

appellant worked in a light-duty position.¹ On May 9, 2000 the employing establishment controverted the claim.

Initial treatment records indicate that appellant was treated by Dr. John Hochberg, a Board-certified general surgeon, who diagnosed repetitive motion disorder, carpal tunnel syndrome and right shoulder tendinitis along with lateral epicondylitis. In his April 28, 2000 report, Dr. Hochberg noted that appellant was under his care for carpal tunnel syndrome and had a previous decompression surgery of the right wrist in 1989 with Dr. Lombardi, a Board-certified surgeon. Dr. Hochberg indicated that appellant had recurrent symptoms secondary to a tenosynovitis and opined that this was a result of repetitive motion which caused inflammation in the tendons and tenosynovitis and aggravation of granulation tissue compromising the median nerve. He indicated that surgery might be necessary if conservative measures failed. By letter dated June 8, 2000, the Office accepted appellant's claim for exacerbation of shoulder tendinitis. The Office advised that they were not accepting appellant's wrist condition because appellant's physician had not shown how such condition resulted from activities at work.²

Appellant continued to be treated by Dr. Hochberg, who continued to indicate that appellant may need surgery.

Appellant filed several CA-7 forms for the dates of September 27 to November 17, 2000. Additionally, on November 15, 2000, appellant filed a recurrence claim (Form CA-2a) alleging a recurrence of the accepted injury on September 11, 2000.³ She stopped work that day.

In a November 22, 2000 report, Dr. Hochberg indicated that appellant had chronic regional pain syndrome plus repetitive motion disorder in the right shoulder and wrist, right shoulder tendinitis and capsulitis and right wrist carpal tunnel syndrome and tendinitis of the right wrist. He recommended a job change or surgical intervention if she did not improve.

Appellant filed several CA-7 forms for disability from December 2 to 29, 2000 on December 15, 2000.

By letters dated January 9 and 10, 2001, the Office requested that appellant submit further information. In support thereof, appellant submitted a January 4, 2001 magnetic resonance imaging (MRI) scan of the right shoulder read by Dr. Noam S. Eshkar, a Board-certified diagnostic radiologist, which demonstrated abnormality of the posterior supraspinatus tendon at its insertion site which was consistent with high grade partial tear. Appellant also submitted reports dated January 12, 2001 in which Dr. Hochberg noted the findings of Dr. Eshkar and opined that the findings were consistent with appellant's "clinical picture." He indicated that appellant remained disabled and requested surgery. In reports dated January 18

¹ The record reflects that appellant was working limited duty at the time she filed her occupational disease claim.

² The record reflects that appellant had a concurrent disability of decompression nerve at the wrist not due to the injury.

³ The Office had previously advised appellant on November 3 and 27, 2000 to submit the Form CA-2a and additional evidence from her physicians.

and 19, 2001, Dr. Hochberg indicated that appellant could only work light duty involving sitting or answering the telephone. He opined that appellant needed surgery to the rotator cuff and right wrist. Appellant also submitted a narrative dated January 19, 2001 in which she stated that she had been working light duty since March 18, 2000 and that she continued to do so until September 11, 2000 when her shoulder pain had worsened. She noted that she had not injured her shoulder previously and her right shoulder tendinitis had not improved.

The employing establishment provided a copy of appellant's limited-duty position which consisted of sitting, answering telephones and miscellaneous duties within appellant's medical limitations.⁴

By decision dated February 21, 2001, the Office denied appellant's claim for a recurrence of disability on September 11, 2000 causally related to her employment-related shoulder injury.

By letter dated March 15, 2001, appellant requested a hearing, which was held on December 11, 2001. Additional evidence was submitted including duplicates of reports from Dr. Hochberg dated April 28, November 22 and June 29, 2000 and January 4 and 12, 2001 MRI scans. Additionally, February 8, 2000 nerve conduction reports were received from Dr. Phillip C. Pollen, Board-certified in physical medicine and rehabilitation, who noted "abnormal side to side variation in H reflex with the right more prolonged than the left" and diagnosed bilateral L5-S1 radiculopathy. In a February 21, 2001 report, Dr. Hochberg repeated that appellant needed surgical intervention. In a May 3, 2001 report, Dr. Hochberg noted appellant's history of injury including a nonwork-related back surgery and median nerve entrapment of the right wrist as a result of a motor vehicle accident. He noted that appellant sustained a recurrent chronic tendinitis as a result of her work activities, subsequent to the March 18, 2000 trauma, which resulted in an impingement syndrome and opined that surgery was necessary. In a June 1, 2001 addendum, Dr. Hochberg indicated that appellant was forced to leave work in September 2000 due to worsening of her right arm condition. He opined that appellant's shoulder tendinitis, impingement and carpal tunnel worsened as a result of being exposed to work. He noted further that "the repetitive motion disorder in the wrist was a result of her work as was her shoulder injury." In a July 29, 2001 report, Dr. Hochberg advised that appellant's right wrist required surgery and her right shoulder required diagnostic arthroscopy. He opined that "[h]er condition is as a result of repetitive motion from work."

