

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

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**P.C., Appellant**

**and**

**DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE,  
Covington, KY, Employer**

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**Docket No. 07-990  
Issued: August 8, 2007**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
DAVID S. GERSON, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On March 1, 2007 appellant filed a timely appeal from the November 29, 2006 merit decision of the Office of Workers’ Compensation Programs, which denied her claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of her claim. The Board also has jurisdiction to review the Office’s February 8, 2007 nonmerit decision denying reconsideration.

**ISSUES**

The issues are: (1) whether appellant sustained a carpal tunnel injury in the performance of duty; and (2) whether the Office properly denied her December 20, 2006 application for reconsideration.

**FACTUAL HISTORY**

On September 6, 2006 appellant, then a 41-year-old tax analyst, filed a claim alleging that her carpal tunnel syndrome was a result of her federal employment: “After the repetitive keyboard entry in inputting data into the computer led to pain in both hands and weakness the

more keyboard entry I input the worse my hands felt and over the years continuing keyboard work has added more pain and weakness.”

The Office asked appellant to submit additional information to support her claim, including a comprehensive report from her physician providing, among other things, the physician’s opinion, with medical reasons, on the cause of her condition: “Specifically, if your doctor feels that work activities in your federal employment caused your condition, an explanation of how your job activities caused your condition should be provided.”

On May 28, 2002 Dr. Robert J. Hellmann, an internist, noted appellant’s complaints of intermittent tingling in both hands. “[Appellant] states working on computers will seem to trigger.” Dr. Hellmann suspected mild carpal tunnel syndrome. An August 30, 2006 Dr. T. Greg Sommerkamp, a hand surgeon, noted a 12-year history of bilateral whole hand pain and paresthesias, right greater than left. Appellant complained of increased symptomatology with holding a steering wheel, newspaper, keyboard and the like. Dr. Sommerkamp diagnosed bilateral carpal tunnel syndrome. The Office received appellant’s official position description.

In a November 29, 2006 decision, the Office denied appellant’s claim for compensation benefits. The Office found that the evidence failed to establish that the claimed medical condition was related to the established work-related events.

In a letter postmarked December 20, 2006, appellant requested reconsideration. She stated that she asked Dr. Sommerkamp’s office for the statement of explanation the Office had requested and was told that the Office should contact the doctor’s office for a medical narrative. The Office provided Dr. Sommerkamp with a copy of its development letter but advised appellant that it was her responsibility to provide the documentation requested.

In a February 8, 2007 decision, the Office denied appellant’s application for reconsideration. The Office noted that it had received no additional information to support a causal relationship between appellant’s carpal tunnel syndrome and her federal employment.

### **LEGAL PRECEDENT -- ISSUE 1**

The Federal Employees’ Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>1</sup> An employee seeking compensation under the Act has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8102(a).

<sup>2</sup> See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

Causal relationship is a medical issue<sup>3</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>4</sup> must be one of reasonable medical certainty<sup>5</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>6</sup>

### **ANALYSIS -- ISSUE 1**

The Office does not dispute that appellant used a keyboard at work for data input. The Office does not dispute that she performed repetitive motions in the course of her employment as a tax analyst. Appellant has met her burden to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. The question that remains is whether this particular employment activity caused or aggravated her bilateral carpal tunnel syndrome.

The medical evidence appellant submitted does not support her claim. Dr. Hellmann, the internist, and Dr. Sommerkamp, the hand surgeon, both supported a diagnosis of carpal tunnel syndrome, but neither offered an opinion connecting this diagnosis to repetitive motion at work and explaining how data input on a keyboard caused or aggravated her condition. This explanation is crucial to appellant's claim. Without it, she has not established that she sustained an injury in the performance of duty. The Board will affirm the Office decision denying compensation benefits.

### **LEGAL PRECEDENT -- ISSUE 2**

The Office may review an award for or against payment of compensation at any time upon application of the employee.<sup>7</sup> The employee shall exercise this right through a request to the district Office. The request, along with the supporting statements and evidence, is called the "application for reconsideration."<sup>8</sup>

An employee (or representative) seeking reconsideration should send the application for reconsideration to the address as instructed by the Office in the final decision. The application for reconsideration, including all supporting documents, must be in writing and must set forth arguments and contain evidence that either: (1) shows that the Office erroneously applied or

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<sup>3</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>4</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>5</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>6</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>7</sup> 5 U.S.C. § 8128(a).

<sup>8</sup> 20 C.F.R. § 10.605 (1999).

interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.<sup>9</sup>

An application for reconsideration must be sent within one year of the date of the Office decision for which review is sought.<sup>10</sup> A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, the Office will deny the application for reconsideration without reopening the case for a review on the merits.<sup>11</sup>

### **ANALYSIS -- ISSUE 2**

Appellant's December 20, 2006 application for reconsideration is timely, but it meets none of the standards for obtaining a merit review of her case. She submitted no additional evidence to support her claim. Appellant simply explained her communication with Dr. Sommerkamp's office. The Office forwarded its request for information to Dr. Sommerkamp but received nothing in return. Because appellant failed to support her application for reconsideration with new and relevant evidence or argument, the Office properly denied her request. The Board will affirm the Office decision denying reconsideration. Appellant is not entitled to a reopening of her case.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish that she sustained a carpal tunnel injury in the performance of duty. The Board also finds that the Office properly denied her December 20, 2006 application for reconsideration.

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<sup>9</sup> *Id.* § 10.606.

<sup>10</sup> *Id.* § 10.607(a).

<sup>11</sup> *Id.* § 10.608.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 8, 2007 and November 29, 2006 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: August 8, 2007  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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