellant to submit medical evidence in support of her claim, including a report from a physician describing the history of the injury, a description of physical findings, results from x-rays and tests, a firm diagnosis of her condition, period and extent of disability due to the injury, and an opinion concerning the medical connection between any disability and her federal employment. Appellant was allotted 30 days within which to submit the requested information. No additional evidence was received by the Office.

In a June 2, 2003 decision, the Office denied appellant's claim for compensation. The Office accepted that appellant's employment duties consisted of loading and unloading trays or tubs of mail but found that she had not submitted any medical evidence which related any diagnosis given by her physician to her employment factors. The Office stated that, without a rationalized medical report addressing these issues, it was not established that her claimed factors of employment and her diagnosed medical condition were related.

By letter dated June 28, 2003, appellant, through her attorney, requested a hearing before an Office hearing representative. Prior to the hearing, appellant submitted a March 27, 2003 form report from Dr. Metcalfe who diagnosed left shoulder cervical strain, muscle spasms in the left shoulder and a history of trapezius muscle tear with surgical fixation due to overuse. He indicated that appellant would be unable to perform her usual work duties and was at risk of recurrent and more serious injury if she continued to carry mail. Dr. Metcalfe commented that appellant had a chronic condition which might improve with physical therapy. He indicated that appellant should be able to return to work but recommended that she no longer carry mail or perform duties requiring lifting over five pounds or carry over five pounds on either shoulder.

[1] The record reveals that the Office denied this claim.

At the November 3, 2003 hearing, appellant described her duties at the employing establishment, the treatment she received for her condition, and the disability caused by her medical condition. Her attorney indicated that he had a report from Dr. Metcalfe but would not submit it because the doctor had an incorrect history.

In an undated report, Mr. Metcalfe indicated that he first examined appellant on October 31, 2002 for a cervical sprain. He noted that she presented with left-sided neck pain and decreased range of motion. He placed her off work because he feared that continued overuse of the left arm and shoulder would result in more serious cervical damage. He commented that appellant used the left shoulder only when she worked as a mail carrier, with a mailbag weighing 15 to 20 pounds. Dr. Metcalfe noted that he would not return appellant to full duty because she could reinjure her shoulder and was at high risk for another cervical muscle injury which could require surgery and possibly permanent disability. He stated that the injury was work related as her history did not suggest any other aggravating factors.

In a January 20, 2004 decision, the Office hearing representative found that there was no medical evidence to support appellant's claim that her cervical condition was causally related to her work duties. He noted that there was no evidence showing that appellant was totally disabled after December 2002 and affirmed the Office's June 2, 2003 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act,[2] 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 compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational 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;[5] (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;[6] 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

[2] 5 U.S.C. §§ 8101-8193.

[3] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[4] *Delores C. Ellyett*, 41 ECAB 922 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] *See Ronald K. White*, 37 ECAB 176, 178 (1985).

[6] *See Walter D. Morehead*, 31 ECAB 188, 194 (1979).

condition is causally related to the employment factors identified by the claimant.[7] The medical evidence required to establish 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 claimant,[8] must be one of reasonable medical certainty,[9] 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.[10]

ANALYSIS

The only medical reports of record were submitted by Dr. Metcalfe. In his form reports, Dr. Metcalfe did not give any opinion on whether appellant's cervical condition was causally related to her employment duties. In an undated report, Dr. Metcalfe stated that appellant's medical condition was causally related to her work because her history did not show any other cause. A medical opinion based on such a rationale is speculative in nature and insufficient to establish causal relationship.[11] Moreover, the doctor's work restrictions and recommendation that appellant not resume her regular duties because of fear of overuse of the left arm, without more by way of an explanation, is insufficient to establish appellant's claim. In this regard, the Board has held that fear of future injury is not compensable.[12] As Dr. Metcalfe did not provide any medical rationale for his conclusion that appellant's condition was work related, his report is speculative and therefore has limited probative value. His reports are insufficient to satisfy appellant's burden of proof in establishing a causal relationship between her work duties and her cervical condition.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that her cervical condition was causally related to duties of her employment.

[7] *See generally Lloyd C. Wiggs*, 32 ECAB 1023, 1029 (1981).

[8] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

[9] *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

[10] *See William E. Enright*, 31 ECAB 426, 430 (1980).

[11] *Alberta Williamson*, 47 ECAB 569, 574 (1996).

[12] *See e.g., Helen E. Paglinawan*, 51 ECAB 591 (2000).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated January 20, 2004 and June 3, 2003 are hereby affirmed.

Issued: July 20, 2004
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member