

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**RICHARD A. CANDIDO, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Wallingford, CT, Employer**

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**Docket No. 05-688  
Issued: June 22, 2005**

*Appearances:*  
*Richard A. Candido, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Member  
DAVID S. GERSON, Alternate Member  
MICHAEL E. GROOM, Alternate Member

**JURISDICTION**

On January 26, 2005 appellant filed a timely appeal of an October 28, 2004 decision of the Office of Workers' Compensation Programs, denying modification of a July 22, 2004 merit decision. Pursuant to 20 C.F.R. § 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant has established a medical condition as of April 24, 2004 causally related to his right wrist employment injury.

**FACTUAL HISTORY**

On October 30, 1994 appellant, then a 44-year-old clerk, filed a traumatic injury claim (Form CA-1) alleging that he sustained a right wrist injury on that date when he threw a piece of mail. On March 27, 1995 the Office accepted the claim for a right wrist sprain and authorized surgery. Appellant returned to light-duty work. He filed an occupational disease claim (Form CA-2) on January 11, 1996 indicating that he continued to have right wrist symptoms. On

February 26, 1996 appellant underwent right wrist surgery. He returned to light-duty work on April 18, 1996.

By decision dated May 14, 1997, the Office issued a schedule award for a 34 percent impairment to the right arm. Appellant continued to work light duty.

On February 11, 2004 the employing establishment offered appellant the position of modified distribution clerk, which he accepted. On May 11, 2004 he filed a notice of recurrence (Form CA-2) commencing April 24, 2004. Appellant indicated that on April 24, 2004 he was feeding mail into an optical character reader (OCR) and he experienced pain and swelling. The reverse of the form indicated that he had not stopped working. In a statement, appellant noted that he believed his current need for medical treatment was related to the original work injury and employment factors. He began working on OCR and bar code sorter (BCS) machines and on April 24, 2004 after working on the OCR as a mail feeder, he began to experience right arm pain and swelling.

In a report dated April 29, 2004, Dr. Michael Luchini, an orthopedic surgeon, provided a history that appellant had a job change and was performing a lot of lifting and repeated activities. He provided results on examination and diagnosed ulnar nerve neuritis right elbow, stating that he told appellant it probably had something to do with the job change. In a report dated May 10, 2004, Dr. Luchini diagnosed right elbow ulnar neuritis “secondary to repeated lifting.” He also submitted a brief June 7, 2004 report indicating that appellant had numbness in his fingers. Dr. Luchini stated that the job change a few months prior caused the right hand and elbow problem.

By decision dated July 22, 2004, the Office denied the claim for a recurrence of a medical condition, finding that the evidence did not substantiate a recurrence of the work injury. Appellant requested reconsideration and submitted an August 6, 2004 report from Dr. Luchini, who stated that his work level was increased in March 2004 and appellant experienced paresthesias in the hand radiating to the elbow. He opined that his “current symptoms are directly related to the work injury of 1996 with a recurrence because of his going from restricted duty to full duty in March 2004.”

In a decision dated October 28, 2004, the Office denied modification of the July 22, 2004 decision. The Office found that the evidence did not establish a recurrence of the work injury. The Office noted that the claimed condition appeared to be a new injury rather than a recurrence, and appellant did not submit rationalized medical evidence on causal relationship.

### **LEGAL PRECEDENT**

The Office’s procedures indicate that a claimant may claim a recurrence of disability or a recurrence of a medical condition. With respect to a claim for a recurrence of a medical condition more than 90 days after release from medical care, a claimant is responsible for

submitting a report that contains a description of the objective findings and supports causal relationship between the current condition and the accepted work injury.<sup>1</sup>

A condition that results from new exposure to employment factors, even if it involves the same part of the body previously injured, is a new injury.<sup>2</sup> It is appellant's burden of proof to establish the essential elements of his claim, including that the specific condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup>

### ANALYSIS

In the present case, appellant filed a Form CA-2a claiming a recurrence of his right wrist condition as of April 24, 2004; the record does not indicate that he stopped working. To the extent that appellant is claiming a recurrence of the accepted right wrist sprain on April 24, 2004, the medical evidence is not sufficient to establish the claim. Dr. Luchini does not discuss the accepted right wrist condition or provide a reasoned opinion as to a recurrence of the condition as of April 24, 2004.

It appears that appellant is claiming that he sustained a right arm condition as of April 24, 2004 causally related to performing the duties of the modified distribution clerk job. As noted above, this would be a claim for a new injury since new employment factors are identified as causing the medical condition. Dr. Luchini diagnosed a right elbow ulnar neuritis, which has not been accepted as employment related. It is appellant's burden of proof to establish the condition as causally related to his federal employment. In order to meet his burden of proof, appellant must clearly identify the claimed employment factors he believes caused his condition and submit a reasoned medical opinion, based on a complete factual and medical background, on the causal relationship between the diagnosed condition and the implicated employment factors.<sup>4</sup>

Dr. Luchini did not provide a reasoned opinion on causal relationship. He referred to lifting at work, but appellant's statement regarding his work activities discussed feeding mail into OCR and BCS machines. Dr. Luchini did not provide a complete factual and medical background of appellant's upper extremity condition or a reasoned medical opinion on causal relationship between the diagnosed neuritis and appellant's federal employment. In the absence of probative medical evidence, appellant did not meet his burden of proof to establish an injury causally related to performing his duties of a modified distribution clerk.

### CONCLUSION

The Board finds that the evidence of record is not sufficient to establish either a recurrence of a medical condition on April 24, 2004 or a new injury causally related to federal employment.

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<sup>1</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.5(b) (September 2003).

<sup>2</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(b)(2) (May 1997).

<sup>3</sup> *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> See *Walter D. Morehead*, 31 ECAB 188 (1979).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated October 28 and July 22, 2004 are affirmed.

Issued: June 22, 2005  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member