

ISSUE

The issue is whether appellant met her burden of proof to establish that she developed a shoulder, arm, hand, neck and back injury causally related to factors of her federal employment.

FACTUAL HISTORY

On May 5, 2011 appellant, then a 41-year-old lead collections representative, filed an occupational disease claim (Form CA-2) alleging that she developed a neck, lower head, back, shoulder and right arm injury as a result of her federal employment duties. She stated that pain was shooting down her right arm and she was not able to move her shoulders which were swollen, causing a knot and pain in the back of her neck. Appellant first became aware of her condition on April 28, 2011 and of its relationship to her employment on May 2, 2011. She was last exposed on April 28, 2011 and notified her supervisor on May 5, 2011.

By letter dated May 16, 2011, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was asked to respond to the questions provided in the letter within 30 days.

In a June 6, 2011 narrative statement, appellant reported that her job entailed sitting and performing computer work for seven hours a day. She noted that her desk was not properly adjusted for her height, causing her to look up at her computer monitor and that her mouse pad was on the surface of her desk which resulted in her occupational disease. Appellant stated that she suffered from constant headaches, swelling, stiffness and pain in her neck and pain in her shoulders, arms, palms and fingers.

In medical reports dated May 4 and 17, 2011, Dr. Dennis Stumpp, Board-certified in occupational medicine, reported that appellant complained of right neck and shoulder pain beginning in March 2011 which had worsened in the last week. He noted a history of depression which began in March 2011. Appellant stated that the pain occasionally shot down her arm to her dorsal forearm and noted no associated numbness or tingling. Dr. Stumpp reported that appellant had worked in her job for the last eleven years, eight hours a day for five days a week. Appellant's duties included working with a computer 90 percent of the time. She stated that she changed her desk just over a month ago. Appellant noted that her desk had not been adjusted properly and her chair had no arm rests. Dr. Stumpp diagnosed cervical strain and noted bilateral neck, arm and hand pain of somewhat unclear etiology which appeared more like a regional fibromyalgia-type syndrome. He stated that he was unsure whether there was a clear-cut relationship between the cervical strain injury and appellant's work, noting that sometimes people working on computers get neck and back pain due to prolonged static positioning. However, Dr. Stumpp noted no change in appellant's work to account for this and questioned whether her depression was partially responsible for her injury as her pain coincided with the onset of treatment for depression.

In medical reports dated May 27 to June 7, 2011, Dr. Monica Haines, a Doctor of Osteopathic Medicine, reported that appellant was an employee at the Department of the Treasury for the last eleven years. She noted that appellant was sitting at a different desk with a computer placed at a higher level for the last two to three months and had to use a left-handed

mouse though she was right-hand dominant. Appellant developed daily neck pain, headaches, pain and numbness of the wrists and fingers, right worse than left and pain radiating down her right arm. In her June 3, 2011 report, Dr. Haines noted that appellant's neck pain worsened when she looked up at her computer and that her headaches went away when her desk was later changed at work. She stated that appellant suffered from cervical sprain and bilateral wrist sprain and opined that more probable than not, appellant's injury was a direct result of the improper computer desk height with the nondominant hand mouse. Dr. Haines noted that treatment included a change of the workstation to an ergonomically appropriate height and mouse. In a June 7, 2011 medical report, she stated that appellant complained of pain in her hands and right wrist as a result of typing on her keyboard. Dr. Haines diagnosed bilateral wrist sprain and parasthesia. In duty status reports (Form CA-17) dated May 14 to June 30, 2011, she reported that appellant could resume work without restrictions.

In support of her claim, appellant submitted physician's assistant and physical therapy notes from U.S. Health Works Medical Group dated June 1 to July 12, 2011.

In a June 15, 2011 medical report, Dr. Aarh Deshpande, a treating physician, reported that appellant complained of pain from turning on her sides which radiated to her arms and caused numbness to the fingers. He diagnosed cervical sprain and possible right wrist sprain and carpal tunnel syndrome.

In a July 6, 2011 medical report, Dr. Derek S. Scott, Board-certified in physical medicine and rehabilitation, reported that appellant was referred by Dr. Haines and Dr. Deshpande for a psychiatric evaluation. He noted that appellant was a right-hand dominant female with a chief complaint of neck pain, bilateral hand pain and paresthesia. Appellant reported that she was in her usual state of health until April 28, 2011 when she started experiencing neck pain while working at her computer. She noted that her symptoms progressively worsened and started to radiate down into her right upper extremity ending at the elbow. Appellant also complained of bilateral hand pain that originated at her wrist and radiated down to her second, third and fourth digits. Her symptoms were aggravated with typing, writing and manipulations. Upon physical examination, Dr. Scott stated that appellant's bilateral hand pain and paresthesia with neck pain was more likely than not related to her industrial injury on April 28, 2011.

