

In a March 7, 2001 report, Dr. Ludmila Sedlackova, a Board-certified family practitioner, indicated that she saw appellant on February 28, 2001. She listed right shoulder and wrist pain, referred appellant to an orthopedic surgeon and found that she was unable to lift anything for 10 days. In a disability certificate dated March 9, 2001, Dr. Charles W. Edelson, a Board-certified orthopedic surgeon, indicated that appellant had right hand and right shoulder carpal tunnel syndrome and was unable to return to work. Dr. Edelson referred appellant to Dr. David J. Dickoff, a Board-certified neurologist, for diagnostic tests. In an electromyogram (EMG) report dated June 29, 2001, Dr. Dickoff noted a normal electrophysiological study with no evidence of cervical motor radiculopathy or peripheral nerve entrapment such as carpal tunnel syndrome.

By decision dated July 28, 2001, the Office denied appellant's claim finding that she did not establish that her condition was causally related to her employment factors.

By letter dated August 9, 2001 appellant, through her attorney, requested an oral hearing before an Office hearing representative, which was held on February 26, 2002.

In an August 6, 2001 report, Dr. William L. King, a Board-certified orthopedic surgeon, noted appellant's history as including a motor vehicle accident in March 2000. He stated that appellant believed that this accident, combined with her activities at work, had aggravated her right upper extremity conditions. He listed his impression as clinical evidence of cervical radiculopathy and median neuropathy at the wrist despite negative studies. In follow-up notes dated September 5 and October 4, 2001, Dr. King stated that appellant continued to have symptoms. On January 7, 2002 Dr. King indicated that appellant continued to have pain, numbness, tingling and weakness of grip in the right upper extremity. He indicated that the motor vehicle accident in March 2000 precipitated appellant's cervical problems, but that her duties at the employing establishment exacerbated the preexisting problem. In a report dated March 4, 2002, Dr. King stated:

"Evaluating [appellant] does have clinical evidence of cervical radiculopathy and median neuropathy at the wrist. It is well known that despite negative EMG/[nerve conduction] studies 20 percent of patient's with negative studies may have neural pathology which I feel [appellant] has.

"While it may be that she had her initial problems with her neck following the accident in March of 2000, her occupation as a postal clerk and all the activities involved certainly aggravated her problems and also seem to have precipitated problems with her right hand. She has been unable to work since February 2001 and continues on physical examination to demonstrate cervical radiculopathy with neuropathy at the carpal tunnel of her right upper extremity. As a window clerk [appellant] should not have been involved in certain activities, which involved heavy lifting of packages and also opening a stiff window in a repetitive fashion. This aggravated both her neck and upper extremity.

"It is my impression that [appellant] has her symptoms exacerbated by her work as a postal clerk and causally related to these activities. I have indicated in the past that she should undergo pain modification and rehabilitation and it is also a

distinct possibility that she may require surgery for her carpal tunnel syndrome if her symptoms do not abate.”

By decision dated April 24, 2002, the hearing representative found that Dr. King’s opinion was sufficient to require further development of the medical evidence. The July 28, 2001 decision was set aside and the case remanded.

In a report dated April 10, 2002, Dr. King noted that appellant continued to have problems with her right upper extremity and was experiencing a similar sensation in the left upper extremity. He listed his impression as cervical radiculopathy and peripheral neuropathy.

By letter dated August 1, 2002, the Office referred appellant to Dr. Gary Korenman, a Board-certified neurologist, for a second opinion. In a report dated August 13, 2002, Dr. Korenman opined that there was no evidence of ongoing neurologic dysfunction in appellant. He reviewed the results of diagnostic testing of April 19, 2000, which was normal and listed negative Tinel’s sign and Phalen’s test. He stated that the cervical radiculopathy as noted from the automobile accident of May 2000 has largely resolved and that there was no evidence of ongoing carpal tunnel syndrome.

