

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

N.R., Appellant)

and)

U.S. POSTAL SERVICE, BRICK POST)
OFFICE, Brick, NJ, Employer)

**Docket No. 08-1231
Issued: October 17, 2008**

Appearances:
Thomas R. Uliase, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 20, 2008 appellant, through counsel, filed a timely appeal of the April 6 and October 22, 2007 merit decisions of the Office of Workers' Compensation Programs terminating her medical benefits effective April 4, 2007 and finding that she failed to establish continuing employment-related residuals or that she sustained bilateral shoulder and carpal tunnel syndrome conditions, spinal stenosis and disc bulge while in the performance of duty. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this appeal.

ISSUES

The issues are: (1) whether the Office properly terminated appellant's medical benefits effective April 4, 2007 on the grounds that she no longer had any residuals causally related to her accepted employment-related injury; (2) whether she had any continuing employment-related residuals after April 4, 2007; and (3) whether appellant sustained bilateral shoulder and carpal tunnel syndrome conditions, spinal stenosis and disc bulge while in the performance of duty.

FACTUAL HISTORY

On January 2, 2006 appellant, then a 47-year-old letter carrier, filed a claim for an occupational disease. On February 23, 2005 she first became aware of a torn tendon in the right and left shoulder, spinal stenosis, carpal tunnel syndrome and disc bulge. On May 9, 2005 appellant first realized that these conditions were caused by her federal employment. She stopped work on May 1, 2005.

By letter dated May 26, 2006, the Office accepted the claim for cervical vertebral subluxation at C5-6.

By letter dated December 18, 2006, the Office referred appellant, together with the case record, a statement of accepted facts and a list of questions to be addressed, to Dr. Irving D. Strouse, a Board-certified orthopedic surgeon, for a second opinion medical examination.

In a January 15 2007 medical report, Dr. Strouse reviewed a history of appellant's conditions, including her accepted cervical condition and medical treatment. On physical examination, he reported his range of motion measurements for the cervical spine and both shoulders. Dr. Strouse otherwise provided essentially normal findings which included, full range of motion of the elbows, wrists and hands, and normal reflexes of the lower extremities. He stated that appellant sustained cervical degenerative disc disease, tendinitis in the right and left shoulders and mild bilateral carpal tunnel syndrome. Dr. Strouse indicated that she was status post cervical fusion. He opined that none of the diagnosed conditions were causally related to appellant's duties as a letter carrier. Dr. Strouse stated that her cervical degenerative disc disease occurred slowly over the years. He stated that her tendinitis could have been aggravated by her employment but it appeared to have resolved as he found no evidence of any active condition in either shoulder. Dr. Strouse related that his examination findings were negative for any signs of residual tendinitis, inflammation or rotator cuff tear. He stated that there was no need for any treatment of either shoulder. Appellant's carpal tunnel syndrome also did not require any treatment. Dr. Strouse found that there was no evidence that she dislocated her cervical spine as a May 19, 2005 magnetic resonance imaging (MRI) scan did not mention any type of cervical dislocation. Dr. Strouse opined that appellant did not have any current disability related to a dislocated cervical vertebra. He stated that she was unable to perform her regular letter carrier work duties which required her to lift up to 70 pounds. Dr. Strouse stated that she could work full time with restrictions which included lifting no more than 20 pounds. He stated that the restriction was related to her cervical fusion which was due to her nonwork-related degenerative cervical condition.

By letter dated February 26, 2007, the Office issued a notice of proposed termination of medical benefits based on Dr. Strouse's January 15, 2007 medical opinion. It provided 30 days in which appellant could respond.

By letter dated February 21, 2007, appellant, through her attorney, requested that the Office accept a bilateral shoulder condition. She submitted a January 26, 2007 report of Dr. Steven B. Cohen, an attending Board-certified anesthesiologist and pain specialist, who stated that her bilateral periscapular pain was work related.

