

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

C.P., Appellant)

and)

**DEPARTMENT OF THE ARMY, ABERDEEN)
PROVING GROUNDS, Aberdeen, MD,)
Employer)**

**Docket No. 07-836
Issued: July 20, 2007**

Appearances:
Appellant, 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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 5, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated November 15, 2006. 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 his burden of proof to establish an arm injury causally related to his federal employment.

FACTUAL HISTORY

On October 22, 1997 appellant, then a 53-year-old contract specialist, filed an occupational claim (Form CA-2) alleging that he sustained thoracic outlet syndrome and cubital tunnel syndrome as a result of his federal employment. In a narrative statement, he identified the typing of documents such as delivery orders and requests for proposals as the cause of his condition. Appellant indicated that the typing primarily occurred from 1992 to 1996, as he received voice recognition software in 1996.

In a report dated March 4, 1996, Dr. A. Lee Dellon, a surgeon, stated that his review of prior treatment notes indicated that appellant had problems in the left median, ulnar and radial nerves “attributable to work.” He reported that the examination was consistent with ulnar nerve compression at the elbow, radial nerve compression in the forearm and median nerve compression in the wrist and forearm.

By decision dated February 4, 1999, the Office denied the claim for compensation. The Office found that the medical evidence was insufficient to establish the claim.

Appellant requested reconsideration and submitted a July 6, 1999 report from Dr. Nelson Hendler, a psychiatrist and specialist in chronic pain, who stated that he agreed with Dr. Dellon that appellant had a brachial plexus problem. Dr. Hendler stated that medical literature noted repetitive trauma disorders and in certain susceptible individuals the use of arms for computer activity triggers carpal tunnel syndrome, ulnar nerve compression or brachial plexopathy. He stated that appellant developed symptoms and the only causative agent was repetitive motion. Dr. Hendler concluded that “the nerve entrapment syndromes that you experienced were causally related to your work.”

In a decision dated November 17, 2000, the Office reviewed the case on its merits and denied modification. Appellant submitted additional medical evidence indicating that he underwent surgery in April 2000 for thoracic outlet syndrome of the left arm. By decision dated August 12, 2002, the Office determined that appellant’s application for reconsideration was untimely and failed to show clear evidence of error.

Appellant continued to submit medical evidence regarding his claim. In an October 20, 2001 report, Dr. Michele Cerino, a surgeon, indicated that appellant also had right arm surgery in December 2000 with respect to thoracic outlet syndrome. She provided results on examination and stated that appellant should return to work at two days per week. Dr. Cerino stated, “His injuries are the result of repetitive use of his computer.”

Appellant also submitted an October 18, 1995 report from Dr. Hendler, who stated that appellant had complaints of pain in both shoulders, radiating into the hands and neck, with weakness and numbness. Dr. Hendler stated that appellant’s history began in 1979 when he used a chain saw frequently while working for a lumber company. He also noted that appellant worked as a contract specialist and “used his computer a lot.” Dr. Hendler diagnosed thoracic outlet syndrome, supraspinatus tendinitis, acromioclavicular joint impingement, rule out arthritis and C5-6 disc.

On appeal to the Board with respect to the August 12, 2002 decision, an order dated March 15, 2004 was issued granting the Director’s motion to remand the case for further development.¹ By decision dated September 20, 2005, the Office reviewed the case on its merits and denied modification. The Office found that the medical evidence was not sufficient to establish the claim.

¹ Docket No. 03-117 (issued March 15, 2004).

On October 12, 2005 appellant requested an oral hearing before an Office hearing representative. The hearing was held on August 28, 2006. By decision dated November 15, 2006, the hearing representative affirmed the September 20, 2005 decision.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty, a claimant must submit: a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition, medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed and medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁶ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁷

ANALYSIS

The Office does not contest that appellant engaged in typing of documents during his federal employment. Appellant's statement indicated that he did a significant amount of typing from 1992 to 1996 as a contract specialist. The issue is whether there is medical evidence with a rationalized medical opinion on the issue of causal relationship between the identified employment factor and a diagnosed condition.

² 5 U.S.C. §§ 8101-8193.

³ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁵ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

Dr. Dellon stated briefly in his March 4, 1996 report that appellant had arm problems attributable to work, without providing further explanation. Dr. Cerino, who performed surgery in April and December 2000, stated that appellant's injuries were the result of repetitive use of the computer. She did not provide any additional explanation or medical rationale in support of her opinion.

In his July 6, 1999 report, Dr. Hendler stated that medical literature referred to repetitive trauma disorders and in certain individuals continued use of arms for computer activity triggers carpal tunnel syndrome, ulnar nerve compression or brachial plexopathy. The issue, however, is whether in this particular case a diagnosed condition was causally related to the identified employment factor. As noted above, an opinion must be based on a complete factual and medical background. Dr. Hendler did not discuss appellant's work history or show familiarity with the specific nature and duration of the identified typing activity. Moreover, he had previously noted in his October 18, 1995 report that a history of that included frequent use of chain saw, which he appeared to believe contributed to appellant's arm problems. Dr. Hendler did not provide a complete factual background in his July 6, 1999 report. With respect to the medical background, he noted a 1997 report from Dr. Dellon, without discussing the detailed medical history in this case. Dr. Hendler referred generally to nerve entrapment syndromes, without identifying the specific diagnosed condition or conditions that he believed were causally related to typing in his federal employment.

Dr. Hendler did not provide a rationalized medical opinion based on a complete factual and medical background. It is appellant's burden of proof to establish the claim, and the Board finds that appellant did not meet his burden of proof in this case.

CONCLUSION

The medical evidence is not sufficient to establish a diagnosed arm condition causally related to typing in his federal employment from 1992 to 1996.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 15, 2006 is affirmed.

Issued: July 20, 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