

activities.² His supervisor stated that he had not worked since August 7, 2007, when he was injured in a work-related motor vehicle accident.

The employing establishment controverted the claim, contending that appellant had not established the fact of injury or a causal relationship between alleged work events and his claimed condition. Sharon Boatner noted that he had not worked at the employing establishment since October 2007 and was currently receiving disability compensation pursuant to File No. xxxxxx642.

By letter dated December 22, 2009, the Office informed appellant that the evidence submitted was insufficient to establish that he had sustained an injury as a result of employment activities. Appellant was advised to submit additional information and evidence, including a physician's report, which contained a diagnosis and explanation as to how his diagnosed condition resulted from the claimed employment activities.

Appellant submitted an August 18, 2009 report from Dr. Lubor Jarolimek, a treating physician, who examined appellant for persistent numbness and weakness in the right hand and right shoulder pain. Range of motion examination revealed abduction of 90 degrees; forward elevation of 120 degrees. Impingement signs were positive. Dr. Jarolimek reviewed the results of a March 13, 2009 electromyogram and nerve conduction study (EMG/NCS) of the bilateral upper extremities, which showed bilateral carpal tunnel syndrome, right worse than left and bilateral ulnar nerve entrapment at the canal of Guyon, both motor and sensory branches. He also diagnosed chronic right shoulder pain, with impingement of the right shoulder. Dr. Jarolimek noted that appellant had worked for the employing establishment for approximately 10 years, doing repetitive-type work with his right hand and wrist. Appellant's duties included carrying and sorting mail, handling a thousand or more pieces of mail per day. Dr. Jarolimek stated: "Based on reasonable medical probability, it is likely that his nerve entrapment-like symptoms related to his carpal tunnel/ulnar nerve entrapment at the wrist are directly related to his work, and, in my medical opinion, should be considered part of his work-related injury."

Appellant submitted a June 24, 2008 report from Dr. Peter J. Yeh, a Board-certified neurological surgeon, who stated that he had sustained a work-related spinal injury on August 7, 2007. He complained of headache, as well as pain in his shoulders neck, hips, elbows, hands, which was aggravated by twisting, sitting and walking. Dr. Yeh diagnosed foraminal stenosis based on the results of an October 25, 2007 magnetic resonance imaging (MRI) scan. On October 7, 2008 he reiterated his diagnosis of cervical stenosis. Examination revealed decreased reflexes of appellant's wrists and elbows; significant neck spasms; and weakness of his upper extremity in terms of hand grip, biceps and triceps bilaterally.

Appellant submitted a March 13, 2009 NCS study and EMG report from Dr. Shivarajpur K. Ravi, a Board-certified neurologist. The study showed electrical evidence of

² Appellant sustained a traumatic injury on August 7, 2007 in a motor vehicle accident. The Office accepted his traumatic injury claim (File No. xxxxxx642) for disorder of the bursai; back and neck sprains; degeneration of cervical and lumbar discs; acquired spondylolisthesis and impotence of organic origin.

bilateral carpal tunnel syndrome, more on the right than the left side; bilateral ulnar nerve entrapment at the canal of Guyon involving both motor and sensory branches; bilateral median palm-to-digit sensory neuropathy; demyelinating neuropathy in both the right median wrist-to-digit sensory branches; and axonal neuropathy in both the bilateral ulnar and the right median and motor branches.

On January 6, 2010 the employing establishment reiterated its contention that appellant had not established that he sustained a work-related injury. Arthur Estrello, customer service supervisor, described appellant's inside job duties as lifting lightweight letters and flats, casing mail into a carrier case, pulling down and placing mail into a tray, and then taking it to the street for delivery. Street tasks involved driving a vehicle and placing mail in a mailbox for approximately five hours each day.

In a January 11, 2010 statement, appellant described his work activities as a rural carrier eight hours a day, five days a week, which allegedly caused his claimed condition. His job entailed 4 hours of prepping and casing, 20 minutes of loading and 3 hours of delivering mail. Appellant submitted a position description for a rural carrier.

In a decision dated March 15, 2010, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish that his diagnosed conditions were caused by established work-related events.

On May 1, 2010 appellant requested reconsideration.

Appellant submitted an April 1, 2010 report from Dr. Steven Seefeldt, a Board-certified internist, who noted that he had experienced a history of bilateral hand pain, numbness and tingling for several years with repetitive letter carrier activities. Dr. Seefeldt diagnosed bilateral carpal tunnel syndrome. Examination revealed mildly positive Tinel's and Phalen's signs in both wrists and decreased sensation along the thenar eminence in both hands. Dr. Seefeldt indicated there was no evidence that appellant's condition was radicular and related to his prior neck injury. He stated: "It is within medical reasonability that his carpal tunnel findings are due to his repetitive use of his hands required for his job, including both handling mail and driving."

In an April 12, 2010 report, Dr. Yeh described the results of a recent EMG/NCS which revealed bilateral CTS and Grade 1 spondylolisthesis at L5-S1.

