United States Department of Labor
Employees' Compensation Appeals Board

DENNIS R. STARK, Appellant	)	
and	)	**Docket No. 05-1898**
	)	**Issued: March 3, 2006**
U.S. POSTAL SERVICE, POST OFFICE, Anderson, CA, Employer	)	

Appearances:
Dennis R. Stark, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On September 13, 2005 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated May 31, 2005 denying his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established that he sustained impingement syndrome of the left shoulder, a collapsed disc of his cervical spine and bilateral carpal tunnel syndrome causally related to factors of his federal employment.

FACTUAL HISTORY

On April 8, 2005 appellant, then a 55-year-old building maintenance custodian, filed an occupational disease claim alleging that he sustained impingement syndrome of the left shoulder, a collapsed disc in his cervical spine and bilateral carpel tunnel syndrome due to factors of his

federal employment. His supervisor noted on the claim form that appellant currently worked six hours per day because of restrictions due to a previous employment injury, plantar fasciitis.

In a statement accompanying his claim, appellant described the job duties to which he attributed his condition, including casing and carrying mail beginning in 1973, delivering mail on a mounted route, working as a router, and custodial duties beginning in 1990.

In an unsigned office visit note dated December 20, 2004, Dr. D. Brad Jones discussed appellant's complaints of pain in his lumbar spine radiating into his legs and a "burning and stabbing pain in both arms and pins and needles in his right fingers" with "numbness in his right hand and left thigh."[1] He noted that a magnetic resonance imaging (MRI) scan study of appellant's cervical spine revealed degenerative disc disease at C4-5 and C5-6 with neural foraminal narrowing at C5-6 on the left. Dr. Jones diagnosed spinal stenosis, cervicalgia and cervical spondylosis without myelopathy and recommended nerve blocks.

A physician's assistant, Daniel S. Mallamo, related in a report dated December 21, 2004 that an MRI scan study of appellant's left shoulder taken December 9, 2004 showed "a thickened supraspinatus and mild inflammation." He noted that appellant had experienced shoulder pain intermittently for over 15 years and that he had "been a mail carrier which required repetitive shoulder motion and to carry a 35 [pound] bag with mail." The physician's assistant diagnosed subacromial impingement syndrome and mild bilateral carpal tunnel syndrome.[2]

By letter dated April 26, 2005, the Office requested that appellant submit a comprehensive medical report from his attending physician addressing the cause of any diagnosed condition and its relationship to his employment.

In a letter dated April 15, 2005, appellant's supervisor disputed that he performed repetitive activities and noted that he had worked limited duty since October 2003 for six hours per day.

By decision dated May 31, 2005, the Office denied appellant's claim on the grounds that he did not establish a medical condition causally related to factors of his federal employment. The Office found that he established that the claimed events occurred as alleged but noted that his supervisor disputed his contention that he performed repetitive activities. The Office determined that the medical evidence was insufficient to establish a diagnosed condition due to the established work factors.

[1] Dr. Jones' credentials could not be ascertained.

[2] Appellant further submitted numerous unsigned therapy reports; however, reports from therapists are of no probative value as a therapist is not a physician under the Act. *See* 5 U.S.C. § 8101(2); *Peggy Ann Lightfoot*, 48 ECAB 490 (1997).

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[3] has the burden of establishing 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 filed within the applicable time limitation; that an injury was sustained while 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.[4] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[5]

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;[6] (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;[7] and (3) medical evidence establishing 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.[8]

The medical evidence required to establish causal relationship generally 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.[9] The opinion of the physician must be based on a complete factual and medical background of the claimant,[10] must be one of reasonable medical certainty[11] explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[12]

---

[3] 5 U.S.C. §§ 8101-8193.

[4] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[5] *See Irene St. John*, 50 EAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 4.

[6] *Solomon Polen*, 51 ECAB 341 (2000).

[7] *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

[8] *Ernest St. Pierre*, 51 ECAB 623 (2000).

[9] *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

[10] *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

[11] *John W. Montoya*, 54 ECAB 306 (2003).

[12] *Judy C. Rogers*, 54 ECAB 693 (2003).

ANALYSIS

Appellant attributed his impingement syndrome of the left shoulder, cervical condition and bilateral carpal tunnel syndrome to his work as a letter carrier and custodian from 1973 to the present. The Office accepted the occurrence of the claimed employment factors. The issue, therefore, is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified employment factors.

Appellant submitted an unsigned report dated December 20, 2004 from Dr. Jones, who discussed his complaints of pain in his lumbar spine, legs and arms and numbness of the right hand and left thigh. He diagnosed spinal stenosis, cervicalgia and cervical spondylosis without myelopathy and recommended nerve blocks. The Board has held, however, that unsigned medical reports are of no probative value.[13]

Appellant also submitted a report dated December 21, 2004 from a physician's assistant, who discussed his work history as a mail carrier and diagnosed subacromial impingement syndrome and mild bilateral carpal tunnel syndrome. The reports of a physician's assistant, however, are entitled to no weight as a physician's assistant is not a "physician" as defined by section 8101(2) of the Act.[14]

The Office advised appellant of the type of medical evidence required to establish his claim; however, he failed to submit such evidence. An award of compensation may not be based on surmise, conjectures, speculation of upon appellant's own belief that here is a causal relationship between his claimed condition and his employment.[15] To establish causal relationship, appellant must submit a physician's report in which the physician reviews those factors of employment identified by him as causing his condition and, taking these factors into consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his or her opinion.[16] Appellant failed to submit such evidence and therefore failed to discharge his burden of proof.

On appeal, appellant contends that Dr. Jones and another physician agreed that his neck, shoulder and wrist conditions were due to his employment. As discussed above, however, he has the burden to submit probative medical evidence in support of his claim.

CONCLUSION

The Board finds that appellant has not established that he sustained impingement syndrome of the left shoulder, a collapsed disc of his cervical spine and bilateral carpal tunnel syndrome causally related to factors of his federal employment.

---

[13] *Merton J. Sills*, 39 ECAB 572 (1988).

[14] *See* 5 U.S.C. § 8101(2); *Allen C. Hundley*, 53 ECAB 551 (2002).

[15] *Patricia J. Glenn*, 53 ECAB 159 (2001).

[16] *Robert Broome*, 55 ECAB ___ (Docket No. 04-93, issued February 23, 2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 31, 2005 is affirmed.

Issued: March 3, 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