By decision dated August 4, 2011, OWCP denied appellant's claim finding that the medical evidence did not demonstrate that her diagnosed medical conditions were causally related to the established work-related events.

On August 14, 2011 appellant requested review of the written record before the Branch of Hearings and Review.

In support of her request, appellant submitted a May 3, 2011 progress note from Douglas D'Jang, a licensed physician's assistant. She also resubmitted medical reports already of record.

By decision dated December 12, 2011, an OWCP hearing representative affirmed the August 4, 2011 decision finding that the medical evidence did not demonstrate that appellant's wrist and neck conditions were causally related to the established work-related events.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.⁴

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁵ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence 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.⁶

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁷ The opinion of the physician 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. This medical opinion must include an accurate history of the employee’s employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician’s opinion.⁸

³ Gary J. Watling, 52 ECAB 278 (2001); Elaine Pendleton, 40 ECAB 1143, 1154 (1989).

⁴ Michael E. Smith, 50 ECAB 313 (1999).

⁵ Elaine Pendleton, 40 ECAB 1143 (1989).

⁶ See Roy L. Humphrey, 57 ECAB 238, 241 (2005); Ruby I. Fish, 46 ECAB 276, 279 (1994).

⁷ See 20 C.F.R. § 10.110(a); John M. Tornello, 35 ECAB 234 (1983).

⁸ James Mack, 43 ECAB 321 (1991).

ANALYSIS

OWCP accepted that appellant sat at a desk for seven to eight hours a day using a computer. It denied her claim, however, on the grounds that the evidence failed to establish a causal relationship between those activities and her medical condition. The Board finds that the medical evidence of record is insufficient to establish that appellant sustained a neck, back, arm, shoulder and hand injury causally related to factors of her employment as a collections representative.

In medical reports dated May 4 and 17, 2011, Dr. Stumpp reported that appellant complained of right neck and shoulder pain beginning in March 2011 which had worsened in the past week. He noted a history of depression which began in March 2011. Appellant stated that the pain occasionally shot down her arm to her dorsal forearm and noted no associated numbness or tingling. Dr. Stumpp reported that she had worked in her job for the last eleven years, eight hours a day for five days a week. Appellant's duties included working with a computer 90 percent of the time. Dr. Stumpp diagnosed cervical strain and noted bilateral neck, arm and hand pain of somewhat unclear etiology which appeared more like a regional fibromyalgia-type syndrome. He stated that he was unsure whether there was a clear-cut relationship between appellant's cervical strain and her work, noting that sometimes people working on computers get neck and back pain due to prolonged static positioning. However, Dr. Stumpp noted no change in her work to account for this and questioned whether her depression was partially responsible for her injury as her pain coincided with the onset of treatment for depression in March 2011.

Dr. Stumpp's medical reports do not support appellant's occupational disease claim. He failed to explain how medically her conditions related to her federal employment and he provided a speculative and equivocal opinion on the cause of her cervical strain and fibromyalgia type syndrome. Dr. Stumpp noted that there was no change in appellant's work to account for her cervical strain and questioned whether her depression was partially responsible for her injury since her pain coincided with treatment for depression in March 2011. His medical report does not support her occupational injury claim because it suggested that her depression could be a result of her injuries and pain. The Board has consistently held that a medical opinion not fortified by rationale is of limited probative value.⁹ Thus, Dr. Stumpp's reports are insufficient to meet appellant's burden of proof.

In medical reports dated May 27 to June 7, 2011, Dr. Haines reported that appellant was an employee at the Department of the Treasury for the last eleven years. She noted that appellant was sitting at a different desk with a computer placed at a higher level for the last two to three months and had to use a left-handed mouse though she was right-hand dominant. Dr. Haines noted that appellant developed daily neck pain, headaches, pain and numbness of the wrists and fingers and pain radiating down her right arm. In her June 3, 2011 report, she noted that appellant's neck pain worsened when she looked up at her computer and that her headaches went away when her desk was later changed at work. Dr. Haines stated that appellant suffered from cervical sprain and bilateral wrist sprain and opined that more probable than not, appellant's injury was a direct result of the improper computer desk height with the nondominant hand

⁹ A.D., 58 ECAB 149 (2006).

mouse. She noted that treatment included a change of the workstation to an ergonomically appropriate height and mouse. In a June 7, 2011 medical report, Dr. Haines reported that appellant complained of pain in her hands and right wrist as a result of typing on her keyboard. She diagnosed bilateral wrist sprain and parasthesia.

