

FACTUAL HISTORY

On October 28, 1999 appellant, then a 43-year-old operations quality improvement specialist, filed an occupational disease claim, alleging that on August 19, 1999 she first became aware of her bilateral carpal tunnel syndrome and realized that her condition was caused by her repetitive work duties.

By letter dated November 22, 1999, OWCP accepted appellant's claim for bilateral carpal tunnel syndrome.² Appellant underwent left carpal tunnel release on March 6, 2000 and right carpal tunnel release on January 15, 2001.

On March 28, 2011 appellant filed a claim for a recurrence of disability (Form CA-2a) beginning January 16, 2011. Her statement related that she stopped work on January 16, 2011. Following her accepted employment injury, appellant performed her regular work duties until June 7, 2007.³ She had continued pain, tingling and numbness. Appellant was unable to securely grasp items. After typing for a short while, her symptoms became prominent and caused her to stop typing. Appellant became a postmaster from February 1999 to June 2007, which did not require much typing and computer entry. This position was allegedly more physical, which agitated her knees and lower back. Appellant contended that her recurrence was caused by the accepted employment injury as her symptoms had been the same for the past 10 years. Her hands were never the same after her carpal tunnel releases as she did not regain any feeling in them. Appellant had trouble with her fine motor skills which included, cutting vegetables, threading a needle, holding a can of pop, pulling weeds and typing. Her symptoms had worsened over the past three years such that she could no longer grasp items between her thumb and first finger. Appellant related that she worked at Goodwill Industries as a lead associate from October 8, 2008 to April 1, 2010 and as a lead associate from April 1 to September 15, 2010. As a job coach she struggled with computer entry work, which was accommodated by her supervisor. However, under new management appellant was required to perform additional computer work. As a lead associate, she suffered from multiple muscle spasms and extreme pain in her knees, feet and back which caused her inability to sleep through the night. Appellant also had an above average breakage rate because she could not hold tightly to merchandise. She worked at the Washington State Department of Social Services as a parent care provider from May 1, 2004 to the present.

In a January 27, 2011 medical report, Dr. William T. Page, a Board-certified orthopedic surgeon, noted appellant's long history of bilateral carpal tunnel syndrome and medical treatment and her family and social background. He also noted her current symptoms. Dr. Page listed findings on physical examination and reviewed an August 25, 2008 nerve conduction velocity

² In an April 23, 2002 decision, OWCP granted appellant a schedule award for two percent impairment to each arm, totaling four percent impairment. On December 23, 2003 it granted her a schedule award for an additional five percent impairment to each arm, less the two percent she previously received for each arm.

³ The employing establishment terminated appellant's employment effective June 7, 2007 due to her failure to follow proper financial procedures.

(NCV) and electrodiagnostic (EMG) study.⁴ He advised that appellant had signs and symptoms consistent with recurrent bilateral carpal tunnel and cubital tunnel syndromes.

In a February 9, 2011 report, Dr. John F. Long, a Board-certified physiatrist, advised that appellant underwent an abnormal NCV/EMG study. There was electrophysiologic evidence of median entrapment neuropathy at the wrist consistent with carpal tunnel syndrome. There was evidence of mild cubital tunnel syndrome on the left. There was also evidence of diabetic neuropathy.

In a March 21, 2011 report, Dr. Jeffrey Jamison, an attending osteopath, stated that it was more probable than not that appellant's job, which involved keyboarding, was the cause of her carpal tunnel problems. He stated that keyboarding overtime caused her problems and made it most difficult for her to keyboard now. Dr. Jamison reviewed Dr. Page's notes finding that appellant had carpal tunnel syndrome and concluded that she was not a candidate for curative treatment, including surgical intervention.

By letter dated April 1, 2011, OWCP requested that appellant submit factual and medical evidence, including a rationalized medical opinion from an attending physician describing medical findings before and after the recurrence and providing dates of examination and treatment, a history of the recurrence and, a firm diagnosis together with an explanation as to how her current condition was causally related to the accepted employment injury. It also requested that the employing establishment comment on appellant's statement.

On April 19, 2011 appellant stated that while working in quality control she constantly performed data entry work. She noted her physical restrictions and medical treatment.

In a follow-up note dated April 7, 2011, Dr. Page provided a history of appellant's medical conditions, including recurrent bilateral carpal tunnel syndrome, treatment, family and social background. He listed findings on physical examination and reiterated his diagnoses of carpal tunnel and cubital tunnel syndromes.

