

**United States Department of Labor
Employees' Compensation Appeals Board**

D.C., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Richmond, VA, Employer)

**Docket No. 16-0129
Issued: January 21, 2016**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 30, 2015 appellant filed a timely appeal from a July 23, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish disability on or after March 8, 2014 due to her January 29, 2000 employment injury.

FACTUAL HISTORY

On January 31, 2000 appellant, then a 43-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 29, 2000 she sustained neck and back injuries due to a fall at work while delivering mail. She did not stop work at the time of her January 29, 2000

¹ 5 U.S.C. § 8101 *et seq.*

injury, but she began working in a limited-duty assignment for the employing establishment.² OWCP accepted appellant's claim for herniated discs at C5-6 and C6-7.

On September 19, 2005 appellant underwent OWCP-authorized fusion surgery at C5-6 and C6-7. She stopped work for various periods and received disability compensation on the daily rolls from September 17 to October 28, 2005 and from December 18, 2010 to August 26, 2011. Appellant received disability compensation on the periodic rolls from September 25 to November 19, 2011.

In a report dated January 3, 2014, Dr. Matthew Mayr, an attending Board-certified neurosurgeon, noted that appellant presented on that date with neck pain. He diagnosed cervicgia and recommended that she participate in a physical therapy program.

On January 7, 2014 the employing establishment offered appellant a full-time limited-duty position which involved observing retail window operations *via* webcam and communicating with the station manager *via* telephone and e-mail.³ Appellant returned to work in this position on January 8, 2014 and periodically stopped work for either portions of workdays or entire workdays.

On March 26, 2014 appellant filed a claim for compensation (Form CA-7) alleging that she had disability from March 8 to 21, 2014 due to her January 29, 2000 employment injury.⁴

In reports dated March 20, 2014, Dr. Mayr noted that appellant reported having a flare up of her rheumatoid arthritis symptoms, including pain in her shoulders, hips, knees, and ankles. He reported the findings of his physical examination of her on that date. Appellant exhibited 5/5 strength in her upper extremities and had normal reflexes. Dr. Mayr discussed her return to work in January 2014 and indicated that she could only work 32 hours per week given her pain symptoms.

On May 8, 2014 Dr. Mayr indicated that appellant presented on that date with complaints of pain between her neck and her shoulders. The findings of a June 5, 2014 magnetic resonance imaging scan of her neck showed "unremarkable postoperative appearance" at C5-6 and C6-7. On July 1, 2014 Dr. Mayr noted that appellant continued to complain of pain and indicated that the June 2014 diagnostic testing showed "good decompression at the levels of the surgery and no degeneration at the other levels."

In a July 11, 2014 report, Dr. Peter Coutlakis, an attending Board-certified rheumatologist, noted that appellant presented with pain, stiffness, and numbness in her neck, arms, and low back. He reported the findings of his physical examination and diagnosed rheumatoid arthritis and cervical spondylosis with myelopathy. Dr. Coutlakis indicated that the

² The limited-duty assignment restricted appellant from lifting more than 10 pounds per the recommendation of her attending physician.

³ The position required appellant to engage in intermittent typing.

⁴ Appellant later filed additional (Forms CA-7) alleging that she had disability from March 22, 2014 and continuing due to her January 29, 2000 employment injury.

cervical spondylosis with myelopathy was the most likely source for appellant's neck pain and stiffness. He noted that Dr. Mayr had indicated that her cervical fusion was "reportedly normal" and that Dr. Mayr "can find no cause for [appellant's] pain and paresthesias."

In an August 28, 2014 report, Dr. Mayr noted, "With respect to [appellant] whom I have been following since my partner left the practice, her current reduction in work hours is related to her previous work injury which was dated January 29, 2000." In an October 30, 2014 work restriction form, a physician with an illegible signature listed the date of injury as January 29, 2000 and the mechanism of injury as "fell on right arm." Dr. Mayr recommended various work restrictions.

In a December 18, 2014 decision, OWCP denied appellant's claim because the medical evidence of record was insufficient to establish that she sustained disability on or after March 8, 2014 due to her January 29, 2000 employment injury.

Appellant requested reconsideration of her claim in a letter received by OWCP on April 14, 2015.

Appellant submitted a March 2, 2015 report in which Dr. Coutlakis noted that he had been seeing her since February 13, 2004 for rheumatoid arthritis. He reported that she had a classic presentation for rheumatoid arthritis including symmetrically swollen and painful joints in a rheumatoid arthritis distribution as well as a positive rheumatoid factor consistent with the diagnosis. Dr. Coutlakis indicated that appellant had "fairly aggressive rheumatoid arthritis" and discussed his treatment of this condition. He reported that he last treated her for her rheumatoid arthritis on January 30, 2015, noting that she continued to have flares between visits that required steroid tapers and he was in the process of trying to get better control of her rheumatoid arthritis. Dr. Coutlakis noted, "Although [appellant's] illness was not caused by her employment, her work has [led] to aggravation of pain, stiffness, and fatigue and she essentially has been unable to function in the work environment due to her rheumatoid arthritis as well as neck pain related to her cervical spondylosis."⁵

By decision dated July 23, 2015, OWCP denied modification of its December 18, 2014 decision denying appellant's claim for disability, due to her January 29, 2000 employment injury on or after March 8, 2014.