In a February 27, 2007 letter, the Office requested that Dr. Cohen provide a rationalized medical report explaining how appellant's bilateral shoulder condition was caused or aggravated by her employment.

The Office received a May 31, 2006 report of Dr. D. Greg Anderson, a Board-certified orthopedic surgeon, who reviewed a history of appellant's hand, neck, shoulder and arm symptoms and her medical treatment. Dr. Anderson conducted a physical examination and reviewed the results of imaging studies. He stated that appellant sustained congenital spinal stenosis with severe cord compression at C4-5, moderately severe cord compression at C5-6 and loss of lordosis and mild frank kyphosis in the mid-cervical region.

In a December 8, 2006 report, Dr. Cohen reviewed a history of appellant's bilateral shoulder and cervical problems beginning in February 2005. He reported essentially normal findings on physical examination with the exception of decreased range of motion of the neck secondary to surgery which was performed in June 2006. Dr. Cohen stated that a May 2005 MRI scan of the shoulder demonstrated rotator cuff tendinitis and possibly a partial tear on the left side. He diagnosed appellant as having bilateral shoulder pain secondary to periscapular pain that was less likely impingement.

By letter dated March 26, 2007, appellant, through counsel, disagreed with the Office's proposed termination action contending that Dr. Strouse's January 15, 2007 report was insufficient to establish that she no longer had any employment-related residuals. He also contended that her bilateral shoulder and carpal tunnel syndrome conditions were caused or aggravated by her work duties as a letter carrier.

In a decision dated April 6, 2007, the Office terminated appellant's medical benefits with regard to her accepted cervical condition effective April 4, 2007. It also denied her claim for bilateral shoulder and carpal tunnel syndrome conditions and spinal stenosis. The Office found that appellant did not submit sufficient evidence to establish that her work caused her claimed medical conditions.

By letter dated April 17, 2007, appellant, through counsel, requested an oral hearing before an Office hearing representative. She submitted Dr. Cohen's August 2, 2007 addendum to his June 22, 2007 report. Dr. Cohen stated that appellant's conditions were not just a result of carrying a mail sack but by her duties as a mail carrier, especially repetitive motion of the shoulder. He stated that appellant had bilateral periscapular pain and impingement-type pain in the right shoulder greater than the left. Dr. Cohen stated that it was difficult to discern whether this was a result of carrying a mail sack over a long period of time. A July 20, 2007 MRI scan of appellant's right shoulder performed by Dr. Lawrence N. Tanenbaum, a Board-certified radiologist, demonstrated impingement. Dr. Tanenbaum found no evidence of a rotator cuff or labral tear.

At the August 8, 2007 hearing, appellant testified about her work duties as a letter carrier. She stated that she cased mail, which involved carrying trays containing thousands of pieces of mail that she put into individual slots on four shelves three to four hours in the morning. This task required bending, reaching above her shoulders and lifting trays that weighed about 40 pounds. After casing the mail, she had to load it into a hamper and roll it out to the parking lot

and load it into her truck. Appellant stated that she made about 350 deliveries per day. Depending on her route, she was required to take bundles of mail in her arm and walk from house to house and up stairs or drive from house to house which involved twisting to get the tray of mail and to get out of the truck.

By decision dated October 22, 2007, the hearing representative affirmed the April 6, 2007 decision. She found the evidence submitted by appellant insufficient to outweigh Dr. Strouse's January 15, 2007 medical opinion or to establish that her bilateral shoulder and carpal tunnel syndrome conditions and spinal stenosis were causally related to her federal employment.

