

In a September 22, 2009 statement, appellant explained that constant typing over an eight-hour period every day at work caused the osteoarthritis in his thumbs and tendinitis. He explained that his orthopedic doctor told him that his medical transcription work would be the type of repetitive use to cause an injury of that nature. Appellant reported that his hand problems began in 1996 or 1997 when he was diagnosed with bilateral tendinitis. He received treatment, but the problem persisted on and off for several years. Appellant described the pain in his hands as a constant dull ache with built up tension or stiffness.

In a September 14, 2009 letter, the employing establishment responded to appellant's claim. The employing establishment agreed with his description of his job position and submitted additional documentation.

According to a September 8, 2009 incident report, appellant notified his supervisor that he needed to visit the employee health unit because of tingling in his fingers. He was evaluated at the employee health unit and was released to return to work without restrictions.

A September 1, 2009 illness report notes that an employee from Nursing Services reported a work-related illness in his bilateral thumbs, hand and wrist as a result of repetitive motion. The employee stated that Dr. R. Bryan Benafield, Jr., a Board-certified orthopedic surgeon, diagnosed him with a joint condition.

In a September 24, 2009 letter, the Office requested the employing establishment respond to appellant's statement and provide a description of his position, including the physical requirements of the job and any precautions taken to minimize the effects of the activities.

In an October 2, 2009 response letter, the employing establishment stated that it agreed with appellant's work description. Appellant's supervisor reported that appellant worked five days a week, sitting at his desk transcribing eight hours a day and used an adjustable keyboard tray, ergonomic keyboard and a regular mouse. His output was 800 lines a day or 52,000 keystrokes daily. Appellant's supervisor noted that appellant was diagnosed with bilateral osteoarthritis of the thumbs. He did low impact exercises to provide strength to his hands, wrists and forearms, used a tens unit muscle stimulator for one month, and saw an occupational therapist within the last two weeks.

In a September 24, 2009 letter, the Office advised appellant that the evidence submitted was insufficient to support his claim. It asked him to provide a comprehensive medical report containing a clear diagnosis of a medical condition and an opinion, with stated medical rationale, explaining whether any diagnosed condition was caused or aggravated by his employment activities.

On October 16, 2009 appellant responded to the Office's development letter. He noted that his orthopedic doctor confirmed that his work activities fit the repetitive motion injury he developed. Appellant has experienced pain from the osteoarthritis of bilateral thumbs for several years but listed June 30, 2009 as the onset because that was the first time he visited a doctor for treatment. His symptoms included: stiffness in the fingers, aching, involuntary cracking and popping of the wrist and finger joints and some occasional tingling in his fingers. To relieve the pain, appellant took breaks, did stretching exercises and used low impact exercise devices.

Appellant also provided various clinic notes from Dr. Benafield. In a June 30, 2009 clinic note, Dr. Benafield diagnosed him with mild bilateral thumb carpometacarpal (CMC) arthritis. Appellant reported a 15-year history of bilateral hand and wrist pain, mainly in the thenar eminence area of both hands, which he attributed to typing all day. He described the pain as a constant, dull ache with an occasional slight tremor. Appellant's physical examination revealed full range of motion of fingers, thumb, wrist and elbow, normal sensation in all distributions and tenderness to the thumb CMC. He also had an equivocal Tinel's over the median nerve, a negative Phalen's and Finkelstein's and a positive grind test bilaterally. X-ray examinations of both hands showed no significant bone injury with slight abnormalities of the thumb metacarpal phalangeal joint and narrowing in the laterals of the thumb CMC.

In an August 24, 2009 clinic note, Dr. Benafield saw appellant for his thumb CMC arthritis and noted complaints of pain in the ulnar aspect of the wrist and in the volar wrist and forearm. Appellant told him that a physician at another Veterans Administration Medical Center diagnosed appellant with flexor tendinitis. X-rays showed no significant bony abnormalities in his wrists and a little bit of narrowing at the thumb CMC joint bilaterally with positive grind. Appellant tested positive for Tinel's over the median nerve with occasional numbness in the hands and tenderness over the flexor tendons. Dr. Benafield did think that appellant had thumb CMC arthritis and an overuse syndrome with some flexor tendinitis component. He further stated that appellant might be developing carpal tunnel.

Appellant provided three duty status reports dated June 30, August 24 and October 7, 2009 stating that he sustained an overuse injury and his work restrictions included no lifting, carrying, pulling or pushing over 10 pounds.

By decision dated November 12, 2009, the Office denied appellant's claim on the grounds of insufficient medical evidence establishing that his hand condition was a result of his federal employment. It accepted his description of employment activities but found the medical evidence insufficient to establish that his hand condition resulted from those work duties.

In an October 7, 2009 clinic note, Dr. Benafield reported that appellant improved with physical therapy. He opined that appellant's current problem was work related and was an overuse syndrome. Appellant also resubmitted the June 30 and August 24, 2009 clinic notes and physical therapy notes dated August 27 until October 20, 2009 with corresponding medical bills.

On November 20, 2009 appellant requested a telephone hearing before the Branch of Hearings and Review.

