



in the performance of duty.<sup>1</sup> He indicated that he first became aware of the injury and its relation to his work on December 2, 1985. Appellant did not stop work.

In support of his claim appellant submitted evidence, including a narrative statement regarding how he was injured, position description, certification of medical examination and reports from Dr. Bruce Wheeler, an attending physician Board-certified in orthopedic surgery. In a November 23, 1999 report, Dr. Wheeler diagnosed multiple recurrent hemangioendothelioma, of the right hand and scheduled appellant for a resection of the recurrent malignancies. He noted that he had previously performed a resection in 1998. In a February 9, 2000 surgery report, Dr. Wheeler diagnosed multiple recurrent hemangioendothelioma, right hand and performed six excisional biopsies. On February 14, 2000 he noted the incisions were benign. In a February 22, 2000 report, Dr. Wheeler released appellant to return to full duty. Appellant also submitted a form report dated July 12, 2001, from Dr. Wheeler, who diagnosed chronic recurrent lesions on the right arm and recurrent multiple hemangioendothelioma of the right upper extremity. He indicated that appellant's condition was caused or aggravated by the employment activity by placing a checkmark in the box marked "yes." The physician explained that it was "aggravated but not caused" by an employment activity. He also noted that appellant had no preexisting conditions.

In an undated statement received by the Office on August 9, 2001 appellant related that he started work as a welder in 1974 and later noticed small tumors in his right hand. He indicated that he had surgery to remove multiple masses from the right hand and index finger in 1985. Appellant also noted that he had a similar problem while in the Army in 1971. He indicated that as a welder he daily carried a heavy tool bag on his shoulder weighing 50 to 70 pounds and that the heavy machinery he used, which included the chipping gun, needle gun and boling gun contributed to his condition.

In a letter dated August 28, 2001, the Office advised appellant that the evidence submitted was insufficient to establish his claim and requested additional supportive factual and medical evidence. A copy of the letter was also provided to the employing establishment.

The Office received additional evidence from appellant on August 29, 2001 comprised of an occupational history and medical questionnaire, treatment notes and disability certificates dating from October 27, 1982 to February 23, 2000 which provided light duty and work limitations.<sup>2</sup> He also submitted a worksheet for possible chemical exposure and a June 2, 1986 pathology report from Dr. T.R. Elder, Board-certified in anatomic and clinical pathology, which showed a mass on the right little finger and upper arm.

By decision dated November 21, 2001, the Office denied appellant's claim, finding that the medical evidence was insufficient to establish that his condition was caused by his federal employment. The Office accepted that appellant performed the duties of a welder mechanic and

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<sup>1</sup> Hemangioendothelioma is defined as a growth or tumor of blood vessel endothelium. *See Dorland's Illustrated Medical Dictionary* (30<sup>th</sup> ed. 2003).

<sup>2</sup> Several treatment notes were signed by several different physicians; however, some were signed by a nurse or a physician's assistant.

had been diagnosed with hemangi endothelioma; however, the medical evidence did not establish a medical condition arising from the employment factors.

By letter dated March 14, 2002, appellant requested a hearing, which was held on October 23, 2002.<sup>3</sup>

In a December 5, 2002 report, Dr. Wheeler, indicated that he had treated appellant on multiple occasions for recurrent hemangi endothelioma. He explained that they were “locally malignant neoplasms.” The physician indicated that appellant had a number of resections between 1971 and 1992. Dr. Wheeler noted that he had surgically removed 9 biopsies on appellant’s right arm on March 11, 1993, 5 on May 3, 1994, 15 on March 6, 1998 and 6 on February 9, 2000. He indicated that many of these were on his right hand and fingers and they were all on the right arm. The physician noted that appellant was right-hand dominant and a welder. Dr. Wheeler explained that the recurrent hemangi endotheliomata had not been caused by appellant’s work; however, he opined that because appellant had multiples sites on his hands, they partly interfered with the function of his hands. He explained that appellant had to alter the use of his hands with his welding to accomplish his work. Dr. Wheeler indicated that in the process of his work, appellant also had recurrent, relatively minor injuries to the hand and possibly burns. He opined that the recurrent minor injuries might exacerbate appellant’s contusions. The physician explained that appellant’s work was not the “underlying cause of these [masses], but might have exacerbated some of these over the years, due to the multiple locations on all digits, as well as the forearm and arm.”

