



accepted right carpal tunnel syndrome and authorized a right carpal tunnel release on August 31, 2010, which was performed by Dr. Christopher Glock, a Board-certified orthopedic hand surgeon. Appellant returned to work on October 15, 2010 with a 10-pound lifting restriction. She subsequently stopped working on January 7, 2011.

In an October 25, 2010 report, Dr. Glock noted that appellant was seen in for follow up to her right carpal tunnel release and for her left carpal tunnel syndrome. He explained that her wounds healed well and there was no sign of infection. Dr. Glock diagnosed right carpal tunnel release with stiffness and pilar pain. He recommended formal therapy.

In a January 7, 2011 report, Dr. Glock found some right wrist stiffness, hyper-sweating in the palm area along with swelling and mild limitation of range of motion. He indicated that there was “no longer any numbness or tingling in the median nerve distribution.” Appellant’s right carpal tunnel release had progressed with postoperative pain to the point that he was concerned that she now had reflex sympathetic dystrophy (RSD). Dr. Glock referred her for a stellate ganglion block evaluation and opined that her condition was a direct result of not being allowed access to therapy. In a disability certificate also dated January 7, 2011, he placed appellant off work pending approval for an RSD evaluation.

Appellant filed notice of a recurrence of disability on January 13, 2011 commencing on October 25, 2010. She stopped work on January 7, 2011 due to RSD symptoms.

In a January 25, 2011 letter, OWCP notified appellant that it had received her recurrence claim. It advised her that if she was working in a light-duty position before she stopped working and she believed that her light-duty assignment changed such that it no longer met the restrictions set by her physician or if she believed that she stopped work due to a worsening in her work-related condition, then she should submit a narrative report from her physician to establish her claim.

In a January 19, 2011 attending physician’s report, Dr. Glock diagnosed bilateral carpal tunnel syndrome and checked a box “yes” in response to whether he believed that the condition found was caused or aggravated by an employment activity. Appellant’s symptoms had improved when she was away from the job and were constant over the prior few months. Dr. Glock placed her off work pending an RSD evaluation.

In a January 31, 2011 report, Dr. Glock stated that “since I [ha]ve last seen [appellant] and placed her off work, rather than allow her to be seen by a pain management physician and rather than approve the therapy, they have asked for a narrative report to justify her being off work or they are not going to pay her. It seems to me that they are one of the proximate causes of her disability. They are certainly a reason why she is getting worse. I think that it is wholly unreasonable for them to continue to deny her care.” Dr. Glock opined that appellant was off work because attempts at keeping her at light duties had not met with success. Without attention from a pain management physician, a stellate ganglion block or therapy, Dr. Glock stated that appellant would have permanent residuals directly related to her accepted condition. If forced to do work with her hand without being treated, appellant would experience pain, increasing swelling, increasing stiffness and further lack of function. In a February 28, 2011 report, Dr. Glock noted that she still awaited approval for the requested therapy procedures. He related

that appellant could not perform her regular job and repeated his recommendation for additional treatment. OWCP also received physical therapy notes.<sup>2</sup>

By decision dated April 13, 2011, OWCP denied appellant's claim for a recurrence of disability finding the medical evidence was insufficient to establish that it was due to her accepted work injury.

On May 13, 2011 appellant requested a review of the written record. In disability certificates dated February 28 and March 31, 2011, Dr. Glock stated that she remained off work until further notice. On March 31, 2011 appellant was seen by Dr. Roger Bailey, Board-certified in pain medicine. Dr. Glock noted that Dr. Bailey agreed with his diagnosis and thought appellant would be "an excellent candidate for ganglion blocks as well as continued therapy." He would turn over her care to Dr. Bailey and would see her after she was finished treatment with him. Dr. Glock stated that appellant's "wound is well healed. There is no sign of infection. [Appellant] no longer has any evidence of carpal tunnel syndrome but still has a stigmata of the RSD." On May 7, 2011 she continued to have hyperhydrosis with increased exertion; but no longer had any numbness or tingling. Dr. Glock determined that her wounds had healed and there was no sign of infection, no numbness or tingling. He recommended a functional capacity evaluation and indicated that there was no change to appellant's work status.

In a July 25, 2011 decision, the hearing representative affirmed the April 13, 2011 decision finding that appellant had not established a recurrence of disability beginning January 7, 2011.

On November 8, 2011 appellant requested reconsideration. She indicated that the decision letter had someone else's name on it and her claim may have been mixed up. OWCP received additional evidence including copies of previously submitted reports. A June 2, 2011 disability certificate from Dr. Glock advised that appellant could return to work with a restriction keeping the right wrist at medium level. In March 24 and April 27, 2011 treatment reports, Dr. Bailey stated that she had carpal tunnel symptoms since February 2010. On March 24, 2011 he stated that appellant's right hand pain continued. Dr. Bailey diagnosed CRPS and right hand pain and noted treatment options. On April 27, 2011 he stated that appellant was progressing quite well with physical therapy, her pain had decreased and that she had a good prognosis.

By decision dated February 6, 2012, OWCP denied modification of the July 25, 2011 decision.