The Office also received an April 26, 2000 routing slip from the employing establishment and an April 24, 2000 prescription from Dr. Hochberg indicating that appellant had carpal tunnel syndrome of the right wrist and that she was to avoid repetitive motion in the right wrist. In the April 26, 2000 routing slip, appellant was instructed to deliver express mail and pitch with her left hand.

⁴ The record reflects that appellant had nonwork-related back decompression surgery on September 5, 2000. The employing establishment controverted appellant's recurrence claim and noted that appellant was off for approximately 13 weeks.

By decision dated and finalized February 11, 2002, an Office hearing representative affirmed the Office's February 21, 2001 decision.

The Office subsequently received duplicates of the November 22, 2000 and May 3, 2001 reports of Dr. Hochberg, as well as treatment notes dating from December 17, 2001 to February 4, 2002, in which Dr. Hochberg diagnosed carpal tunnel syndrome, right worse than left and a partial right shoulder tear. Also submitted was an April 11, 2000 nerve conduction study in which Dr. Pollen noted that appellant had: right-sided Grade 2a motor and sensory carpal tunnel syndrome, right-sided C6 radiculopathy and right-sided double crush syndrome.

By letter dated March 21, 2002, appellant's representative requested reconsideration and submitted additional evidence. In a March 4, 2002 report, Dr. Hochberg noted that appellant had a worsening of a right shoulder condition such that she was unable to perform her light-duty position as of September 11, 2000. He opined that it was due to a repetitive motion disorder causing right shoulder capsulitis and rotator cuff tear as confirmed by an MRI scan.

By decision dated March 28, 2002, the Office denied modification of its February 21, 2001 decision.

By letter dated May 6, 2002, appellant's representative requested reconsideration and submitted additional evidence.

In an April 18, 2002 report, Dr. Hochberg indicated that appellant's condition developed as a result of work-related duties. He noted that appellant was required to carry mail and lift and carry over 40 pounds, repetitively, along with repeatedly sorting objects into pigeon holes. Dr. Hochberg indicated that the repetitive motion of the wrists caused the recurrent median nerve entrapment and irritation. He explained that the repeated lifting and carrying caused repeated right shoulder problems. Dr. Hochberg opined that appellant had median nerve entrapment and right shoulder impingement with rotator cuff injuries and chronic tendinitis as a result of repetitive motion disorder secondary to work-related activities. He indicated surgical intervention was necessary and that appellant was impaired from full duties as a result. Dr. Hochberg also provided an April 23, 2002 precertification request for right carpal tunnel release.

The Office also received duplicates of reports dated: May 3, 2001; July 29, 2001 treatment notes dating from December 17, 2001 to February 4, 2002; and April 11, 2002 nerve conduction studies. Additionally, in treatment notes dating from February 28 to April 8, 2002, Dr. Hochberg reiterated his previous findings and conclusions.

In a July 18, 2002 report, Dr. Hochberg opined that appellant's right wrist carpal tunnel syndrome and right shoulder tendinitis were a result of work-related activity and repeated his request for surgery. He indicated that appellant must have limited duties until the surgery was performed.

By decision dated August 7, 2002, the Office denied modification of its prior decisions.

By letter dated June 4, 2003, appellant requested reconsideration.

The Office subsequently received a duplicate of the July 18, 2002 report from Dr. Hochberg. On September 11, 2002 the Office advised appellant that they were unable to authorize appellant's carpal tunnel release.

In a September 4, 2002 report, Dr. Hochberg explained that, regarding the description of appellant's duties, it was "not only virtually impossible to do with the left hand" and "against the standard of the postal department." He indicated that appellant was "obliged" to use her right hand. Further, Dr. Hochberg explained that repetitive motion had nothing to do with weight but rather the repetitive motion, which was done with appellant's dominant hand. In a September 19, 2002 report, he repeated that appellant repetitively used her right hand to sort mail and the repeated flexion and extension caused her repetitive motion disorder. Dr. Hochberg further advised that the delay in authorizing surgery caused permanent damage. On March 10, 2003 he repeated the request for surgery. In a March 27, 2003 report, Dr. Hochberg advised that appellant's "condition remains the same indefinitely" unless surgery was performed. In a March 27, 2003 duty status report, he discharged appellant as he was not able to assist her further.⁵ In an August 7, 2003 certification, Dr. Hochberg indicated that appellant could return to full duty if surgery was performed.

In a June 17, 2003 memorandum, the employing establishment corrected a December 7, 2001 statement that appellant was delivering mail with her left hand as it was made in error.

By decision dated August 7, 2003, the Office denied modification of its prior decisions.

LEGAL PRECEDENT

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence, a recurrence of total disability and show that she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.⁶

ANALYSIS

In this case, the Office informed appellant of the type of evidence necessary to establish that either the requirements of her limited-duty job had changed or that her work-related

⁵ He prescribed limitations which included: a five-pound limit on lifting, an eight-hour maximum of sitting and standing; no more than six hours of walking, climbing, kneeling or bending/stooping, no more than four hours of twisting, no more than one hour of pulling/pushing, simple grasping, or fine manipulation, no reaching above the shoulder and no more than four hours of driving or operating a machine.

