

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DANNIE D. SMITH-NEWBY and DEPARTMENT OF LABOR,  
EMPLOYMENT STANDARDS ADMINISTRATION, Washington, DC

*Docket No. 01-1457; Submitted on the Record;  
Issued March 7, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,  
DAVID S. GERSON

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability on or about June 5, 2000.

On March 11, 1991 appellant, then a 32-year-old claims examiner, filed a claim for compensation benefits alleging that she developed bilateral carpal tunnel syndrome as a result of her employment duties. Appellant indicated that she became aware of her condition in January 1991. The Office of Workers' Compensation Programs accepted appellant's claim for bilateral carpal tunnel syndrome and authorized right carpal tunnel release. Appellant was paid appropriate compensation benefits. Appellant did not stop work but returned to a limited-duty position until January 1992 and then returned to regular duty.

Accompanying appellant's claim were electrodiagnostics studies dated July 11 and December 1989; an x-ray of the right shoulder dated December 26, 1990; and a March 19, 1991 report from Dr. Kenneth Cho, a specialist in orthopedics. The electrodiagnostics study and the computerized tomography scan of the right shoulder revealed no abnormalities. The report from Dr. Cho noted a history of appellant's condition and diagnosed her with bilateral carpal tunnel syndrome consistent with occupational repetitive motion and cervical radiculopathy. He noted that appellant was previously diagnosed with Upton's double crush syndrome, a condition affecting the upper extremity. Dr. Cho further indicated that appellant would still have symptoms involving the right upper extremity after carpal tunnel release because of the Upton's double crush syndrome.

By letter dated April 18, 1991, the Office requested that appellant submit additional factual and medical evidence to support her claim.

Appellant submitted treatment notes from Dr. Cho from March 19 to April 30, 1991, electrodiagnostics studies dated November 24, 1990 and January 1, 1991 and a June 19, 1991 operative note. The treatment notes from him March 19 to April 30, 1991, indicated that appellant continued to be treated for bilateral carpal tunnel syndrome and cervical radiculopathy.

Dr. Cho noted both conditions were work related. The electrodiagnostics studies dated November 24, 1990 and January 1, 1991, revealed borderline prolongation of the distal latencies in the right median nerve compatible with mild and early carpal tunnel syndrome. The operative note prepared by him indicated that a right carpal tunnel release was performed on June 19, 1991.

On January 15, 1992 appellant filed a claim for a schedule award. By decision dated June 10, 1993, the Office granted appellant an award of 10 percent loss of use of the left arm and a 12 percent loss of use of the right arm.

On June 8, 2000 appellant filed a Form CA-2a notice of recurrence of disability. Appellant indicated a recurrence of pain in her both her wrists and hands, due to employment-related injuries sustained on January 1, 1991. Appellant did not stop work. She indicated that her recurrence of symptoms began on June 5, 2000.

By letter dated July 11, 2000, the Office requested that appellant submit additional factual and medical evidence to support her claim.

Thereafter, appellant submitted treatment notes from Dr. Stuart Goodman, a Board-certified neurologist, dated June 23, 2000 a magnetic resonance imaging (MRI) scan dated July 13, 2000, a disability slip from Dr. John Byrne, a specialist in orthopedics, dated August 3, 2000 and an attending physicians report from Dr. Goodman dated August 4, 2000. Dr. Goodman's report dated June 23, 2000, noted a history of appellant's condition and indicated that appellant underwent right carpal tunnel release in 1991. He indicated that appellant continued to experience pain in her right and left wrist with her thumbs "locking up." Dr. Goodman diagnosed appellant with evidence of bilateral carpal tunnel syndrome. He noted that appellant's right wrist showed signs of surgical neuralgia. The MRI scan revealed no abnormalities. The disability slip from Dr. Byrne dated August 3, 2000 noted that appellant was under his care for a bilateral wrist and elbow condition. The attending physicians report dated August 4, 2000 prepared by Dr. Goodman noted that appellant was being treated for cervical strain resulting from continuous typing and lifting. He noted the date of injury was September 1, 1999. Dr. Byrne diagnosed appellant with cervical radiculopathy and musculoskeletal pain and indicated with a checkmark "yes" that this condition was caused or aggravated by employment activities of continuous lifting and repetitive activities. Appellant's narrative statement indicated that she believed her cervical radiculopathy condition was a consequential injury resulting from typing, lifting of files and holding the telephone. She noted that her thumb condition was also related to the repetitive typing and keying duties of her job.