On March 19, 2010 a telephonic hearing was held. Anthony Palmieri, appellant's attorney, and Michelle Shriber from the employing establishment also attended the hearing. Appellant testified regarding his work as a transcriber for a total of 15 years. He also reiterated that Dr. Benafield told him that typing all day would cause that kind of repetitive motion injury he developed.

In a March 30, 2010 medical report, Dr. Benafield stated that appellant was his patient who suffered from thumb CMC arthritis and flexor tendinitis. He further opined that appellant's

flexor tendinitis was work related and that any use of his hands, whether at home or at work, could aggravate his underlying medical conditions.

In a decision dated June 8, 2010, an Office hearing representative affirmed the Office's denial of the claim finding that appellant did not provide a rationalized medical opinion establishing how his bilateral thumb arthritis and flexor tendinitis were causally related to his work duties.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim by the weight of the reliable, probative, and substantial evidence² including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.³ In an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or existence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁴

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁵ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the specified employment factors or incident.⁶ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁷

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that an employee's condition surfaced during a period of employment nor his

¹ 5 U.S.C. § 8101 *et seq.*

² *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

³ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989); *M.M.*, Docket No. 08-1510 (issued November 25, 2010).

⁴ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁵ *D.I.*, 59 ECAB 158 (2007); *D.U.*, Docket No. 10-144 (issued July 27, 2010); *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *W.D.*, Docket No. 09-658 (issued October 22, 2009).

⁶ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *B.B.*, 59 ECAB 234 (2007); *D.S.*, Docket No. 09-860 (issued November 2, 2009).

belief that his condition was aggravated by his employment is sufficient to establish causal relationship.⁸ The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation. Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.⁹

ANALYSIS

The Board finds that appellant failed to meet his burden of proof to establish that his hand condition was causally related to his federal employment. The Office accepted that his employment duties required constant typing for eight hours a day. The Board affirms the denial of the claim because appellant failed to provide a rationalized medical opinion explaining how his thumb CMC arthritis and flexor tendinitis were causally related to these employment duties.

Appellant provided clinic notes from Dr. Benafield. In a March 30, 2010 clinic note, Dr. Benafield provided a diagnosis of thumb CMC arthritis and flexor tendinitis and stated that appellant's flexor tendinitis was work related. Similarly, in an October 7, 2009 clinic note, he opined that appellant's current problem was work related and was an overuse syndrome. Dr. Benafield, however, failed to provide any rationale describing how appellant's hand condition resulted from the accepted employment duties. The Board notes that he did not provide a medical history, which described appellant's employment duties. Rationalized medical opinion must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician.¹⁰ Dr. Benafield did not review appellant's history of injury or employment duties and did not give any explanation for how typing eight hours a day could result in appellant's hand condition. Essentially, he offered a medical conclusion but no findings or explanation to support his conclusion. A mere conclusion regarding causal relationship without supporting causal relationship is of little probative value.¹¹

In a June 30, 2009 clinic note, Dr. Benafield provided a diagnosis of bilateral thumb CMC arthritis and stated that he discussed the etiology of the condition with appellant. However, he did not provide a medical opinion on the cause of appellant's condition or address how his work activities aggravated or contributed to his hand condition. In an August 24, 2009 clinic note, Dr. Benafield stated that he thought appellant sustained thumb CMC arthritis, but again offered no opinion on the cause of his condition. Neither report contains an opinion regarding the cause of appellant's hand condition or an explanation on whether his thumb CMC arthritis or flexor tendinitis was causally related to his federal employment.

⁸ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁹ *Patricia Bolleter*, 40 ECAB 373 (1988).

¹⁰ *Solomon Polen*, 51 ECAB 341 (2000); *J.J.*, Docket No. 09-27 (issued February 10, 2009).

¹¹ *A.S.(D.S.)* Docket 10-1147 (issued February 14, 2011).

Appellant also submitted physical therapy notes dated August 27 until October 20, 2009. A physical therapist, however, is not a physician as defined under the Act, and his reports are not considered probative medical opinion evidence.¹²

As previously stated, the question of causal relationship is a medical one that must be resolved by probative medical evidence.¹³ In this case, Dr. Benafield's medical reports and physical therapy notes are of limited probative. Thus, appellant failed to submit the necessary medical evidence with a proper medical opinion explaining how his accepted work factors caused his hand condition.¹⁴ He may submit additional evidence, together with a formal written request for reconsideration, to the Office within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a).

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that his thumb CMC arthritis and flexor tendinitis were causally related to his federal employment.

¹² See 5 U.S.C. § 8101(2); *Vickey C. Randall*, 51 ECAB 357 (2000); *R.C.*, Docket No. 09-2095 (issued August 4, 2010).

¹³ *D.I.*, 59 ECAB 158 (2007); *Margaret Carvello*, 54 ECAB 498 (2003).

¹⁴ *Donald W. Wenzel*, 56 ECAB 390 (2005); *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

ORDER

IT IS HEREBY ORDERED THAT the June 8, 2010 decision of the Office of Workers' Compensation Program is affirmed.

Issued: May 20, 2011
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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