

report dated May 3, 2005, which contained an illegible signature of a nurse and the typed name of Dr. Jeffrey P. Appel, Board-certified in emergency medicine, found that she could not use her right arm for five days. On May 3, 2005 appellant requested that the employing establishment permit her to seek medical treatment for her right shoulder and elbow. She had experienced recurring pain for about two years and underwent physical therapy two years prior. Appellant was off work on May 2, 2005 and her arm started to bother her. She noted that Dr. Michael W. Reed, an attending Board-certified orthopedic surgeon, previously treated carpal tunnel syndrome in both arms and she believed that repetitive motion in her job aggravated her condition.

Wilbert L. Pender, Jr., appellant's supervisor, controverted her claim. He contended that causal relation between the alleged conditions and factors of appellant's employment had not been established. On May 3, 2005 Mr. Pender noted that appellant requested permission to see a physician for pain in her right shoulder and elbow. In response to whether she had sustained a work-related injury, appellant stated that she experienced pain while performing yard work. Appellant noted that she previously underwent rehabilitation on her right shoulder and elbow two years prior. Mr. Pender granted appellant sick leave to see her physician.

In a letter dated May 16, 2005, the Office advised appellant that the evidence submitted was insufficient to establish her claim. The Office requested additional factual and medical evidence within 30 days. Appellant did not respond within the allotted time period.

By decision dated June 21, 2005, the Office found that appellant did not sustain an injury while in the performance of duty. It found the evidence of record insufficient to establish that the claimed event occurred as alleged or that she sustained a medical condition causally related to factors of her federal employment.

Appellant submitted additional medical records. An August 6, 2002 x-ray report of Dr. James M. Strohmenger, a Board-certified radiologist, found no acute abnormality in the right shoulder. On August 9, 2002 Dr. R. Darr McKeown, a radiologist, performed a magnetic resonance imaging (MRI) scan of the cervical spine. He found a moderately large right posterior disc extrusion at C5-6 which caused a compression deformity of the right side of the cord and significant right foraminal stenosis. The mass effect was accentuated by the slight reversal of the lordosis. In an August 21, 2002 treatment note, Dr. Reed diagnosed cervical disc disease with radiculitis and carpal tunnel syndrome of the right hand. His May 3, 2004 treatment note found that appellant had a component of cervical disc disease and facet arthrosis with cervical strain.

In reports dated August 6 and 15, 2002, a physician whose signature is illegible noted that appellant had neck pain with radiculopathy in the right arm, hand and right shoulder pain, acute sinusitis, headaches and stress disorder. An unsigned report dated August 21, 2002 provided appellant's symptoms and social, medical and family background. The report revealed essentially normal findings on physical examination and a review of the August 6, 2002 x-ray.

In August 28, 2002 medical report, Dr. E. Jacob, a Board-certified neurologist, diagnosed C6 radiculopathy on the right side and carpal tunnel syndrome on the right. He noted that appellant underwent nerve conduction and electromyogram studies which showed no definite electrodiagnostic evidence of cervical radiculopathy, carpal tunnel syndrome or ulnar

neuropathy. In a September 11, 2002 treatment note, Dr. Jacob stated that appellant was doing better in physical therapy and there was no electrodiagnostic evidence of cervical radiculopathy or carpal tunnel syndrome.

A May 16, 2005 work prescription of Dr. David R. Dietrich, a Board-certified orthopedic surgeon, indicated that appellant could not return to work for two weeks. In a partial copy of a May 16, 2005 report, he provided his findings of physical and objective testing examination. Dr. Dietrich diagnosed herniated nucleus pulposus of the cervical spine and rotator cuff tendinitis impingement and degenerative disc disease of the acromioclavicular (AC) joint in the right shoulder. A May 25, 2005 work prescription released appellant to sedentary work, four days a week with restriction.