By letter dated June 2, 2011, OWCP requested that Dr. Jamison clarify his March 21, 2011 opinion regarding the causal relationship between the accepted employment injury and appellant's current disability. Dr. Jamison was asked to provide objective findings to support his finding that her bilateral carpal tunnel syndrome had worsened. He was also asked to discuss what had changed in light of the fact that appellant was no longer exposed to the same work factors at the employing establishment when she stopped work in January 2011. OWCP noted her employment at the Department of Social Services and Goodwill Industries and asked Dr. Jamison to determine whether her current disability was caused by the accepted injury without any intervening causes.

⁴ The August 25, 2008 NCV/EMG study was abnormal. It demonstrated mild-to-moderate conduction delay at the right wrist level which was consistent with carpal tunnel syndrome of the same degree. A differentiation could not be made between the current compression of the nerve and residual damage in the nerve that had been previously and successfully surgically decompressed.

In a June 28, 2011 report, Dr. Jamison reviewed Dr. Long's February 9, 2011 NCV/EMG study, which demonstrated significant to severe carpal tunnel objective findings, right worse than left. He advised that this showed progression of disease. Also on June 28, 2011 Dr. Jamison listed physical examination findings and advised that appellant had right carpal tunnel syndrome.

In a June 28, 2011 report, Dr. Long advised that appellant underwent an abnormal NCV/EMG study. He reiterated his diagnoses of median entrapment neuropathy at the wrist that was consistent with carpal tunnel syndrome, mild cubital tunnel syndrome on the left and diabetic neuropathy.

On January 10, 2012 appellant filed several claims for wage-loss compensation (Form CA-7) from January 16, 2011 to January 6, 2012.

In a February 14, 2012 decision, OWCP denied appellant's recurrence of disability claim. The evidence of record was found insufficient to establish that her current condition was causally related to her accepted employment-related injury.

By letter dated February 20, 2012, appellant, through her attorney, requested a telephone hearing with an OWCP hearing representative.

In a March 6, 2012 narrative statement, appellant related that she was unable to perform any administrative work that involved keyboarding, her greatest asset, as it irritated her carpal tunnel syndrome. Her condition was originally moderate, but was now severe. Appellant could not perform retail work that required her to stand for any length of time as her knees were bone on bone and very painful. She was unable to sit for long periods of time due to lower back and knee issues.

In a May 25, 2012 report, Dr. Jamison noted treating appellant since 1999. He provided a history that after her release to full-duty work in a different position at the employing establishment that did not require constant keyboarding and repetitive hand motions, she complained about pain and numbness in her hands. Appellant left her position as postmaster in 2007 and did not return to work until October 2008. Dr. Jamison evaluated her in early 2008 and January 2011 and noted that she continued to complain about numbness and pain, mostly in her right hand. He stated that following his examination and the examinations performed by Drs. Page and Long appellant had bilateral carpal tunnel syndrome. Dr. Jamison concluded that she had moderate left and severe right carpal tunnel syndrome since undergoing carpal tunnel releases in 1999 and 2000. Appellant had shown continual functional decline over that time period based on her NCV studies. Dr. Jamison advised that it was more probable than not she had significant carpal tunnel syndrome that was not treated to resolution with her original claim. He opined that appellant's current inability to work was a direct result of the employment injury. Dr. Jamison concluded that, since her skills were related to data entry and keyboarding, she was permanently and totally disabled to work in her field which was directly related to the employment injury.

In a July 16, 2012 decision, an OWCP hearing representative affirmed the February 14, 2012 decision. The medical evidence submitted did not provide a thorough knowledge of appellant's work activities. It also failed to provide a rationalized opinion establishing that she

sustained a recurrence of disability commencing January 16, 2011 causally related to her accepted employment injury.

On July 24, 2012 appellant's attorney requested reconsideration.

In a February 28, 2013 decision, OWCP denied modification of the July 16, 2012 decision. The medical evidence did not discuss appellant's recent work activities which may have affected her employment-related condition.

LEGAL PRECEDENT

OWCP's implementing regulations define a recurrence of disability as an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.⁵ If the disability results from new exposure to work factors, the legal chain of causation from the accepted injury is broken and an appropriate new claim should be filed.⁶

While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such an opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and that such a relationship must be supported with affirmative evidence, explained by medical rationale and be based on a complete and accurate medical and factual background of the claimant.⁷ Medical conclusions unsupported by medical rationale are of diminished probative value and are insufficient to establish causal relation.⁸

ANALYSIS

OWCP accepted that appellant sustained bilateral carpal tunnel syndrome while in the performance of duty. Appellant returned to regular duty and was terminated by the employing establishment effective June 7, 2007. She noted that she worked in the private sector and state government from October 8, 2008 to September 15, 2010 and May 1, 2004 to the present, respectively. Appellant filed a Form CA-2a, notice of recurrence of disability on March 28, 2011 and Form CA-7 claims for wage-loss compensation on January 10, 2012. The Board finds that she has failed to submit sufficient medical evidence to establish that her claimed recurrence of disability was caused or aggravated by her accepted employment-related injury.