The Board finds that the opinion of Dr. Haines is not well rationalized. Dr. Haines diagnosed cervical sprain, bilateral wrist sprain and parasthesia. She opined that more probable than not, appellant's cervical sprain and bilateral wrist sprain were a direct result of the improper computer desk height with the nondominant hand mouse. While Dr. Haines stated an opinion on causal relationship, she failed to provide an explanation of how sitting at a desk and using a mouse with a nondominant hand would cause appellant's injury. She also failed to adequately describe appellant's work duties, did not specify how long she sat at her desk, worked with her computer and the frequency of other physical movements and tasks. Dr. Haines did not provide a detailed medical history or note the impact of appellant's depression upon this claim, or whether appellant suffered from any other preexisting conditions. Moreover, she did not explain with medical rationale how physiologically sitting at the desk and using a mouse would have caused the diagnosed conditions. Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.¹⁰ The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.¹¹ Dr. Haines' reports do not meet that standard and are insufficient to meet appellant's burden of proof.

In a July 6, 2011 medical report, Dr. Scott reported that appellant was a right-hand dominant female with a chief complaint of neck pain, bilateral hand pain and paresthesia. Appellant reported that she was in her usual state of health until April 28, 2011 when she started experiencing neck pain while working at her computer. She noted that her symptoms progressively worsened and started to radiate down into her right upper extremity ending at the elbow. Appellant also complained of bilateral hand pain that originated at her wrist and radiated down to her second, third and fourth digits. Her symptoms were aggravated with typing, writing and manipulations. Upon physical examination, Dr. Scott stated that appellant's bilateral hand pain and paresthesia with neck pain was more likely than not related to her industrial injury on April 28, 2011.

Dr. Scott had no contact with appellant prior to his July 6, 2011 evaluation. He reviewed a number of appellant's medical records and noted that appellant worked at a computer which involved typing and writing, but failed to identify how many hours a day she used a computer, how long she worked at her position and the periods and the frequency of other physical movements and tasks. Dr. Scott provided a diagnosis of bilateral hand pain and paresthesia with neck pain. With respect to Dr. Scott's diagnosis of pain, the Board has consistently held that pain is a symptom, rather than a compensable medical diagnosis.¹² Moreover, Dr. Scott did not

¹⁰ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

¹¹ *See Lee R. Haywood*, 48 ECAB 145 (1996).

¹² *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

explain how appellant's job duties could have caused her bilateral hand pain and paresthesia with neck pain other than offering a generalized opinion that it was more likely than not related to her industrial injury on April 28, 2011. Further, it appears that he is attributing appellant's injury to a single occurrence within a single workday rather than an injury produced by appellant's work environment over a period longer than a single workday or shift as alleged by appellant in this claim.¹³

The Board notes that Dr. Scott noted that appellant was in her usual state of health until April 28, 2011 when she started experiencing neck pain while working at her computer. While appellant's Form CA-2 notes that she first became aware of her condition on April 28, 2011, the timing of the onset of her injury contradicts the reports of Dr. Stumpp and Dr. Haines, which state that appellant's conditions began on or around March 2011. Dr. Scott failed to mention or consider facts identified by Dr. Stumpp and Dr. Haines who had previously treated appellant for her conditions. Lacking a complete and accurate factual background, sufficient medical record review and rationale, Dr. Scott's report is insufficient to establish that appellant's bilateral hand pain and paresthesia with neck pain were causally related to her employment duties as a collections representative. Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.¹⁴ As Dr. Scott failed to provide a well-rationalized opinion on the issue of causal relationship, his report is insufficient to meet appellant's burden of proof.¹⁵

The remaining medical evidence of record is also insufficient to establish causal relationship between appellant's injuries and her work-related duties as a collections representative. Dr. Deshpande's June 15, 2011 medical report diagnosed cervical sprain but failed to state any opinion on causal relationship.¹⁶ The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value.¹⁷ The physician's assistant and physical therapy notes submitted by appellant do not constitute competent medical evidence in support of a claim as physical therapists and physician's assistants are not physicians as defined under FECA.¹⁸ Thus, these reports are of no probative value.

¹³ A traumatic injury means a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. 20 C.F.R. § 10.5(ee). An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

¹⁴ *Supra* note 10.

¹⁵ *Id.*

¹⁶ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *C.B.*, Docket No. 09-2027 (issued May 12, 2010).

¹⁷ *Id.*

¹⁸ 5 U.S.C. § 8102(2) of FECA provides as follows: (2) 'physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law; *see also Jennifer L. Sharp*, 48 ECAB 209 (1996); *Thomas R. Horsfall*, 48 ECAB 180 (1996); *Barbara J. Williams*, 40 ECAB 649 (1988).

In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between appellant's injuries and her factors of federal employment as a lead collections representative. Thus, appellant has failed to meet her burden of proof.

Evidence submitted by appellant after the final decision cannot be considered by the Board. As previously noted, the Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its decision.¹⁹ Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her cervical sprain, bilateral wrist sprain and paresthesia are causally related to factors of her employment as a lead collections representative.

ORDER

IT IS HEREBY ORDERED THAT the December 12, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 14, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

¹⁹ 20 C.F.R. § 501.2(c)(1).