United States Department of Labor
Employees' Compensation Appeals Board

RITA L. WIDEMON, Appellant	)	
and	)	**Docket No. 05-693**
	)	**Issued: June 14, 2005**
U.S. POSTAL SERVICE, POST OFFICE, Dallas, TX, Employer	)	

Appearances:
Rita L. Widemon, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On January 27, 2005 appellant filed a timely appeal from merit decisions of the Office of Workers' Compensation Programs dated December 15 and August 13, 2004 which determined that she had no more than a six percent impairment of the right arm. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the schedule award.

ISSUE

The issue is whether appellant has more than six percent impairment of the right arm for which she received a schedule award.

FACTUAL HISTORY

On November 11, 2000 appellant, then a 35-year-old casual mail handler, filed a Form CA-1 traumatic injury claim alleging that, on that day, a box of magazines fell on her hand. She did not stop work. On January 23, 2001 the Office accepted that she sustained a right wrist sprain and right hand contusion. Appellant came under the care of Dr. Ronnie D. Shade, Board-certified in orthopedic surgery, who provided a June 10, 2003 report. He diagnosed contusion of

the right hand and post-traumatic carpal tunnel syndrome. Dr. Shade noted findings on physical examination including range of motion, grip strength and two-point discrimination testing with a positive Tinel's and a negative Phalen's test. He advised that appellant was not at maximum medical improvement, recommended electromyographic (EMG) testing and stated that she would need carpal tunnel release in the future.

On August 11, 2003 appellant filed a schedule award claim. In a report dated September 18, 2003, an Office medical adviser stated that, since appellant had not reached maximum medical improvement, an impairment evaluation was premature. By letter dated October 9, 2003, the Office informed appellant that she was not entitled to a schedule award as maximum medical improvement had not been reached.

Dr. Shade submitted an October 20, 2003 report in which he reported physical findings and reiterated his previous diagnoses with the additional diagnosis of right wrist tenosynovitis. He provided wrist range of motion findings of 50 degrees of flexion and extension and 20 degrees of ulnar and radial deviation and concluded that appellant had a 6 percent right upper extremity impairment. In a November 26, 2003 report, an Office medical adviser reviewed Dr. Shade's report and determined that maximum medical improvement had been reached on October 20, 2003, the date of the physician's report. The Office medical adviser made findings pursuant to the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (hereinafter A.M.A., *Guides*).[1] He stated that under Figures 16-28 and 16-31, 50 degrees of extension and 50 degrees of flexion equaled a 2 percent impairment each, that 20 degrees of radial deviation equaled no impairment and that 20 degrees of ulnar deviation equaled a 2 percent impairment.[2] He added these losses in range of motion and found that appellant had a six percent right upper extremity impairment.

By decision dated January 16, 2004, appellant was granted a schedule award for a six percent impairment of the right upper extremity, for a total of 18.72 weeks of compensation from October 20, 2003 to February 28, 2004. On February 26, 2004 she requested a hearing. In a decision dated April 20, 2004, an Office hearing representative denied the hearing request on the grounds that it was untimely filed.[3]

On July 28, 2004 appellant requested reconsideration and submitted a February 25, 2004 report in which Dr. John S. Townsend, IV, a general practitioner, provided findings regarding a back injury appellant sustained while employed with the Dallas School Board. She also submitted a June 2, 2004 treatment note in which Dr. Shade provided a diagnosis of carpal tunnel syndrome and noted his treatment plan. By decision dated August 13, 2004, the Office denied modification of the January 16, 2004 schedule award.

[1] A.M.A., *Guides* (5th ed. 2001); *Joseph Lawrence, Jr.*, 53 ECAB 331 (2002).

[2] The Board notes that the Office medical adviser's report contains a typographical error in that he referred to Figure 16-18. He, however, properly referenced page 467 of the A.M.A., *Guides* which contains Figure 16-28 that provides analysis for wrist flexion and extension.

[3] Appellant did not file an appeal of this decision with the Board.

Appellant requested reconsideration on November 15, 2004 and submitted an EMG and nerve conduction study report dated October 8, 2004 in which Dr. Kathy Toler, a Board-certified neurologist, noted findings of moderate right carpal syndrome involving the median palmar sensory nerve at the wrist and right cubital tunnel syndrome involving the ulnar motor nerve at the elbow. She advised that appellant was a surgical candidate. Appellant also submitted treatment notes dated June 29 and November 15, 2004 in which Dr. Shade reiterated his diagnosis of carpal tunnel syndrome, noted the additional diagnosis of cubital tunnel syndrome, and outlined his treatment plan. By decision dated December 15, 2004, the Office denied modification of the August 13, 2004 decisions, finding the medical evidence insufficient to establish that there had been an increase in appellant's right upper extremity impairment.