By decision dated September 11, 2002, the Office denied appellant’s claim based on the report of Dr. Korenman. Appellant requested an oral hearing which was held on July 28, 2003. In a decision dated November 24, 2003, the Office hearing representative found a conflict in medical opinion between Dr. King and Dr. Korenman. She remanded the case for referral to an impartial medical specialist to resolve the conflict as to whether appellant had carpal tunnel syndrome causally related to her employment.

On December 11, 2003 the Office referred appellant for an impartial medical examination to Dr. Chandra Sharma, a Board-certified neurologist. In a medical report dated December 22, 2003, Dr. Sharma diagnosed: (1) multiple subjective pains; and (2) normal neurological examination. She stated that based on the information provided appellant’s symptoms of pain were causally unrelated. Dr. Sharma stated: “They were preexisting and were aggravated by further job-related activities.” She opined that there was no neurological disability, but regarding any orthopedic problems, she would defer to the appropriate consultant. Dr. Sharma noted no neurological limitations to usual work and activities of daily living and no permanent neurological problems of a causally related nature. She indicated that there was no further need for neurological testing or treatment.

In a decision dated February 17, 2004, the Office denied appellant’s claim, finding that she had not established that her carpal tunnel condition was caused by factors of her employment.

On February 7, 2005 appellant, through her attorney, requested reconsideration. She submitted a report dated December 27, 2004, from Dr. King. Appellant continued to see him for cortisone injections of the carpal tunnel with minimal improvement. He noted that Phalen and Tinel’s signs continued to be positive. Dr. King noted that appellant had pain, numbness and tingling and weakness of the right upper extremity. He opined that appellant’s job was the competent cause in producing these symptoms.

By decision dated September 29, 2005, the Office denied modification of the February 17, 2004 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that the essential elements of his or 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 claim are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.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 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

ANALYSIS

The Board finds this case not in posture for decision. Dr. King, appellant's treating physician, stated that her nonemployment-related motor vehicle accident in March 2000 caused the initial problems with her neck; however, her occupation as a postal clerk aggravated her cervical radiculopathy and median neuropathy. He noted that, as a window clerk, appellant lifted heavy packages and opened a stiff window in a repetitive fashion, which exacerbated her symptoms. Dr. King noted positive Tinell and Phalen's signs. Dr. Korenman disagreed and indicated that there was no evidence of any ongoing neurologic dysfunction in appellant. He listed negative findings on physical examination and diagnostic testing. Accordingly, the Office referred appellant to Dr. Sharma for an impartial medical examination.

Dr. Sharma stated that appellant had a normal neurological examination and her symptoms were "causally unrelated." She then added: "They were preexisting and were aggravated by further job[-]related activities." The report of Dr. Sharma does not adequately address the issue of causal relationship as her statements on the matter are very brief and internally inconsistent. Her report is not sufficient to resolve the conflict. When the Office obtains an opinion from an impartial medical specialist for the purpose of resolving a conflict in the medical evidence and the specialist's opinion requires clarification or elaboration, the Office

¹ 5 U.S.C. § 8101 *et seq.*

² *Joe D. Cameron*, 41 ECAB 150 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Solomon Polen*, 51 ECAB 441 (2000); *see also Michael E. Smith*, 50 ECAB 265 (1999).

must secure a supplemental report to correct the defect in the original report.⁵ Accordingly, this case will be remanded to the Office for the purpose of asking Dr. Sharma to clarify her opinion on the issue of causal relationship. If Dr. Sharma is unwilling or unavailable to clarify her opinion, the case should be referred to another impartial medical specialist.⁶ After such development as it deems necessary, the Office should issue an appropriate decision.

CONCLUSION

The Board finds the case not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 29, 2005 is set aside and the case remanded to the Office for further action consistent with this decision of the Board, to be followed by an appropriate decision.

Issued: June 2, 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

⁵ *Nancy Keenan*, 56 ECAB ____ (Docket No. 05-949, issued August 18, 2005); *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.0810(11)(c)(1)-(2) (April 1993).

⁶ *Harold Travis*, 30 ECAB 1071, 1078 (1979).