LEGAL PRECEDENT -- ISSUE 1

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, the Office must establish that the employee no longer has residuals of an employment-related condition, which require further medical treatment.¹

ANALYSIS -- ISSUE 1

The Board finds that the Office met its burden of proof to terminate appellant's medical benefits based on the opinion of Dr. Strouse, an Office referral physician, who reviewed a history of appellant's employment-related cervical vertebral subluxation at C5-6. Dr. Strouse reported essentially normal physical examination findings and stated that she sustained cervical degenerative disc disease, tendinitis in the right and left shoulders and mild bilateral carpal tunnel syndrome. He opined that these conditions were not work related. Dr. Strouse explained that the cervical degenerative disc disease occurred slowly over the years. He stated that her tendinitis could have been aggravated by appellant's employment but had resolved as he found no evidence of any active condition in either shoulder. Dr. Strouse found no objective findings of residual tendinitis, inflammation or rotator cuff tear. He stated that no treatment was necessary for either appellant's shoulders or carpal tunnel syndrome. Dr. Strouse related that there was no evidence that she dislocated her cervical spine as a May 19, 2005 MRI scan did not mention any type of cervical dislocation. He opined that appellant did not have any current disability related to a dislocated cervical vertebra. Dr. Strouse stated that, although she could not perform her regular work duties as a letter carrier, she could work full time with restrictions which included lifting no more than 20 pounds. He stated that this restriction was related to appellant's cervical fusion which was due to her nonwork-related degenerative cervical condition.

The weight of the 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.² Dr. Strouse fully discussed the history of injury and explained that there were no objective findings to establish that appellant had any residuals due to her

¹ *T.P.*, 58 ECAB ___ (Docket No. 07-60, issued May 10, 2007); *John F. Glynn*, 53 ECAB 562 (2002).

² *See Ann C. Leanza*, 48 ECAB 115 (1996).

accepted cervical vertebral subluxation at C5-6. For this reason, his report constitutes the weight of the medical opinion evidence.

Dr. Cohen's December 8, 2006 and January 26, 2007 reports stated that appellant sustained bilateral periscapular pain. He opined that the diagnosed condition was work related. A physician's mere diagnosis of pain, without more by way of an explanation, does not constitute a basis for payment of compensation.³ Dr. Cohen did not provide any medical rationale explaining how or why appellant's conditions were caused by her accepted employment-related injury.⁴ The Board finds that his reports are insufficient to overcome the weight accorded to Dr. Strouse's medical opinion.

Dr. Anderson's May 31, 2006 report stated that appellant sustained congenital spinal stenosis with severe cord compression at C4-5, moderately severe cord compression at C5-6 and loss of lordosis and mild frank kyphosis in the mid-cervical region based on his essentially normal findings on physical examination and review of diagnostic test results. Dr. Anderson did not address the causal relationship between the diagnosed conditions and appellant's accepted employment injury. The Board finds that his report is insufficient to overcome the weight accorded to Dr. Strouse's medical opinion.

LEGAL PRECEDENT -- ISSUE 2

As the Office met its burden of proof to terminate appellant's compensation (medical) benefits, the burden shifted to her to establish that she had any disability or residuals causally related to her accepted injury.⁵ To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.⁶ Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁷ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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.⁸

³ *Robert Broome*, 55 ECAB 493 (2004).

⁴ *Jimmie H. Duckett*, 52 ECAB 332 (2001).

⁵ *See Manuel Gill*, 52 ECAB 282 (2001).

⁶ *Id.*

⁷ *Elizabeth Stanislav*, 49 ECAB 540 (1998).

⁸ *Leslie C. Moore*, 52 ECAB 132 (2000); *Victor J. Woodhams*, 41 ECAB 345 (1989).

ANALYSIS -- ISSUE 2

Dr. Cohen's June 22 and August 2, 2007 reports stated that appellant had bilateral periscapular and impingement-type pain in the right shoulder greater than the left. He stated that it was difficult to discern whether this was a result of carrying a mail sack over a long period of time. Dr. Cohen advised that appellant's conditions were not just a result of carrying a mail sack but due to all her duties as a mail carrier, especially with repetitive motion of the shoulder. As stated, a diagnosis of pain without an explanation is insufficient to establish a claim for compensation.⁹ Dr. Cohen did not provide sufficient medical rationale explaining how or why appellant's diagnosed conditions were caused by her federal duties as a letter carrier.¹⁰

Dr. Tanenbaum's July 20, 2007 MRI scan demonstrated impingement of appellant's right shoulder. He stated that there was no evidence of a rotator cuff or labral tear. Dr. Tanenbaum did address whether appellant had any continuing residuals causally related to her accepted employment injury. The Board finds that his report is insufficient to establish appellant's burden of proof.

