

By letter dated May 5, 2006, the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. It asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition and an opinion as to whether her claimed condition was causally related to her federal employment. The Office requested that appellant submit the additional evidence within 30 days.

Appellant submitted a Form CA-17, dated May 4, 2006. The report diagnosed bilateral carpal tunnel syndrome and outlined work restrictions. In addition, the report was initialed by a physician whose initials were not legible.

By decision dated June 9, 2006, the Office denied appellant's claim, finding that appellant failed to submit medical evidence sufficient to establish that she sustained the claimed condition in the performance of duty.

On September 5, 2006 appellant requested an oral hearing.

By decision dated September 29, 2006, the Office denied appellant's request for an oral hearing. It stated that appellant's request was postmarked September 5, 2006, which was more than 30 days after the issuance of the Office's September 29, 2006 decision and that she was therefore not entitled to a hearing as a matter of right. The Office nonetheless considered the matter in relation to the issue involved and denied appellant's request on the grounds that the issue was factual and medical in nature and could be addressed through the reconsideration process by submitting additional evidence.

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 claimed 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

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

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 is usually rationalized medical 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.⁴

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.⁵

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁶ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

The Board finds that appellant has failed to submit any medical evidence containing a rationalized, probative report which relates her claimed bilateral carpal tunnel condition to factors of her employment. For this reason, she has not discharged her burden of proof to establish her claim that her bilateral carpal tunnel condition was sustained in the performance of duty.

The only medical document appellant submitted was the May 4, 2006 treatment note/form report, which indicated that appellant had bilateral carpal tunnel syndrome and outlined work restrictions, but did not relate this diagnosis to factors of employment. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁷ Although the May 4, 2006 report did present a diagnosis of appellant's condition, it did not indicate whether this condition was causally related to her employment and did not contain a legible signature from a physician. The report did not contain an opinion which sufficiently

⁴ *Id.*

⁵ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁶ *Id.*

⁷ *See Anna C. Leanza*, 48 ECAB 115 (1996).

described the medical process through which appellant's employment would have been competent to cause the claimed bilateral carpal tunnel condition. Appellant therefore failed to provide a rationalized, probative medical opinion relating her current condition to any factors of her employment.

The Office advised appellant of the evidence required to establish her claim; however, appellant failed to submit such evidence. The Office advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Consequently, she has not met her burden of proof in establishing that her claimed bilateral carpal tunnel condition was causally related to her employment. The Board therefore affirms the Office's June 9, 2006 decision.

LEGAL PRECEDENT -- ISSUE 2

Section 8124(b)(1) of the Act provides that a claimant is entitled to a hearing before an Office representative when a request is made within 30 days after issuance of an Office's final decision.⁸ A claimant is not entitled to a hearing if the request is not made within 30 days of the date of issuance of the decision as determined by the postmark of the request.⁹ The Office has discretion, however, to grant or deny a request that is made after this 30-day period.¹⁰ In such a case, the Office will determine whether a discretionary hearing should be granted or, if not, will so advise the claimant with reasons.¹¹

ANALYSIS -- ISSUE 2

In the present case, because appellant's September 5, 2006 request for a hearing was postmarked more than 30 days after the Office's June 9, 2006 decision denying compensation for a claimed bilateral carpal tunnel condition, she is not entitled to a hearing as a matter of right. The Office considered whether to grant a discretionary hearing and correctly advised appellant that she could pursue her claim through the reconsideration process. As appellant may address the issue in this case by submitting to the Office new and relevant evidence with a request for reconsideration, the Board finds that the Office properly exercised its discretion in denying appellant's request for a hearing. The Board therefore affirms the Office's September 29, 2006 decision denying appellant an oral hearing by an Office hearing representative.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof in establishing that her claimed bilateral carpal tunnel condition was sustained in the performance of duty. The

⁸ 5 U.S.C. § 8124(b)(1).

⁹ 20 C.F.R. § 10.131(a)(b).

¹⁰ *William E. Seare*, 47 ECAB 663 (1996).

¹¹ *Id.*

Board finds that the Office properly denied appellant's request for an oral hearing before an Office hearing representative.¹²

ORDER

IT IS HEREBY ORDERED THAT the September 29 and June 9, 2006 decisions of the Office of Workers' Compensation Programs' be affirmed.

Issued: April 23, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

¹² On appeal, appellant has submitted new evidence. However, the Board cannot consider new evidence that was not before the Office at the time of the final decision. *See Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35 (1952); 20 C.F.R. § 501(c)(1). Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 501(c).