### **LEGAL PRECEDENT**

Section 10.5(x) of OWCP's regulations provide that a recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness. The term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness

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<sup>2</sup> OWCP authorized physical therapy treatment in 2011.

is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force) or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.<sup>3</sup>

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantive evidence, a recurrence of total disability and to show that he or she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the light-duty job requirements.<sup>4</sup>

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship, generally, is rationalized medical evidence.<sup>5</sup> This consists of 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.<sup>6</sup> The physician's opinion 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.<sup>7</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor his belief that his condition was aggravated by his employment is sufficient to establish causal relationship.<sup>8</sup>

### ANALYSIS

Appellant's claim was accepted for right carpal tunnel syndrome and OWCP authorized right carpal tunnel release on August 31, 2010. She alleged a recurrence of disability beginning January 7, 2011. On January 25, 2011 OWCP advised appellant of the type of medical and factual evidence needed to establish her claim for a recurrence of disability.

Appellant has not alleged a particular change in the nature and extent of her light-duty job requirements. She must thus provide medical evidence establishing that she was disabled due to a worsening of her accepted work-related conditions.<sup>9</sup>

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<sup>3</sup> 20 C.F.R. § 10.5(x); see *Theresa L. Andrews*, 55 ECAB 719 (2004).

<sup>4</sup> *Richard E. Konnen*, 47 ECAB 388 (1996); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

<sup>5</sup> *Elizabeth Stanislav*, 49 ECAB 540, 541 (1998).

<sup>6</sup> *Duane B. Harris*, 49 ECAB 170, 173 (1997).

<sup>7</sup> *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

<sup>8</sup> *Walter D. Morehead*, 31 ECAB 188 (1986).

<sup>9</sup> *Jackie D. West*, 54 ECAB 158 (2002); *Terry R. Hedman*, *supra* note 4 at 222.

Appellant submitted reports from Dr. Glock. On January 7, 2011 Dr. Glock saw her for follow up of her right carpal tunnel release. He stated that there was “no longer any numbness or tingling in the median nerve distribution” but noted that postoperative pain had progressed. Dr. Glock was concerned that she had RSD that was a direct result of not being allowed access to therapy. He placed appellant off work pending approval for an RSD evaluation. The Board notes that Dr. Glock did not offer any opinion to establish that she was disabled due to a worsening of her accepted right carpal tunnel syndrome. Dr. Glock merely expressed that he believed that appellant had RSD and placed her off work pending an evaluation. The Board notes that RSD is not an accepted condition and he was speculating that her condition had worsened.<sup>10</sup> Furthermore, his argument that appellant did not have physical therapy does not appear to be valid as the record contains numerous physical therapy reports. In a January 19, 2011 attending physician’s report, he diagnosed bilateral carpal tunnel syndrome and checked a box “yes” that this condition was caused by employment noting that her symptoms improved when she was away from the job. Dr. Glock placed appellant off work pending an RSD evaluation. The Board notes that OWCP accepted her claim for right carpal tunnel syndrome; the left side has not been accepted. Additionally, checking of the box “yes” that the disability was causally related to employment is insufficient without fortifying explanation or rationale, to establish causal relationship.<sup>11</sup> Dr. Glock did not explain how appellant’s disability beginning January 7, 2011 was caused by a spontaneous change in her accepted right carpal tunnel syndrome. On January 31, 2011 he advised that she was off work and that it was “wholly unreasonable” for OWCP to deny her care. Dr. Glock stated that appellant’s attempt to work light duty was not successful, that she had signs of RSD or CRPS with pain, stiffness and swelling. However, RSD and CRPS are not accepted conditions and he did not explain how her disability was due to a spontaneous change in her accepted right carpal tunnel syndrome or how the denial of any care for her accepted condition caused disability. In February 28, March 31 and May 4, 2011 reports, Dr. Glock indicated that appellant was disabled and noted her treatment by Dr. Bailey. However, he did not offer an opinion as to the cause of any disability commencing on January 7, 2011. Likewise, other reports from Dr. Glock indicate that appellant was disabled but do not specifically explain how appellant’s disability was due to a spontaneous change in her accepted right carpal tunnel syndrome. The reports are of limited probative value and do not establish a recurrence of disability beginning January 7, 2011.

In March 24 and April 27, 2011 reports, Dr. Bailey noted appellant’s status but he did not specifically address how her disability beginning January 7, 2011 was causally related to her accepted right carpal tunnel syndrome. His reports are therefore insufficient to establish the claim.

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<sup>10</sup> See *T.M.*, Docket No. 08-975 (issued February 6, 2009) (where a claimant claims that a condition not accepted or approved by OWCP was due to an employment injury, the claimant bears the burden of proof to establish that the condition is causally related to the employment injury through the submission of rationalized medical evidence).

<sup>11</sup> *Barbara J. Williams*, 40 ECAB 649 (1989).

The record also contains physical therapy reports. Health care providers such as physical therapists are not physicians under FECA. Thus, their opinions do not constitute medical evidence and have no weight or probative value.<sup>12</sup>

There are no other medical reports of record from a physician that explain how appellant's disability beginning January 7, 2011 is causally related to her accepted right carpal tunnel syndrome.

Appellant has not met her burden of proof in establishing that there was a change in the nature or extent of the injury-related condition or a change in the nature and extent of the light-duty requirements, which would prohibit her from performing the light-duty position she assumed after she returned to work.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish a recurrence of disability beginning January 7, 2011 causally related to her April 29, 2010 employment injury.

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<sup>12</sup> See *Jane A. White*, 34 ECAB 515, 518 (1983). See 5 U.S.C. § 8101(2). This subsection defines the term "physician." See also *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 6, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 5, 2012  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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