By decision dated August 11, 2000, the Office denied appellant's claim for recurrence of disability on the grounds that she did not submit sufficient medical evidence to establish that she sustained a recurrence of disability on or about June 5, 2000, which was causally related to the accepted employment injury sustained January 1991.

Appellant requested an oral hearing before an Office hearing representative on September 8, 2000.<sup>1</sup> Appellant submitted an electrodiagnostics study dated July 10, 2000,

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<sup>1</sup> In a letter dated September 26, 2000, appellant withdrew her request for an oral hearing and requested a review of the written record.

several reports from Dr. Goodman dated August 10 to December 7, 2000 and several reports from Dr. Byrne dated August 17 to November 30, 2000. The electrodiagnostics study dated July 10, 2000, revealed normal nerve conduction of both upper extremities and slightly abnormal needle study of both upper extremities with findings suggestive of mild bilateral C7 radiculopathy. Dr. Goodman's report dated August 10, 2000, indicated that appellant had a cervical radicular process, which may have been due to a stretch injury to the cervical roots as there was no anatomic structural disturbance present. He noted that appellant could return to work with restrictions on lifting and typing. Dr. Goodman in his September 11, 2000 note, diagnosed appellant with a cervical radicular process originating in September 1999 and noted this diagnosis was supported by nerve conduction studies. He noted that this condition was felt to be related to how appellant holds her head and neck in the workplace. Dr. Goodman further noted that "there was no evidence of carpal tunnel syndrome." He indicated that appellant continued to have problems with her upper extremities. The report from Dr. Byrne dated August 17, 2000, diagnosed appellant with bilateral trigger thumbs and noted that appellant could return to work light duty. His September 14, 2000 note indicated that appellant was being treated for bilateral trigger thumbs and pain in the flexor tendons, which he believed was related to her occupation. Dr. Byrne noted that appellant constantly used her upper extremities when performing her computer, calculator and data processing duties. His November 30, 2000 note diagnosed appellant with bilateral trigger thumbs and carpal tunnel syndrome. Dr. Byrne noted that during the past 12 years appellant has used the computer keyboard to perform her job and her symptoms and current problems were related to her job.

By decision dated February 23, 2001, the Office affirmed the August 11, 2000 decision, on the grounds that appellant did not submit sufficient medical evidence to establish a causal relationship between her claimed recurrence of disability and her January 1991 employment injury.

The Board finds that the evidence fails to establish that appellant sustained a recurrence of disability on or after June 5, 2000 as a result of her January 1991 employment injury.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, she has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.<sup>2</sup> This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury.<sup>3</sup> Moreover, the physician's conclusion must be supported by sound medical reasoning.<sup>4</sup>

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<sup>2</sup> *Robert H. St. Onge*, 43 ECAB 1169 (1992).

<sup>3</sup> Section 10.104(b) of the Code of Federal Regulations provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a detailed medical report. The physician's report should include the dates of examination and treatment, the history given by the employee, the findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician's opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions and the prognosis. 20 C.F.R. § 10.104(b) (1999).

<sup>4</sup> *See Robert H. St. Onge supra* note 2.

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated, or aggravated by the accepted injury.<sup>5</sup> In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.<sup>6</sup> While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.<sup>7</sup>

The Office accepts that appellant sustained an injury in the performance of duty on January 1, 1991. It, therefore, remains for appellant to establish that her claimed recurrent condition is causally related to that injury.

The medical record in this case lacks a well reasoned narrative from appellant's physicians relating appellant's claimed recurrent condition to the January 1, 1991 employment injury.