The Board finds that appellant did not submit the necessary rationalized medical evidence to substantiate that the claimed continuing residuals on or after April 4, 2007 were causally related to her employment-related cervical vertebral subluxation at C5-6.

LEGAL PRECEDENT -- ISSUE 3

An employee seeking benefits under the Federal Employees' Compensation Act¹¹ has the burden of establishing the essential elements of 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.¹² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.¹³

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 employment factors identified by the claimant were the proximate cause of the condition for

⁹ *Robert Broome*, *supra* note 3.

¹⁰ *Jimmie H. Duckett*, *supra* note 4.

¹¹ 5 U.S.C. §§ 8101-8193.

¹² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

¹³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

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 a causal relationship is rationalized medical opinion 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.¹⁴ Neither the fact that appellant's condition became apparent during a period of employment nor her belief that the condition was caused by her employment is sufficient to establish a causal relationship.¹⁵

ANALYSIS -- ISSUE 3

Appellant alleged that she sustained bilateral shoulder and carpal tunnel syndrome conditions, spinal stenosis, and disc bulge due to her work duties as a letter carrier for the employing establishment. She described her work duties carrying trays containing thousands of pieces of mail that she put into individual slots on four shelves three to four hours in the morning. After casing the mail, appellant had to load it into a hamper and roll it out to the parking lot and load it into her truck. She stated that she made approximately 350 deliveries per day and depending on her route, she was required to take bundles of mail in her arm and walk from house to house and up stairs, which involved twisting to get the tray of mail and to get out of the truck. The employing establishment has not submitted any contrary evidence regarding appellant's work duties. The Board finds that appellant performed work which required her to carry, lift, reach above the shoulder, walk and twist during the course of her employment.

The Board finds, however, that appellant did not submit sufficient medical evidence to establish that her bilateral shoulder and carpal tunnel syndrome conditions, spinal stenosis and disc bulge were caused by the accepted employment factors. As noted, Dr. Cohen diagnosed appellant as having bilateral shoulder pain secondary to periscapular and impingement pain. He stated that her conditions were not caused just by carrying a mail sack but by all of her duties which required repetitive motion of the shoulders. Dr. Cohen, however, failed to provide adequate medical rationale explaining how appellant's conditions were caused or aggravated by the accepted employment factors.¹⁶ The Board finds that his reports are insufficient to establish appellant's claim.¹⁷

Dr. Anderson opined that appellant sustained congenital spinal stenosis with severe cord compression at C4-5, moderately severe cord compression at C5-6 and loss of lordosis and mild frank kyphosis in the mid-cervical region based on his essentially normal findings on physical

¹⁴ *Victor J. Woodhams, supra* note 8.

¹⁵ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

¹⁶ *Robert Broome, supra* note 3.

¹⁷ *Jimmie H. Duckett, supra* note 4.

examination and review of diagnostic test results. He did not address whether the diagnosed conditions were causally related to appellant's accepted employment factors.

Appellant has not submitted rationalized medical evidence establishing that she sustained bilateral shoulder and carpal tunnel syndrome conditions, spinal stenosis and disc bulge causally related to the accepted factors of her employment. She has failed to meet her burden of proof.

CONCLUSION

The Board finds that the Office properly terminated appellant's medical benefits effective April 4, 2007 on the grounds that she no longer had any residuals causally related to her accepted employment-related injury. The Board further finds that appellant failed to establish that she had any continuing employment-related residuals after April 4, 2007. The Board finds that appellant failed to establish that she sustained bilateral shoulder and carpal tunnel syndrome conditions while in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the October 22 and April 6, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 17, 2008
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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