A May 17, 2005 x-ray report of Dr. Gregory A. Presser, a Board-certified radiologist, revealed three-level disc disease of the right paracentral spine at the C5-6 level, left at the C6-7 level and central at the C4-5 level. He stated that early anatomic spinal canal encroachment/stenosis may be present at the C5-6 and/or the C6-7 level for which further clinical review was recommended. Dr. Presser found asymmetric uncovertebral joint osteophytic changes on the right at the C5-6 level and to the left at the C6-7 level. An addendum noted that he reviewed August 9, 2002 x-ray films which demonstrated disc disease at C4-5, C5-6 and C6-7 levels that appeared similar when compared to a previous MRI scan evaluation. Dr. Presser recommended a clinical review to evaluate the stability of appellant's clinical symptoms.

A May 2005 duty status report contained both an illegible signature from the physician who prepared the report and diagnosis due to a May 2, 2005 injury. The report also provided appellant's physical limitations. A May 6, 2005 duty status report from a physician whose signature is illegible diagnosed herniated nucleus pulposus of the cervical spine and provided appellant's physical limitations.

In a June 7, 2005 narrative report, Dr. Keith M. Zwingelberg, a Board-certified family practitioner, described the physical requirements of appellant's position as a mail handler. He reviewed her medical history, reported essentially normal findings on physical examination and reviewed the May 17, 2005 MRI scan. Dr. Zwingelberg diagnosed three-level cervical disc disease with right radicular arm pain and right shoulder impingement. In a June 7, 2005 progress note, he reiterated the diagnoses. A June 29, 2005 progress note found that appellant's right arm radicular pain had resolved. On June 7 and 29, 2005 he injected her with an epidural steroid to treat her cervical disc disease and right shoulder impingement. A July 12, 2005 progress note diagnosed large right paracentral disc herniation at C5-6.

An August 22, 2005 x-ray report of Dr. Cory R. Gaiser, an orthopedic surgeon, found decreased disc space at the C5-6 level and a slight increase in kyphosis at the C4-5 level. He found no evidence of instability, fractures or dislocations. Dr. Gaiser also reviewed Dr. Dietrich's MRI scan of appellant's cervical spine. He reported essentially normal findings on physical examination of her upper and lower extremities and x-ray examination of her cervical spine. Dr. Gaiser diagnosed herniated nucleus pulposus at C4-5, C5-6 and C6-7 and mild cervical spondylosis. He stated that appellant could return to light-duty work.

An August 29, 2005 duty status report of a physician, whose signature is illegible, provided appellant's physical limitations due to a May 3, 2005 injury.

On October 26, 2005 appellant described the physical requirements of her mail carrier position and provided a history of her medical treatment on intermittent dates from August 6, 2002 to August 22, 2005.

By letter dated December 12, 2005, appellant requested reconsideration of the Office's June 21, 2005 decision. In a May 25, 2005 report, Dr. Dietrich noted findings on physical examination. He diagnosed herniated nucleus pulposus of the cervical spine which had not apparently changed since August 2002, but was a recurrent problem that became better when appellant rested and recurred when she returned to work. Dr. Dietrich noted that this had been happening for several years. Appellant was permitted to perform light-duty work within restrictions. In a July 25, 2005 duty status report, Dr. Kelly, an anesthesiologist,¹ diagnosed right paracentral disc herniation at C5-6 and noted appellant's physical restrictions.

By decision dated February 3, 2006, the Office denied modification of the June 21, 2005 decision. It found that the medical evidence of record was insufficient to establish that appellant's right shoulder, elbow, cervical or carpal tunnel syndrome condition were causally related to factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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 and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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.

¹ The Board notes that Dr. Kelly's first name cannot be determined from the case record.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

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.⁵

ANALYSIS

The Office originally found that appellant had neither established any employment factors nor submitted sufficient medical evidence to substantiate an injury. In the February 3, 2006 decision, the Office found that the medical evidence did not establish causal relationship of her claimed condition with her employment. The Board finds that her duties as a mail carrier are not disputed. The issue to be addressed is whether the medical evidence establishes that her work caused or contributed to her claimed conditions.

