



neck which resulted in her neck and right arm becoming “completely incapacitated.”<sup>1</sup> Appellant did not stop work.

Appellant submitted an August 29, 2003 report in which Dr. Richard Schlenk, an attending Board-certified neurosurgeon, stated that appellant reported having a “paralyzed right hand” due to her neck. Dr. Schlenk diagnosed cervical spondylosis and a C5-6 radiculopathy with complete C5 motor weakness. The results of magnetic resonance imaging (MRI) scan testing obtained on August 16, 2003 revealed that appellant had spondylitic spurring and narrowed discs at C4-5, C5-6 and C6-7 with C4-5 and C5-6 mildly compressing the right nerve root and effacing the thecal sac.

By decision dated November 7, 2003, the Office denied appellant’s claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained an injury in the performance of duty.

Appellant requested an oral hearing before an Office hearing representative which was held on June 23, 2004. At the hearing, appellant testified that when she conducted interviews at work she had to twist her body to the left while engaging in typewriting and at the same time twist her neck to the right to maintain eye contact with interviewees. She also alleged that she had to lift and carry files and boxes weighing up to 20 pounds and was required to file documents in cabinets.

Appellant submitted additional medical evidence, including a March 29, 2004 report in which Dr. Edward E. Adkins, an attending Board-certified family practitioner, stated:

“The patient is known to have a spurring of her C-spine, which was noted on her MRI [scan] to have spurring of C4-5, [C]5-6 and [C]6-7 levels and degenerative narrowing of discs at these levels as well. There is a greater than 51 percent probability that her work has had some adverse affect on her disease process.”

In a report dated July 15, 2004, Dr. Schlenk stated that appellant reported that the condition of her right arm had improved since the last examination in January 2004. He noted:

“[Appellant] is requesting some formal statement regarding how her work may have contributed to her current state. She developed a degenerative condition of her cervical spine which probably attributes [sic] to some of her neck degeneration.”<sup>2</sup>

By decision dated September 8, 2004, the Office hearing representative affirmed the November 7, 2003 decision, finding that none of the medical evidence of record contained a

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<sup>1</sup> Appellant indicated that she had to use her left hand to hold her right hand while engaging in keypunching. She submitted a job description which revealed that her job was clerical in nature and required some typewriting, handwriting and handling of documents.

<sup>2</sup> Appellant also submitted a report which detailed the neck surgery performed on September 8, 2003 by Dr. Schlenk -- anterior cervical decompression and fusion at C4-5 and C5-6 with instrumentation and left iliac crest bone graft.

rationalized opinion explaining how appellant's work duties caused or aggravated the claimed condition.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of establishing the essential elements of 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 or specific condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

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 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. The medical evidence required to establish a causal relationship 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, 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 specific employment factors identified by the claimant.<sup>6</sup>

### **ANALYSIS**

Appellant alleged that her degenerative neck condition was caused or aggravated by the duties of her job such as twisting while engaging in typewriting and handling files and boxes. The Board finds, however, she did not submit sufficient medical evidence to establish that she sustained an injury in the performance of duty as alleged.

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

<sup>6</sup> *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

Appellant submitted a March 29, 2004 report in which Dr. Adkins briefly detailed her degenerative disc disease and stated that there was “a greater than 51 percent probability that her work has had some adverse affect on her disease process.” She also submitted a July 15, 2004 report in which Dr. Schlenk, who performed her neck surgery stated, “She developed a degenerative condition of her cervical spine which probably attributes [sic] to some of her neck degeneration.”<sup>7</sup>

The Board finds that the reports of Dr. Adkins and Dr. Schlenk are not sufficiently well rationalized on the issue of causal relationship to establish that appellant’s claimed neck and right upper extremity conditions were caused or aggravated by the implicated employment factors. Although both Dr. Adkins and Dr. Schlenk suggested that such a relationship existed, neither physician provided an adequate explanation in support of his conclusion on causal relationship.<sup>8</sup> They did not provide any description of the medical process by which the implicated employment factors could have contributed to appellant’s medical condition. In fact, Dr. Adkins and Dr. Schlenk did not provide any discussion of the duties of appellant’s job. Therefore, their opinions are of diminished probative value for the further reason that they are not based on a complete and accurate factual and medical history.<sup>9</sup> Dr. Adkins and Dr. Schlenk did not explain why appellant’s problems were not solely caused by the natural progression of her degenerative disease or some other nonwork condition.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained an injury in the performance of duty.

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<sup>7</sup> Appellant also submitted a report which detailed the neck surgery performed on September 8, 2003 by Dr. Schlenk -- anterior cervical decompression and fusion at C4-5 and C5-6 with instrumentation and left iliac crest bone graft.

<sup>8</sup> See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>9</sup> See *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979) (finding that a medical opinion on causal relationship must be based on a complete and accurate factual and medical history).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 8, 2004 and November 7, 2003 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 24, 2005  
Washington, DC

Colleen Duffy Kiko  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member