

Appellant submitted several clinic notes bearing illegible signatures. Notes dated July 24, August 2 and 9, 2004 reflect a right cervical radiculopathy condition and a recommendation of “no work” from July 24 to August 15, 2004.

On August 12, 2004 the employing establishment challenged appellant’s claim, contending that she had not established a causal relationship between her alleged current condition and her alleged employment injury.

By letter dated August 19, 2004, the Office notified appellant that the information previously submitted was insufficient to substantiate her claim. The Office advised her to clarify whether the injury she claimed was traumatic or occupational; to describe what she was doing at the time of the injury; and, if the injury occurred over a period of time, to describe the employment-related activities that contributed to her alleged condition.

In a narrative statement dated August 24, 2004, appellant indicated that her injury began on July 23, 2004 when she “pulled down the door on the back of [her] LLV mail truck while delivering mail in the Van Dyke and Lafayette area,” she stated that she initially “thought it was a little twitch” and continued on her route. Appellant stated further that on August 24, 2004 her right arm began to throb in pain after casing mail for 30 minutes, requiring her to seek medical assistance.

Appellant submitted a report dated September 2, 2004 from Dr. Silas Cardwell, a Board-certified internist. He indicated that she complained of severe pain, paresthesias and weakness in her right neck and shoulder. Dr. Cardwell provided a diagnosis of right cervical radiculopathy and stated that “the condition arose as a direct result of the duties required on appellant’s job as a letter carrier.” He opined that the repetitive motions required on the job, the heavy lifting along with walking and the posture that is required in performing the tasks required of her, are directly related to her present medical condition.” Dr. Cardwell noted that cervical spine x-rays revealed mild degenerative changes in the C4-5 region.

By decision dated September 27, 2004, the Office denied appellant’s claim for compensation on the grounds that the medical evidence did not demonstrate that the claimed medical condition was causally related to the established work-related events, as required for coverage under the Federal Employees’ Compensation Act.

On October 25, 2004 appellant requested an oral hearing.

In a brief submitted on behalf of appellant dated July 14, 2005, her representative contended that appellant’s condition reached a threshold of awareness on July 24, 2004. He further argued that Dr. Cardwell’s opinion that her condition was caused by repetitive movements and appellant’s claim that the condition was caused by the events of July 24, 2004 are reconcilable.

At the July 14, 2005 hearing, appellant testified that she had never had any pain in her arm or neck before July 23, 2004, when she injured her right arm pulling her trunk down. She stated her belief that the repetitive nature of her work and heaviness of the mail caused her problems. She described a typical workday, which included: two hours of sorting mail; loading

mail into her vehicle and satchel weighing approximately 12 to 15 pounds; casing mail from a satchel; lifting packages weighing from 3 to 15 pounds; and walking 4 hours per day.

Appellant submitted numerous notes from Dr. Shlomo S. Mandel, a Board-certified internist, reflecting treatment of her for right cervical spine pain.¹ In notes dated September 15, 2004, he stated that there was no history of injury or accident. In notes dated October 5, 2004, Dr. Mandel reported that a September 8, 2004 magnetic resonance imaging scan revealed spinal stenosis with narrowing at C4-5, as well as central and foramina crowding at C4-5 and C5-6. He indicated that appellant had no sign of deformity or swelling, but had mild limitation of motion with limited flexion and extension and side bending. In notes dated April 27, 2005, Dr. Mandel reiterated that appellant had no history of work factors or injuries, but stated that she had a “previous history of cervical radiculopathy.” In notes dated May 10, 2005, he provided a diagnosis of cervical spondylosis and radiculopathy and indicated that the onset date was December 15, 2004.

In an electronically signed July 24, 2004 report, Dr. Cardwell stated that appellant’s complaint’s of pain in her right neck, shoulder and arm “started a couple of days ago.” Electronically signed notes dated August 16, 2004 from Dr. Peter Coggan, a Board-certified family practitioner, reflected her report that her repetitive motions at work irritated appellant’s right shoulder. Dr. Coggan provided a diagnosis of right shoulder pain with radiculopathy.

By decision dated September 27, 2005, the Office hearing representative affirmed the September 27, 2004 decision denying appellant’s occupational injury claim, finding that the medical evidence of record was insufficient to establish that accepted work factors caused or contributed to her diagnosed condition.