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 timely filed within the applicable time limitation period of FECA, 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

⁵ Appellant also submitted a January 20, 2015 report in which Dr. Coutlakis diagnosed rheumatoid arthritis and cervical spondylosis with myelopathy. Dr. Coutlakis again noted that Dr. Mayr had indicated that her cervical fusion was "reportedly normal" and that Dr. Mayr "can find no cause for [appellant's] pain and paresthesias."

related to the employment injury.⁶ The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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.⁷

ANALYSIS

OWCP accepted that appellant sustained herniated discs at C5-6 and C6-7 due to a fall at work on January 29, 2000. On September 19, 2005 appellant underwent OWCP-authorized fusion surgery at C5-6 and C6-7. She filed a claim for compensation on (Forms CA-7) alleging that she had disability beginning March 8, 2014 and continuing due to her January 29, 2000 employment injury.⁸

The Board finds that appellant did not submit sufficient medical evidence to meet her burden of proof to establish disability on or after March 8, 2014 due to her January 29, 2000 employment injury.

In reports dated March 20, 2014, Dr. Mayr, an attending Board-certified neurosurgeon, noted that appellant reported having a flare up of her rheumatoid arthritis symptoms, including pain in her shoulders, hips, knees, and ankles. He reported the findings of his physical examination of her on that date, noting that she exhibited 5/5 strength in her upper extremities and had normal reflexes. Dr. Mayr indicated that appellant could only work 32 hours per week given her pain symptoms. In an August 28, 2014 report, he noted, “With respect to [appellant] whom I have been following since my partner left the practice, her current reduction in work hours is related to her previous work injury which was dated January 29, 2000.”

The Board finds that these reports of Dr. Mayr do not establish appellant’s claim for employment-related disability on or after March 8, 2014 because they do not contain a rationalized opinion on causal relationship. Although Dr. Mayr posited that appellant’s need to work 32 hours per week was due to the January 29, 2000 employment injury, he did not provide any explanation for this opinion. The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.⁹ Dr. Mayr did not discuss the January 29, 2000 employment injury or explain the medical process through which it could have caused disability on or after March 8, 2014. Such medical rationale is especially necessary because diagnostic testing from around that time showed a good result from appellant’s prior neck surgery at C5-6

⁶ *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

⁷ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

⁸ In January 2014 appellant returned to a full-time limited-duty position for the employing establishment which involved observing retail window operations *via* webcam and communicating with the station manager *via* telephone and e-mail.

⁹ *C.M.*, Docket No. 14-88 (issued April 18, 2014).

and C6-7. Dr. Mayr did not explain why appellant's continuing cervical problems were not entirely due to her nonwork-related rheumatoid arthritis.

In a July 11, 2014 report, Dr. Coutlakis, an attending Board-certified rheumatologist, reported the findings of his physical examination and diagnosed rheumatoid arthritis and cervical spondylosis with myelopathy. He indicated that the cervical spondylosis with myelopathy was the most likely source of appellant's neck pain and stiffness. Dr. Coutlakis noted that Dr. Mayr had indicated that her cervical fusion was "reportedly normal" and that Dr. Mayr "can find no cause for her pain and paresthesias."¹⁰ In a March 2, 2015 report, he discussed his treatment of appellant's rheumatoid arthritis since February 13, 2004. Dr. Coutlakis noted, "Although [appellant's] illness was not caused by her employment, her work has [led] to aggravation of pain, stiffness, and fatigue and she essentially has been unable to function in the work environment due to her rheumatoid arthritis as well as neck pain related to her cervical spondylosis."

The submission of these reports do not establish appellant's claim for disability on or after March 8, 2014 due to her January 29, 2000 employment injury, as Dr. Coutlakis did not provide a clear opinion that she had disability on or after March 8, 2014 due to this employment injury. The Board has held that medical evidence which does not offer a clear opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹¹ Dr. Coutlakis generally indicated that "work" had aggravated appellant's symptoms, but he did not provide any explanation for this statement. He mentioned the condition of cervical spondylosis, but OWCP has not accepted this condition in connection with the January 29, 2000 employment injury and the medical evidence does not otherwise establish the existence of such an employment-related condition.¹²

On appeal, appellant notes her medical treatment for neck problems and asserts that her continuing neck symptoms established that she continued to have disabling residuals of her January 29, 2000 employment injury. The Board finds that she has not met her burden to prove how the medical evidence of record establishes her assertions in this regard. Therefore, appellant has not shown that she had disability on or after March 8, 2014 due to her January 29, 2000 employment injury.

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.

¹⁰ Dr. Coutlakis produced a similar report on January 20, 2015.

¹¹ See *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

¹² In an October 30, 2014 work restriction form, a physician with an illegible signature listed the date of injury as January 29, 2000 and the mechanism of injury as "fell on right arm." The physician recommended various work restrictions, but the form does not contain a rationalized medical opinion relating disability on or after March 8, 2014 to the January 29, 2000 employment injury.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish disability on or after March 8, 2014 due to her January 29, 2000 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the July 23, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 21, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board