

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

D.P., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Omaha, NE, Employer**

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**Docket No. 06-2041
Issued: December 20, 2006**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 5, 2006 appellant filed a timely appeal from the Office of Workers' Compensation Programs' April 7 and August 14, 2006 merit decisions denying compensation for employment-related disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she had disability during the period August 15 to 18, 2005 due to her July 28, 2005 employment injury.

FACTUAL HISTORY

On July 28, 2005 appellant, then a 48-year-old automation clerk, filed a traumatic injury claim alleging that she sustained a left arm injury when the panel of a machine fell on her arm on that date. She applied for continuation of pay not to exceed 45 days. The Office accepted that appellant sustained a contusion of her left forearm. The Office determined that she had

employment-related disability for several periods of work stoppage, including those occurring on July 28, August 2 and 4, 2005.

In an August 5, 2005 report, Dr. Donald C. Mantz, an attending Board-certified family practitioner, stated that appellant reported that a panel of a machine fell on her left forearm on July 28, 2005. He diagnosed contusion of the left forearm. In an August 8, 2005 report, Dr. Mantz diagnosed arm contusion and recommended that she return to work on August 8, 2005.

Appellant informed the Office that she underwent diagnostic testing on August 15, 2005 and that Dr. Mantz advised that her neck condition was related to the July 28, 2005 employment injury. Dr. Mantz explained that she probably jerked her neck at the time of the injury and later caused further neck injury by overcompensating for her left arm injury. Appellant claimed compensation for work stoppage between August 15 and 18, 2005.¹

In an August 18, 2005 note, Dr. Mantz listed appellant's injury as "neck and arm pain" and indicated that she should be off work from August 15 to 20, 2005. He stated that she could return to work on August 21, 2005. In an October 19, 2005 note, Dr. Mantz listed appellant's injury as "right arm pain, contusion" and indicated that she could return to work on October 19, 2005 without restrictions.

By decision dated April 7, 2006, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she had disability during the period August 15 to 20, 2005 due to her July 28, 2005 injury.

Appellant requested reconsideration of her claim and submitted two reports of Dr. Mantz.

In a report dated December 12, 2006, Dr. Mantz stated that he released appellant to return to work on August 8, 2005 but that she reported that the employing establishment "made her" return to work on August 7, 2005. Appellant called his office on August 17, 2005 stating that she experienced severe neck and arm pain of the left side for about a week. Dr. Mantz gave appellant an August 18, 2005 note recommending that she stay off work from August 15 to 20, 2005 because he felt this work stoppage was warranted by her description of pain. He noted:

"In my opinion, it [i]s likely that my patient's status worsened with pain progressing up the arm into the neck due to muscle strain and spasm from trying to do her work while injured. Since employers demand that people return back to work as quickly as they can stand, it is no wonder injuries sometimes recur or worsen despite being released to return without restriction. I feel that the [tele]phone notes do document that this pain was a progression of her July 28[, 2005] injury, and was not a separate problem. The feel [sic] she should be compensated according to continuation of pay or whenever policy is applicable."

¹ It is not clear whether appellant received continuation of pay or used leave for this period.

In a report dated May 7, 2006, Dr. Mantz again expressed concern that appellant was returned to work on August 7, 2005 and stated:

“I saw the patient first on August 5[, 2005] for her workmen’s compensation injury which occurred July 28[, 2005]. I saw her again on August 11[, 2005] for multiple medical concerns, some of which were more chronic and some more acute. I believe some of these were related to the arm injury, but it was very difficult sort [sic] out how much of her neck and arm pain was related to the injury and how much was related to more chronic issues. She tried to return to work, but the pain became too severe and she asked for a note to cover the period of time from August 15 to 18[, 2005] during which she stayed home from work.

“I can only restate the facts and hope that you reconsider your decision. She continues to have problems with pain in the arm, so her contusion obviously caused much more soft tissue damage that was readily apparent at her visit.”

By decision dated August 14, 2006, the Office affirmed its April 7, 2006 decision.

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 The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury 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 compensable 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.⁴

The Board has found that medical evidence which does not offer any opinion regarding the cause of an employee’s condition or disability is of limited probative value on the issue of causal relationship.⁵ A medical report is of limited probative value on the issue of causal

² 5 U.S.C. §§ 8101-8193.