⁵ 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b(a)(1) (May 1997). See also *Phillip L. Barnes*, 55 ECAB 426 (2004).

⁶ Federal (FECA) Procedure Manual, *id.* at Chapter 2.1500.3 (May 1997); *Donald T. Pippin*, 54 ECAB 631 (2003).

⁷ *Conard Hightower*, 54 ECAB 796 (2003).

⁸ *Albert C. Brown*, 52 ECAB 152 (2000).

In a March 21, 2011 report, Dr. Jamison opined that it was more probable than not that keyboarding caused appellant's carpal tunnel syndrome. He advised that keyboarding overtime caused her current problems and made it difficult for her to continue to keyboard. Dr. Jamison provided a firm diagnosis and identified appellant's work duty, but his opinion on causal relation is speculative. The Board has held that medical opinions which are speculative or equivocal are of diminished probative value.⁹ Dr. Jamison did not provide adequate medical rationale explaining the nature of the relationship between appellant's current wrist condition and disability and the accepted employment injury.¹⁰ OWCP asked him to clarify his March 21, 2011 opinion on causal relation. In reports dated June 28, 2011, Dr. Jamison stated that Dr. Long's February 9, 2011 NCV/EMG study demonstrated significant severe carpal tunnel syndrome and showed a progression of the disease. His May 25, 2012 report noted his history of treating appellant and her employment. Dr. Jamison diagnosed moderate left and severe right carpal tunnel syndrome following her 1999 and 2000 carpal tunnel releases. He advised that appellant's continual functional decline since that time was based on NCV/EMG studies. Dr. Jamison further advised that it was more probable than not that her left wrist condition was not treated to resolution in her original claim. He opined that appellant's permanent and total disability from data entry and keyboarding employment was directly caused by the accepted employment injury. While Dr. Jamison found that her current permanent total disability was caused by the accepted employment injury, he did not explain how the bilateral carpal tunnel syndrome in 1999 caused or contributed to her disability or condition in 2011. He did not specifically address appellant's work in the private sector and state government. This is especially important since appellant was not required to perform much typing and computer entry as a postmaster at the employing establishment from February 1999 until her employment was terminated on June 7, 2007 but she performed data entry work as a job coach at Goodwill Industries from October 8, 2008 to April 1, 2010 that initially resulted in an accommodation by her supervisor and was later increased under new management. The Board has found that unrationalized medical opinions on causal relationship have little probative value.¹¹

Dr. Page, in reports dated January 27 and April 7, 2011, listed physical examination findings and reviewed the August 25, 2008 NCV/EMG study. He found that appellant had recurrent bilateral carpal tunnel and cubital tunnel syndromes, but he did not provide a narrative opinion on causal relation. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relation.¹² The Board finds that Dr. Page's reports did not adequately explain the causal relationship of the claimed period of disability to the accepted employment injury.

⁹ See *S.E.*, Docket No. 08-2214 (issued May 6, 2009) (the Board has generally held that opinions such as the condition is probably related, most likely related or could be related are speculative and diminish the probative value of the medical opinion); *Cecilia M. Corley*, 56 ECAB 662 (2005) (medical opinions which are speculative or equivocal are of diminished probative value).

¹⁰ *Robert Broome*, 55 ECAB 339 (2004).

¹¹ *Albert C. Brown*, *supra* note 8.

¹² *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

Similarly, Dr. Long's February 9 and June 2, 2011 NCV/EMG reports which found that appellant had median entrapment neuropathy at the wrist consistent with carpal tunnel syndrome, mild cubital tunnel syndrome on the left and diabetic neuropathy are insufficient to establish her recurrence of total disability claim. This evidence does not provide an opinion addressing whether the diagnosed conditions or her disability for work during the claimed period were causally related to the accepted injury.¹³

Appellant failed to submit rationalized medical evidence establishing that her disability commencing January 16, 2011 resulted from the residuals of her accepted bilateral wrist condition.¹⁴ She has not met her burden of proof.¹⁵

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 failed to establish that she sustained a recurrence of disability commencing January 16, 2011 causally related to her accepted employment injury.

¹³ *Id.*

¹⁴ *Cecelia M. Corley, supra* note 9.

¹⁵ *Tammy L. Medley, 55 ECAB 182 (2003).*

ORDER

IT IS HEREBY ORDERED THAT the February 28, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 3, 2013
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board