On April 13, 2010 Dr. Jarolimek described appellant's history of bilateral shoulder pain. He provided findings of his examination of appellant's shoulders. Dr. Jarolimek reported that a recent EMG/NCS study of the bilateral upper extremities revealed bilateral CTS, right worse than left and bilateral ulnar nerve entrapment canal of Guyon involving both motor and sensory branches.

By decision dated June 11, 2010, the Office denied modification of its March 15, 2010 decision, finding that the medical evidence did not support that appellant had a diagnosed condition causally related to accepted work factors.

LEGAL PRECEDENT

An employee seeking benefits under the Act³ has the burden of establishing the essential elements of his or 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.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

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 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 causal relationship, generally, 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.⁶ However, it is well established that proceedings under the Act are not adversarial in nature and while the claimant has the burden of establishing entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.⁷

ANALYSIS

The Board finds that this case is not in posture for a decision on whether appellant sustained bilateral carpal tunnel syndrome as a result of his employment activities. It is not disputed that appellant was engaged in repetitive employment activities as a rural mail carrier,

³ *Id.*

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Id.*

⁷ *Phillip L. Barnes*, 55 ECAB 426 (2004); *see also Virginia Richard*, 53 ECAB 430 (2002); *Dorothy L. Sidwell*, 36 ECAB 699 (1985); *William J. Cantrell*, 34 ECAB 1233 (1993).

including prepping, casing, loading and delivering mail. The Office denied his claim, however, on the grounds that the evidence failed to establish a causal relationship between those activities and his diagnosed carpal tunnel syndrome. The Board finds that the medical evidence of record supports a causal relationship between appellant's work activities and his wrist condition.

On August 18, 2009 Dr. Jarolimek provided examination findings and diagnosed bilateral carpal tunnel syndrome, right worse than left and bilateral ulnar nerve entrapment at the canal of Guyon, both motor and sensory branches. His diagnosis was supported by diagnostic test results. Dr. Jarolimek described appellant's repetitive work duties, which he opined was causally related to his CTS. Dr. Jarolimek provided a specific diagnosis and identified the employment factors believed to have caused or contributed to the condition. Although he did not explain in detail how the employment activities were competent to cause appellant's condition, his report strongly supports a causal relationship between the identified activities and the CTS condition.

On April 1, 2010 Dr. Seefeldt described appellant's history of bilateral hand pain, numbness and tingling. He diagnosed bilateral carpal tunnel syndrome, which he attributed to repetitive letter carrier activities, including handling mail and driving. Dr. Seefeldt specifically indicated there was no evidence that appellant's condition was radicular or related to his prior neck injury. Although his report lacks a full explanation as to how appellant's repetitive job activities caused or contributed to appellant's wrist condition, it does support a causal relationship between the CTS condition and the established activities.

Dr. Yeh treated appellant for cervical stenosis related to an August 7, 2007 work injury. On October 7, 2008 he noted decreased reflexes of appellant's wrists and elbows and weakness of his upper extremity in terms of hand grip, biceps and triceps bilaterally. On April 12, 2010 Dr. Yeh described the results of a recent EMG/NCS which revealed bilateral CTS. In a March 13, 2009 EMG/NCS report, Dr. Ravi found electrical evidence of bilateral carpal tunnel syndrome, more on the right than the left side; bilateral ulnar nerve entrapment at the canal of Guyon involving both motor and sensory branches; bilateral median palm-to-digit sensory neuropathy; demyelinating neuropathy in both the right median wrist-to-digit sensory branches; and axonal neuropathy in both in the bilateral ulnar and the right median and motor branches. As these reports do not contain an opinion on causal relationship, they are of limited probative value on that issue. They do, however, support appellant's claim that he was diagnosed and treated for carpal tunnel syndrome during the alleged period.

The Board notes that, while none of the reports of appellant's attending physicians are completely rationalized, they are consistent in indicating that he sustained an employment-related wrist condition, and are not contradicted by any substantial medical or factual evidence of record. While the reports are not sufficient to meet his burden of proof to establish his claim, they raise an uncontroverted inference between appellant's diagnosed condition and the identified employment factors and are sufficient to require the Office to further develop the medical evidence and the case record.⁸ The case will be remanded to the Office to obtain a rationalized opinion from a qualified physician as to whether appellant's carpal tunnel and nerve

⁸ See *Virginia Richard*, *supra* note 7; see also *Jimmy A. Hammons*, 51 ECAB 219 (1999); *John J. Carlone*, 41 ECAB 354 (1989).

entrapment conditions are causally related to the identified work activities. After such development as it deems necessary, the Office should issue an appropriate decision in order to protect appellant's rights on appeal.

CONCLUSION

The Board finds that this case is not in posture for decision on whether appellant sustained bilateral carpal tunnel syndrome and ulnar entrapment as a result of identified employment activities.

ORDER

IT IS HEREBY ORDERED THAT the June 11 and March 15, 2010 decisions of the Office of Workers' Compensation Programs are set aside and the case is remanded for action consistent with the terms of this decision.

Issued: April 18, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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