

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

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**BRENDA M. BURTON, Appellant**

**and**

**DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE,  
Philadelphia, PA, Employer**

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**Docket No. 06-512  
Issued: May 5, 2006**

*Appearances:*  
*Brenda M. Burton, 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 December 28, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated October 6, 2005, finding that she failed to establish that she sustained an injury as alleged. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the issues in this case.

**ISSUE**

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty, causally related to factors of her federal employment.

**FACTUAL HISTORY**

On June 7, 2005 appellant, then a 52-year-old contact representative, filed an occupational disease claim alleging that she sustained pain in her right wrist, fingers and elbow while in the performance of duty. She first became aware of the injury and its relation to her work on May 16, 2005. Appellant did not stop work.

In support of her claim, appellant submitted a June 16, 2005 disability certificate from Dr. John S. Taras, a Board-certified orthopedic and hand surgeon. He diagnosed right de Quervain's tenosynovitis/intersection syndrome and estimated that appellant would need four to eight weeks of therapy. Appellant also submitted a June 28, 2005 statement in which she described her employment activities. Her duties as a tax examiner included extensive typing, reviewing returns, making corrections, and inputting comments regarding resolution of taxpayer problems.<sup>1</sup> Appellant also indicated that, in December 1995, her right hand was injured when the top part of the desk came down and injured her right wrist.<sup>2</sup> On April 15, 2005 she started experiencing sharp pain in her hands and she indicated that typing also caused pain. The statement was signed by Grove Colburn, appellant's manager, and he indicated that appellant's statement was consistent with his observations. Appellant also submitted a notification of personnel action and her personnel records.

By letters dated August 19, 2005, the Office advised appellant and the employing establishment that additional factual and medical evidence was needed. The Office explained that a physician's opinion was crucial to her claim and allotted her 30 days to submit the requested information. No additional evidence was forthcoming.

By decision dated October 6, 2005, the Office denied appellant's claim. The Office found that the evidence supported that the claimed work events occurred; however, she failed to submit adequate medical evidence in support of her claim. The Office noted that the only medical evidence submitted, contained a diagnosis; however, Dr. Taras did not explain how the diagnosis was causally connected to the alleged employment factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> 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 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.<sup>4</sup> 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.<sup>5</sup>

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

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<sup>1</sup> She also noted that her previous employment history included work as a claims development clerk, which included a lot of typing.

<sup>2</sup> Appellant indicated that this claim was denied as her paperwork was not properly submitted.

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

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. 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. 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.<sup>6</sup>

### ANALYSIS

The Office found that appellant had established that work-related events, such as typing occurred. However, appellant submitted insufficient medical evidence to establish that she sustained a right wrist condition that was caused or aggravated by the activities of her federal employment.

The only medical evidence submitted by appellant was a disability certificate from Dr. Taras. He merely provided a diagnosis and indicated that appellant would need physical therapy. The Board notes that this report does not address whether any factors of appellant's employment caused or contributed to her diagnosed condition. Consequently, the Board finds that this evidence is insufficient to establish appellant's claim.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>7</sup> Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>8</sup> Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no medical evidence explaining how appellant's employment duties caused or aggravated a wrist condition, appellant has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.

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<sup>6</sup> *Id.*

<sup>7</sup> *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>8</sup> *Id.*

**CONCLUSION**

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 6, 2005 is affirmed.

Issued: May 5, 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