



The case was remanded to the Office to resolve the conflict. The history of the case is contained in the Board's prior decision and is incorporated herein by reference.

On remand, the Office selected Dr. William Head, a Board-certified neurologist, to provide a referee examination.<sup>2</sup> In a report dated January 11, 2006, Dr. Head provided a detailed history and results on examination. He noted an essentially normal neurological examination with no objective evidence of any neurological condition or disability. Dr. Head opined in pertinent part, "There is no current clinical evidence of carpal tunnel syndrome being present. In view of her reportedly normal upper extremity EMG [electromyogram] tests, the weight of the evidence indicates carpal tunnel syndrome has never been present." The referee examiner stated that appellant was able to perform her regular duties and had been able to perform her regular duties since April 1997.

By decision dated February 3, 2006, the Office denied the claim for compensation. The Office found the weight of the evidence was represented by Dr. Head.

Appellant requested a hearing before an Office hearing representative, which was held on June 19, 2006. She submitted an undated report from her attending physician, Dr. Michael Pecoraro, a surgeon, who indicated that he disagreed with Dr. Head and reiterated his opinion that appellant had carpal tunnel syndrome.

By decision dated July 31, 2006, the Office hearing representative affirmed the February 3, 2006 decision. The hearing representative found the weight of the evidence rested with Dr. Head.

### **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 that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup>

It is well established that when a case is referred to a referee examiner for the purpose of resolving a conflict under 5 U.S.C. § 8123(a), the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background, must be given special weight.<sup>5</sup>

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<sup>2</sup> The record contains a number of computer screen entries indicating that specific physicians were bypassed as the phone number provided did not correspond to the identified physician.

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *Harrison Combs, Jr.*, 45 ECAB 716, 727 (1994).

## ANALYSIS

The Board remanded the case for referral to a referee examiner to resolve the conflict in the medical evidence. The initial question presented was whether the diagnosis of carpal tunnel syndrome was established. If the diagnosis was established, then the referee examiner should give an opinion as to whether the condition was employment related. In this case, Dr. Head, the neurologist selected as a referee examiner, opined that the diagnosis of carpal tunnel syndrome was not established. Dr. Head provided a detailed history and he explained his opinion by noting the negative results on EMG testing and the lack of clinical findings. He provided an unequivocal and rationalized opinion that appellant currently did not have carpal tunnel syndrome and based on the evidence she never had carpal tunnel syndrome.

As noted above, the rationalized opinion of a referee examiner that is based on a complete background is entitled to special weight. The Board finds that the opinion of Dr. Head represents the weight of the medical evidence.

The Board notes that in a letter dated July 19, 2006 appellant's representative argued that the process of selecting Dr. Head was improper based on the computer screens showing that a number of physicians were bypassed. There is, however, no probative evidence of error in the selection process.<sup>6</sup> The computer screen information indicated only that there were problems contacting physicians whose names appeared in the medical directory and, therefore, the physician was bypassed.

Appellant also raised an argument that Dr. Head was not provided a complete factual background in the statement of accepted facts. The report of Dr. Head, however, provided a complete background and discussed appellant's relevant factual and medical history. There is no evidence that Dr. Head based his opinion on an incomplete or inaccurate background.

For the above reasons, the Board finds that Dr. Head properly resolved the conflict in the medical evidence. Based on the weight of the evidence, the Office properly concluded that appellant had not established her claim.

## CONCLUSION

The weight of the medical evidence does not establish that appellant sustained carpal tunnel syndrome causally related to her federal employment.

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<sup>6</sup> Under Office procedures, referee examiners are chosen by a strict rotational system using appropriate medical directories. Federal (FECA) Procedure Manual, Part 3 -- Medical, *Medical Examinations*, Chapter 3.500.4 (May 2003).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated July 31 and February 3, 2006 are affirmed.

Issued: July 3, 2007  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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