By decision dated March 3, 2003, the Office hearing representative affirmed the November 21, 2001 decision, finding insufficient medical evidence to support that appellant’s right arm condition was causally related to his federal employment. He found the medical opinion of Dr. Wheeler to be speculative.

### **LEGAL PRECEDENT**

In order 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 diagnosed condition is causally related to the employment factors identified

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<sup>3</sup> At the hearing, appellant stated that he first experienced “masses” in his hands while serving in the military prior to his federal employment. He also noted that he began working as a welder/mechanic in 1973 and used a chipping gun, which was similar to a small jackhammer. He explained that he believed that the rapid movements of the gun caused a “jarring” of his bones and caused the development of the masses and lesions on his hand. He noted a recurrence of the condition in 1993 and had four subsequent operations to his hand.

by the claimant.<sup>4</sup> Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.<sup>5</sup>

To establish causal relationship, appellant must submit a physician's report in which the physician reviews the factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings on examination of appellant and appellant's medical history, state whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his opinion.<sup>6</sup>

### ANALYSIS

Appellant filed an occupational disease claim alleging that his work at the employing establishment caused or aggravated his right arm condition. Appellant attributed his right arm condition to his work as a welder/mechanic and contended that the rapid movements associated with his use of the chipping gun caused a jarring of his bones which contributed to the development of his lesions and masses. He also indicated that he had to carry a 50- to 70-pound tool bag. The Office in its November 21, 2001 and March 3, 2003 decisions, found that appellant had not presented sufficient medical evidence to establish a right arm condition arising from employment factors he identified as causing his condition. The Office found that although appellant performed the duties of a welder; the medical evidence was insufficient to establish that his medical condition was caused by the claimed employment factors.

In a July 12, 2001 report, Dr. Wheeler indicated that appellant's condition of chronic recurrent lesions on the right arm and recurrent multiple hemangioendotheliomata of the right upper extremity were caused or aggravated by appellant's employment by placing a checkmark in a box marked "yes," on a form. The Board has held checking a box "yes" on a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.<sup>7</sup> Dr. Wheeler subsequently indicated that appellant's condition was "aggravated but not caused" by his employment, but did not provide any explanation or rationale for this conclusion.<sup>8</sup> Without any reasoning to support the conclusion, this report is insufficient to meet appellant's burden of proof.

In the December 5, 2002 report, Dr. Wheeler noted appellant's history of injury and treatment and explained that the recurrent hemangioendotheliomata were not caused by appellant's work. He indicated that because of the multiple sites on his hands, appellant had to alter the use of his hands while welding. He indicated that while welding, appellant had recurring minor injuries to the hand and, perhaps, some burns and opined that the recurrent

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<sup>4</sup> *Soloman Polen*, 51 ECAB 341 (2000); *see also Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 4 at 352.

<sup>6</sup> *Donald W. Long*, 41 ECAB 142, 146-47 (1989).

<sup>7</sup> *Calvin E. King*, 51 ECAB 394 (2000); *Linda Thompson*, 51 ECAB 694 (2000).

<sup>8</sup> *Id.*

minor injuries might exacerbate his condition. Dr. Wheeler explained that appellant's work was not an underlying cause but "might have" exacerbated some of appellant's arm conditions over the years because of the multiple locations of the growths on all of appellant's digits, forearm and arm. While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.<sup>9</sup> The Board finds that Dr. Wheeler's opinion is speculative and failed to provide an explanation of how his work duties aggravated the preexisting condition.

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.<sup>10</sup> To establish causal relationship, appellant must submit a physician's report in which the physician reviews those factors of employment identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, explains how these employment factors caused or aggravated appellant's diagnosed condition and present medical rationale in support of his opinion.<sup>11</sup> Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.

### CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that he sustained a right arm condition causally related to factors of his federal employment.

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<sup>9</sup> *Patricia J. Glenn*, 53 ECAB \_\_\_\_ (Docket No. 01-65, issued October 12, 2001).

<sup>10</sup> *Robert Broome*, 55 ECAB \_\_\_\_ (Docket No. 04-93, issued February 23, 2004).

<sup>11</sup> *Gary J. Watling*, 52 ECAB 278 (2001).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 3, 2003 is affirmed.

Issued: July 16, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

Michael E. Groom  
Alternate Member