LEGAL PRECEDENT

An employee seeking benefits under the Act² has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³

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 the 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 by the claimant.⁴

¹ Dr. Mandel’s notes indicated that they were electronically signed. However, no electronic signature appeared on the notes.

² 5 U.S.C. §§ 8101-8193.

³ *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

⁴ *Solomon Polen*, 51 ECAB 341, 344 (2000).

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to claimant's diagnosed condition. To be of probative value, 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.⁵ Furthermore, the Board has consistently held that unsigned medical reports are of no probative value⁶ and that any medical evidence upon which the Office relies to resolve an issue must be in writing and signed by a qualified physician.⁷

An award of compensation may not be based on appellant's belief of causal relationship. 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 a causal relationship.⁸

ANALYSIS

The Board finds that the case is not in posture for decision regarding whether appellant sustained an injury in the performance of duty.

An employee who claims benefits under the Act has the burden of establishing the essential elements of his or her claim. The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.⁹ However, it is well established that proceedings under the Act are not adversarial in nature and while the claimant has the burden of establishing entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.¹⁰

Dr. Cardwell opined that appellant's repetitive work activities as a mail carrier caused her right cervical radiculopathy. He further concluded that the heavy lifting along with walking and the posture that is required in performing the tasks required of her, were directly related to her

⁵ *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

⁶ *Merton J. Sills*, 39 ECAB 572, 575 (1988).

⁷ *James A. Long*, 40 ECAB 538, 541 (1989).

⁸ *Dennis M. Mascarenas*, *supra* note 2 at 218.

⁹ *See Virginia Richard*, claiming as executrix of the estate of *Lionel F. Richard*, 53 ECAB 430 (2002); *see also Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

¹⁰ *Phillip L. Barnes*, 55 ECAB ____ (Docket No. 02-1441, issued March 31, 2004); *see also Virginia Richard*, *supra* note 9; *Dorothy L. Sidwell*, 36 ECAB 699 (1985); *William J. Cantrell*, 34 ECAB 1233 (1993).

present medical condition. Although Dr. Cardwell attributed appellant's condition to repetitive movements over a period of time, he indicated that appellant's complaints began on or about July 23, 2004, the date appellant allegedly injured herself while closing the trunk of her mail truck. The record confirms that she was treated for her neck and shoulder pain since July 23, 2004 and medical reports corroborate appellant's factual allegations that she sought treatment for severe shoulder pain following her alleged injury. The Board notes that appellant claimed that she first experienced severe pain on July 23, 2004 while closing her trunk is not inconsistent with Dr. Cardwell's opinion that her condition was caused by repetitive work-related activities. As her representative argued, appellant's condition may have "reached a threshold of awareness on July 24, 2004." Dr. Cardwell gave a history of appellant's condition, reported findings of his examinations of her and indicated that he had reviewed her medical records and test results. He reflected an understanding of her job requirements and the repetitive nature of appellant's duties.

Reports from Dr. Mandel and Dr. Coggan do not offer an opinion as to the cause of appellant's diagnosed condition. Therefore, they are of limited probative value.¹¹

The Board notes that, while none of the reports of appellant's attending physicians are completely rationalized, they are consistent in indicating that she sustained an employment-related neck and shoulder condition and are not contradicted by any substantial medical or factual evidence of record. Therefore, while the reports are not sufficient to meet her burden of proof to establish appellant's claim, they raise an uncontroverted inference between her claimed condition and the accepted employment factors and are sufficient to require the Office to further develop the medical evidence and the case record.¹²

On remand the Office should prepare a statement of accepted facts and refer appellant, along with her medical records for a second opinion examination, in order to obtain a rationalized opinion as to whether her current condition is causally related to factors of her employment, either directly or through aggravation, precipitation or acceleration.

CONCLUSION

The Board finds that this case is not in posture for decision as to whether or not appellant sustained an injury in the performance of duty.

¹¹ *Leslie C. Moore, supra* note 5.

¹² *See Virginia Richard, supra* note 9; *see also Robert A. Redmond, 40 ECAB 796, 801 (1989).*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 27, 2005 is set aside and the case is remanded for further action by the Office consistent with this decision.

Issued: April 7, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board