⁶ *Cynthia M. Judd*, 42 ECAB 246 (1990); *Stuart K. Stanton*, 40 ECAB 859 (1989); *Terry R. Hedman*, 38 ECAB 222 (1986).

condition had worsened, resulting in a recurrence of disability on September 11, 2000 causally related to the March 18, 2000 accepted shoulder injury.

Appellant submitted a number of reports from Dr. Hochberg dating from April 24, 2000 in which he provided restrictions to appellant's physical activity, and opined that appellant's right wrist and carpal tunnel syndrome and tendinitis of the right wrist were due to appellant's job but did not discuss the cause of appellant's condition. Furthermore, the Office only accepted appellant's claim for exacerbation of shoulder tendinitis and he did not explain how the carpal tunnel syndrome and tendinitis of the wrist were caused by appellant's employment as opposed to her preexisting condition which included a decompressed nerve at the wrist. In reports dated April 24, 28 and November 22, 2000, he provided several diagnoses that were not accepted by the Office along with the accepted condition of shoulder tendinitis. In the January 12, 18 and 19, 2001 reports, he opined that appellant was disabled, and was in need of surgery, to the rotator cuff and wrist. However, the Office only accepted appellant's claim for aggravation of shoulder tendinitis. Dr. Hochberg did not indicate that appellant's light-duty position had changed, nor did he show that there was a change in the nature of appellant's accepted shoulder condition such that she could not perform her light-duty position. In his report dated February 21, 2001, he merely stated that appellant needed surgical intervention. In his May 3, 2001 report, he noted that appellant had nonwork-related back surgery and median nerve entrapment of the right wrist as a result of a motor vehicle accident and again opined that surgery was necessary. The Board notes that the only condition accepted by the Office was aggravation of shoulder tendinitis. Dr. Hochberg did not explain how he deduced that appellant's condition was related to her federal employment duties as opposed to the intervening nonwork-related events. Further, he opined in his June 1, 2001 addendum and March 4, 2002 reports that appellant's condition worsened as a result of being exposed to work but he did not explain how. He referred to the repetitive motion in appellant's wrist and her shoulder injury. In his July 29, 2001 and July 18, 2002 reports, Dr. Hochberg indicated repetitive motion from appellant's work caused her wrist and shoulder conditions. Again, he included a diagnosis that was not accepted by the Office and did not explain how this was related to factors of appellant's employment. Dr. Hochberg attempted to explain how appellant's condition developed in his April 18, 2002 report and noted that appellant had to lift mail and carry over 40 pounds. However, the record reflects that appellant's light-duty position consisted of sitting, answering telephones and miscellaneous duties within appellant's restrictions. It is well established that medical reports must be based on a complete and accurate factual and medical background and medical opinions based on an incomplete or inaccurate history are of little probative value.⁷ In a September 4, 2002 report, Dr. Hochberg indicated that appellant's position was impossible to do with her left hand and appellant was using repetitive motion; however, the employing establishment issued a corrected statement that appellant was not using her left hand.⁸ Further, her claim was only accepted for a shoulder condition. Additionally, in a September 19, 2002 report, he advised that the repetition of using her hand to sort mail along with flexion and extension caused appellant's condition and repeated that surgery was necessary. However, this was again inconsistent with the light-duty position of sitting, answering the telephones and miscellaneous light-duty requirements and

⁷ *Douglas M. McQuaid*, 52 ECAB 382 (2001).

⁸ *Id.*

referred to a condition which was not accepted by the Office. He did not offer an explanation regarding how the wrist condition was causally related to her employment. The Board finds that as Dr. Hochberg did not provide a sufficient explanation to show that appellant sustained a recurrence of total disability causally related to her accepted employment injury after returning to light duty, such that she could not continue to perform her light-duty position, his opinion is insufficient to meet appellant's burden.⁹

Appellant also submitted several diagnostic reports dated February 8, April 11 and 24, 2000 and January 4, 2001, along with several treatment notes that were difficult to read, that merely stated findings on examination and provided no opinion regarding the cause of her condition. Medical conclusions unsupported by rationale are of diminished probative value and are insufficient to establish causal relation.¹⁰

As appellant failed to provide medical evidence establishing either a change in the nature and extent of her injury-related condition or a change in the nature and extent of her light-duty job requirements such that she was unable to perform her light-duty position, she failed to meet her burden of proof to establish that her recurrence of disability after September 11, 2000 was causally related to her employment injury on March 18, 2000.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that her recurrence of disability after September 11, 2000 was causally related to her employment injury on March 18, 2000.

⁹ See *Richard E. Konnen*, 47 ECAB 388 (1996).

¹⁰ *Albert C. Brown*, 52 ECAB 152 (2000).

ORDER

IT IS HEREBY ORDERED THAT the August 7, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 17, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member