LEGAL PRECEDENT

Under section 8107 of the Federal Employees' Compensation Act[4] and section 10.404 of the implementing federal regulations,[5] schedule awards are payable for permanent impairment of specified body members, functions or organs. The Act, however, does not specify the manner in which the percentage of impairment shall be determined. For consistent results and to ensure equal justice under the law for all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides*[6] has been adopted by the Office, and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.[7] Chapter 16 provides the framework for assessing upper extremity impairments.[8]

ANALYSIS

The Board finds that appellant has not established that she has more than a six percent right upper extremity impairment. In determining appellant's impairment rating, the Office medical adviser reviewed Dr. Shade's October 20, 2003 report and agreed with his findings and conclusion that appellant had a six percent upper extremity impairment based on loss of range of motion of the right wrist. Figure 16-28 of the A.M.A., *Guides* provides that the 50 degrees of flexion and 50 degrees of extension found by Dr. Shade are each equal to a 2 percent impairment.[9] Figure 16-31 provides that the 20 degrees of radial deviation reported by Dr. Shade is equal to no impairment and the 20 degrees of ulnar deviation is equal to a 2 percent impairment.[10] The Office medical adviser then followed the procedure outlined in section 16.4g

[4] 5 U.S.C. § 8107.

[5] 20 C.F.R. § 10.404.

[6] A.M.A., *Guides*, *supra* note 1.

[7] *See Joseph Lawrence, Jr., supra* note 1; *James J. Hjort*, 45 ECAB 595 (1994); *Leisa D. Vassar*, 40 ECAB 1287 (1989); *Francis John Kilcoyne*, 38 ECAB 168 (1986).

[8] A.M.A., *Guides*, *supra* note 1 at 433-521.

[9] *Id.* at 467.

[10] *Id.* at 469.

of the A.M.A., *Guides* and added these impairment values to find a total six percent right upper extremity impairment.[11] While appellant subsequently submitted additional treatment notes from Dr. Shade dated June 2, June 29 and November 15, 2004, he merely provided diagnoses and outlined his treatment plan. He did not provide any additional physical findings or make further impairment ratings with regard to appellant's right wrist condition. The medical evidence of record does not support impairment greater than the six percent for which appellant received a schedule award.

Regarding appellant's diagnosed conditions of carpal and cubital tunnel syndrome, the Office has not accepted that these conditions are employment related. It is an accepted principle of workers' compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional misconduct.[12] Once the work-connected character of any condition is established, the subsequent progression of that condition remains compensable so long as the worsening is not shown to have been produced by an independent nonindustrial cause.[13] The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.[14]

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.[15] Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.[16] Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[17]

Dr. Shade provided a number of reports in which he advised that appellant's carpal tunnel syndrome was post traumatic. However, he did not provide any explanation regarding how the November 11, 2000 employment injury caused this condition. The Board therefore finds his

[11] *Id.* at 466.

[12] *Bernitta L. Wright*, 53 ECAB 514 (2002).

[13] *Id.*

[14] *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139 (2001).

[15] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[16] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[17] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

stated conclusion is insufficient to meet appellant's burden to establish that the diagnosed carpal tunnel syndrome is a consequence of the November 11, 2000 employment injury. Dr. Toler's report and EMG findings would be probative only if appellant established that her carpal and cubital tunnel syndrome were a consequence of the employment injury, and Dr. Toler did not provide an opinion in that regard.[18] Dr. Townsend's report is completely irrelevant as to whether appellant is entitled to a greater schedule award for her right upper extremity. Appellant therefore did not submit a physician's rationalized medical opinion causally relating the accepted work injury to either her carpal or cubital tunnel syndrome.[19]

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that she is entitled to more than a six percent schedule award for the right upper extremity.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated December 15 and August 13, 2004 be affirmed.

Issued: June 14, 2005
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

[18] Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value. *Willie M. Miller*, 53 ECAB 697 (2002).

[19] The Board notes that subsequent to the December 15, 2004 decision, appellant submitted additional evidence to the Office. The Board cannot consider this evidence, however, as its review of the case is limited to that evidence which was before the Office at the time it rendered its final decision. 20 C.F.R. § 501.2(c).