The Board finds that appellant has failed to establish a causal relationship between her right shoulder, elbow, cervical carpal tunnel syndrome conditions and her federal employment. The medical reports of Dr. Strohmenger, Dr. McKeown, Dr. Reed and Dr. Jacob covering the period August 6, 2002 through May 3, 2004, noted appellant's treatment and diagnostic testing for complaints of pain to her right shoulder and cervical spine. The tests revealed degenerative disc disease and a disc at C5-6. However, none of the reports during this time contained any opinion relating the various findings to appellant's work duties or mail carrier. For this reason, the reports are of diminished probative value.

The August 6 and 15, 2002 and May 6 and August 29, 2005 reports from a physician whose signature is illegible, the unsigned August 21, 2002 report, the May 3 and 17, 2005 report and addendum containing Dr. Appel's and Dr. Presser's typed names, respectively, have no probative medical value because they are not signed by a physician.⁶ As the reports lack proper identification the Board finds that they do not constitute probative medical evidence sufficient to establish appellant's claim.⁷

The May 3, 2005 report from a nurse whose signature is illegible which found that appellant could not use her arm for five days is of no probative value as a nurse is not defined as a physician under the Act.⁸ Further, although the May 3, 2005 report contains Dr. Appel's typed name, it was not signed by the physician.⁹

⁵ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁶ *Ricky Storms*, 52 ECAB 349 (2001).

⁷ *Merton J. Sills*, 39 ECAB 572 (1988).

⁸ 5 U.S.C. § 8101(2); *see also Janet L. Terry*, 53 ECAB 570 (2002); *Thomas Lee Cox*, 54 ECAB 509 (2003).

⁹ *Merton J. Sills*, *supra* note 7.

Dr. Dietrich's May 16, 2005 work prescription found that appellant could not return to work for two weeks. His May 25, 2005 work prescription released her to sedentary work, four days a week with restriction. Dr. Dietrich did not provide any diagnosis or address whether appellant's disability was causally related to factors of her federal employment. The Board finds that his noted are of diminished probative value.

Dr. Dietrich's May 16, 2005 report found that appellant sustained a herniated nucleus pulposus of the cervical spine and rotator cuff tendinitis impingement and degenerative disc disease of the AC joint in the right shoulder. Dr. Zwingelberg's reports diagnosed three-level cervical disc disease with right radicular arm pain, right shoulder impingement and large right paracentral disc herniation at C5-6. Dr. Kelly's July 25, 2005 report diagnosed right paracentral disc herniation at C5-6. Dr. Gaiser's August 22, 2005 report diagnosed herniated nucleus pulposus at C4-5, C5-6 and C67 and mild spondylosis are of diminished probative value as the respective physicians failed to address whether the diagnosed conditions were caused by factors of appellant's federal employment. The reports do not provide any explanation as to how appellant's work duties caused or aggravated the noted conditions.

In a May 25, 2005 report, Dr. Dietrich opined that appellant had a herniated cervical disc which had not changed much since August, but which had recurred for several years when she returned to work. He failed to explain how her work as a mail carrier caused or aggravated the cervical disc herniation. The Board finds that his opinion is insufficient to establish appellant's claim.

The Board finds that there is insufficient rationalized medical evidence to establish that appellant sustained right shoulder, elbow cervical or carpal tunnel syndrome conditions are causally related to factors of her federal employment. The Board finds that she has failed to meet her burden of proof.

CONCLUSION

As appellant did not provide the necessary medical evidence to establish that she sustained an injury while in the performance of duty, the Board finds that she has failed to satisfy her burden of proof in this case.

ORDER

IT IS HEREBY ORDERED THAT the February 3, 2006 and June 21, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: August 23, 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