Dr. Goodman's report dated June 23, 2000, noted that appellant continued to experience pain in her right and left wrist with her thumbs "locking up." He diagnosed appellant with evidence of bilateral carpal tunnel syndrome and noted that appellant's right wrist showed signs of surgical neuralgia. Dr. Goodman's report dated August 10, 2000, was speculative as to the cause of appellant's cervical radicular condition indicating that it "may have been due to a stretch injury to the cervical roots as there is no anatomic structural disturbance present." The Board has held that speculative and equivocal medical opinions regarding causal relationship have no probative value.<sup>8</sup> Further, Dr. Goodman did not, in this report or any other, attribute appellant's cervical condition to the accepted January 1, 1991 injury, rather he indicated in his September 11, 2000 note appellant had a cervical radicular process originating in September 1999 and noted that this condition was felt to be related to how appellant held her head and neck in the workplace. The attending physician report dated August 4, 2000 prepared by Dr. Goodman noted that appellant was being treated for cervical strain resulting from continuous typing and lifting. He diagnosed appellant with cervical radiculopathy and musculoskeletal pain and indicated with a checkmark "yes" that this condition was caused or aggravated by employment activities of continuous lifting and repetitive activities.<sup>9</sup> While Dr. Goodman somewhat

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<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

<sup>6</sup> For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, *supra* note 2; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 738 (1986).

<sup>7</sup> See *Morris Scanlon*, 11 ECAB 384-85 (1960).

<sup>8</sup> Speculative and equivocal medical opinions regarding causal relationship have no probative value; see *Alberta S. Williamson*, 47 ECAB 569 (1996); *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Paul E. Davis*, 30 ECAB 461 (1979).

<sup>9</sup> The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship; see *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

supported causal relationship in this particular report he provided no medical reasoning or rationale to support such opinion. There is no “bridging evidence” which would relate the cervical radiculopathy condition to the accepted employment injury. Dr. Goodman makes no mention of “bridging evidence.” That is, he does not explain, how, over nine years following the accepted bilateral carpal tunnel syndrome, it was exacerbated by appellant’s employment factors to result in a cervical radicular condition. Rather, in Dr. Goodman’s September 11, 2000 note, he indicated that “there was no evidence of carpal tunnel syndrome.” The Office never accepted that appellant sustained a cervical radicular condition as a result of her January 1, 1991 work injury and there is no medical evidence to support such a conclusion.<sup>10</sup> The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.<sup>11</sup>

Other treatment records from Dr. Byrne’s dated August 17 and September 14, 2000, diagnosed appellant with bilateral trigger thumbs; carpal tunnel syndrome and pain in the flexor tendons, which he believed was related to her occupation. Dr. Byrne’s October 12 and November 30, 2000 notes indicate that during the past 12 years appellant had used the computer keyboard to perform her job and her symptoms and current problems were related to her job. Although Dr. Byrne provided some support for causal relationship, he did not provide a rationalized medical opinion explaining how the January 1, 1991 accepted work condition of bilateral carpal tunnel syndrome caused or contributed to the bilateral trigger thumbs and pain in the flexor tendons, for which the appellant sought treatment on and after June 5, 2000.<sup>12</sup> Additionally, Dr. Byrne did not mention in any of his reports appellant’s condition of Upton’s double crush syndrome, a condition affecting the right upper extremity, nor did he indicate if this was a contributing factor to appellant’s current condition.<sup>13</sup> Finally, as noted above, Dr. Byrne’s did not provide “bridging evidence” which would relate the bilateral trigger thumbs and pain in the flexor tendons to the accepted employment injury.

The remainder of the medical evidence fails to support that appellant sustained a recurrence of disability or a medical condition beginning on or about June 5, 2000 causally related to the accepted employment injury of January 1, 1991.

For these reasons, appellant has not met her burden of proof in establishing that she sustained a recurrence of disability or a medical condition beginning on or about June 5, 2000 causally related to her accepted January 1, 1991 employment injury.

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<sup>10</sup> See *Arthur N. Meyers*, 23 ECAB 111, 113 (1971) (where the Board found a physician’s opinion to be of diminished probative value where the physician’s opinion in support of causal relationship was based on a history of injury that was not corroborated by the contemporaneous medical history contained in the case record).

<sup>11</sup> See *Theron J. Barham*, 34 ECAB 1070 (1983).

<sup>12</sup> *Id.*

<sup>13</sup> See *Cowan Mullins*, 8 ECAB 155, 158 (1955) (where the Board held that a medical opinion based on an incomplete history was insufficient to establish causal relationship).

The February 23, 2001 and August 11, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC  
March 7, 2002

Michael J. Walsh  
Chairman

Alec J. Koromilas  
Member

David S. Gerson  
Alternate Member