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

⁴ *See Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

⁵ *See Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988).

relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale⁶ or if it contains an opinion which is equivocal or speculative.⁷

ANALYSIS

The Office accepted that appellant sustained a contusion of her left forearm when a panel of a machine fell on her arm on July 28, 2005. She claimed compensation for the period August 15 to 18, 2005 due to her July 28, 2005 employment injury.

The Board finds that appellant did not submit sufficient medical evidence to establish that she had disability during the period August 15 to 18, 2005 due to her July 28, 2005 injury.

Appellant submitted an August 18, 2005 note in which Dr. Mantz, an attending Board-certified family practitioner, listed her injury as “neck and arm pain” and indicated that she should be off work from August 15 to 20, 2005. Dr. Mantz stated that she could return to work on August 21, 2005. This report, however, is of limited probative value on the relevant issue of the present case in that it does not contain an opinion on the cause of appellant’s claimed disability between August 15 and 18, 2005.⁸

Dr. Mantz addressed appellant’s disability in two subsequent reports. However, they are of limited probative value because he did not explain the cause of appellant’s disability.⁹ On December 12, 2006 Dr. Mantz indicated that appellant called his office on August 17, 2005 stating that she had experienced severe neck and arm pain of the left side for about a week. He gave her an August 18, 2005 note recommending that she stay off work from August 15 to 20, 2005 because he felt it was warranted by her description of pain. Dr. Mantz stated generally that quickly returning an employee to work can lead to reinjury and noted, “In my opinion, it [i]s likely that my patient’s status worsened with pain progressing up the arm into the neck due to muscle strain and spasm from trying to do her work while injured.... I feel that the [tele]phone notes do document that this pain was a progression of her July 28[, 2005] injury, and was not a separate problem.”

Dr. Mantz did not adequately explain the medical process through which appellant’s July 28, 2005 employment injury, a left forearm contusion, caused her to have disability between August 15 and 18, 2005. He stated that appellant’s reported symptoms on August 17, 2005 supported his findings of disability during this period, but he did not provide any notable description of her complaints from around this time. Dr. Mantz’s opinion is not based on an examination but on appellant’s description of pain made during a telephone call. The report lacks a complete and accurate factual and medical history as there is little description of the progression of appellant’s medical condition. There are extremely limited findings regarding her left arm condition and no findings regarding her reported neck condition. Dr. Mantz stated that

⁶ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980).

⁷ See *Leonard J. O’Keefe*, 14 ECAB 42, 48 (1962); *James P. Reed*, 9 ECAB 193, 195 (1956).

⁸ See *supra* note 5 and accompanying text.

⁹ See *supra* notes 6 and 7 and accompanying text.

pain progressed up appellant's arm into her neck, but the Office has not accepted an employment-related neck injury and he did not further explain the medical mechanics of such a symptom pattern. Medical rationale regarding the cause of appellant's disability between August 15 and 18, 2005 is especially necessary as it does not appear that Dr. Mantz examined her around this period. Dr. Mantz suggested that appellant sustained a new injury due to working after the July 28, 2005 injury, but appellant has not filed a claim for a new injury or identified employment factors which might have caused such an injury.

On May 7, 2006 Dr. Mantz stated that, when he saw appellant on August 11, 2005, she complained of medical problems which were more "chronic" and "acute." He stated, "I believe some of these were related to the arm injury, but it was very difficult sort [sic] out how much of her neck and arm pain was related to the injury and how much was related to more chronic issues." This decision on causal relationship is equivocal in nature as Dr. Mantz indicated that he could not determine whether appellant's medical problems and claimed disability were due to the July 28, 2005 employment injury or to unidentified "chronic issues." He indicated that appellant's "contusion obviously caused much more soft tissue damage that was readily apparent at her visit," but he did not explain the medical process of such an injury or otherwise establish that appellant sustained a more severe injury than that accepted by the Office as employment related.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she had disability during the period August 15 to 20, 2005 due to her July 28, 2005 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' August 14 and April 7, 2006 decisions are affirmed.

Issued: December 20, 2006
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board