

United States Department of Labor
Employees' Compensation Appeals Board

F.B., Appellant)

and)

DEPARTMENT OF VETERANS AFFAIRS,)
NORTH FLORIDA/SOUTH GEORGIA)
VETERANS HEALTH SYSTEM,)
Gainesville, FL, Employer)

Docket No. 07-502

Issued: August 6, 2007

Appearances:

Ronald W. Webster, Esq., for the appellant

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

DAVID S. GERSON, Judge

JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 13, 2006 appellant, through her attorney, filed a timely appeal of the Office of Workers' Compensation Programs' merit decisions dated January 17 and November 3, 2006 finding that she had not established an injury causally related to her federal employment. 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 met her burden of proof in establishing that she sustained a wrist condition on May 28, 2005.

FACTUAL HISTORY

On May 29, 2005 appellant, then a 47-year-old nurse, filed a traumatic injury claim alleging that on May 28, 2005 she injured her right hand due to “repositioning patient constantly per MD request due to tube feeds.”

In a report dated July 7, 2005, Dr. Lewis J. Radonovich, a Board-certified internist, diagnosed a job-related injury to appellant’s right wrist occurring on May 28, 2005. Appellant submitted a note from Dr. Radonovich dated August 16, 2005 describing appellant’s condition as mild intermittent pain in the right dorsal wrist. Dr. Radonovich stated that appellant had right wrist pain following an on-the-job injury of unclear etiology. Appellant underwent a magnetic resonance imaging (MRI) scan on June 8, 2005 which demonstrated mild superficial edema within the superficial subcutaneous tissues overlying the dorsal fourth metacarpal region not associated with any underlying bony or ligamentous injury.

Dr. Roger D. Powell, a physician, examined appellant on August 31, 2005. He noted appellant’s history of employment injury on May 28, 2005 and found moderate to marked tenderness on the ulnar dorsal aspect of the right wrist. Dr. Powell recommended an arthrogram of appellant’s right wrist.

In a letter dated October 6, 2005, the Office requested additional medical evidence including a diagnosis of appellant’s condition. On October 24, 2005 Dr. Powell found that appellant’s arthrogram revealed a triangular fibrocartilage tear, stretching of the scapholunate ligament and marrow edema in the ulnar aspect of the lunate showing probably ulnar impaction syndrome. He diagnosed right ulnar impaction due to ulnar plus deformity and VISI deformity of the right wrist secondary to ligament injury. Dr. Powell stated:

“While the ulnar impaction may have been worsened with her injury, it is not directly caused by her work-related injury as she has concomitant findings of a very similar nature on her contralateral wrist. On the other hand, she does not demonstrate a VISI deformity on the uninjured wrist as she does on the injured wrist and I think the ligament injury in the wrist is due to her work injury.”

He recommended a four-corner fusion to treat the work-related injury as well as additional treatment for her ulnar condition.

By decision dated November 28, 2005, the Office denied appellant’s claim finding that she had not submitted sufficient evidence to establish that a diagnosed condition resulted from her accepted employment event.

On November 14, 2005 Dr. Powell diagnosed lunotriquetral tear of the right wrist and ulnar impaction. He noted that he had difficulty determining whether both injuries were work related.

On December 1, 2005 appellant’s attorney requested reconsideration and referred to Dr. Powell’s October 24, 2005 report.

By decision dated January 17, 2006, the Office found that appellant had requested reconsideration on December 1, 2005. The Office modified its prior decision to find that appellant had not established a causal relationship between her bilateral wrist conditions and her employment. The Office found that Dr. Powell's October 28, 2005 report was not sufficiently rationalized to establish a causal relationship between her diagnosed condition and her employment injury.

Appellant, through her attorney, requested reconsideration on March 29, 2006. In support of this request, she submitted a report dated March 13, 2006 from Dr. Powell who opined that appellant had a ligament injury to her right wrist that was acute and work related. Dr. Powell stated that in comparing appellant's films he could ascertain that appellant did have a preexisting problem, but that she also had significant changes in ligament stability in the injured wrist. He based this on a comparison between appellant's right and left wrists. Dr. Powell opined that appellant's ligament injury was work related.

By decision dated June 20, 2006,¹ the Office reviewed appellant's claim on the merits and denied modification of its prior decision. The Office found that the medical evidence in the record was not sufficient to establish a causal relationship between a secure diagnosed condition and appellant's implicated employment duties of May 28, 2005. This decision was not in the record at the time of appellant's initial appeal to the Board. By decision dated October 31, 2006, the Board remanded appellant's claim to the Office for reassemblage of the record and an appropriate decision.

In a decision dated November 3, 2006, the Office found that appellant had not submitted sufficient medical evidence to establish a causal relationship between her accepted employment activities on May 28, 2005 and her right wrist condition.

LEGAL PRECEDENT

In order to determine whether an employee sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury. Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.² As part of an employee's burden of proof, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, establishing causal relation. The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.³ The opinion of the physician must be one of reasonable

¹ Docket No. 06-1740 (issued October 31, 2006).

² *Steven S. Saleh*, 55 ECAB 169 (2003).

³ *James Mack*, 43 ECAB 321, 328-29 (1991).

medical certainty and must be supported by medical reasoning explaining the nature of the relationship between the diagnosed condition and the employment.⁴

ANALYSIS

Appellant attributed her right wrist condition to her employment duties on May 28, 2005 which included repeatedly moving a patient for tube feedings. The Office accepted this aspect of appellant's claim. However, the Office found that appellant had not submitted sufficient detailed medical evidence to establish that her diagnosed right wrist condition of lunotriquetral tear of the right wrist was causally related to her accepted employment activity.

In support of her claim, appellant submitted several reports from Dr. Powell, who based his diagnosis on an arthrogram which demonstrated right ulnar impaction due to ulnar plus deformity and VISI deformity of the right wrist secondary to ligament injury. Dr. Powell opined that appellant's right ulnar impaction was preexisting as she demonstrated a similar finding on her nonsymptomatic left wrist. He stated, "On the other hand, she does not demonstrate a VISI deformity on the uninjured wrist as she does on the injured wrist, and I think the ligament injury in the wrist is due to her work injury." In a report dated March 13, 2006, Dr. Powell opined that appellant had a ligament injury to her right wrist that was acute and work related. He stated that in comparing appellant's films he could ascertain that she did have a preexisting problem, but that she also had significant changes in ligament stability in the injured wrist. Dr. Powell based this on a comparison between appellant's right and left wrists. He opined that appellant's ligament injury was work related.

Dr. Powell provided a clear diagnosis and an opinion that appellant's lunotriquetral tear of the right wrist was causally related to her accepted employment event. However, his reports do not provide sufficient medical rationale to explain how appellant's employment activities of repeatedly turning a patient on May 28, 2005 would have resulted in this condition. The only basis offered by Dr. Powell for his opinion that appellant's right wrist ligament condition is related to her employment injury is that she does not have a similar finding on her nonsymptomatic left wrist. As noted by the Office, this variation between appellant's wrists does not establish that appellant's right wrist condition was due to her employment event. In order to establish her claim, appellant must provide a report with medical rationale including a clear explanation of the relationship between appellant's diagnosed condition and her employment event on May 28, 2005.

CONCLUSION

The Board finds that appellant has not submitted the necessary rationalized medical opinion evidence to establish a causal relationship between her diagnosed condition and her accepted employment event on May 28, 2005. The Office, therefore, properly denied her claim.

⁴ *Leslie C. Moore*, 52 ECAB 132, 134 (2000).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated November 3 and January 17, 2006 are affirmed.

Issued: August 6, 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