

United States Department of Labor
Employees' Compensation Appeals Board

P.P., Appellant)

and)

DEPARTMENT OF VETERANS AFFAIRS,)
VETERANS ADMINISTRATION MEDICAL)
CENTER, Salisbury, NC, Employer)

Docket No. 07-1559
Issued: November 7, 2007

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

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On May 21, 2007 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decisions dated December 11, 2006 and April 4, 2007. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this appeal.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that her bilateral carpal tunnel condition is causally related to her federal employment.

FACTUAL HISTORY

On March 28, 2006 appellant, a 41-year-old nursing assistant, filed a Form CA-2 claim for benefits, alleging a bilateral carpal tunnel condition causally related to factors of her employment.

By letter dated March 29, 2006, the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. The Office asked her to submit a comprehensive medical report from her treating physician

describing her symptoms and the medical reasons for her condition and an opinion as to whether her claimed condition was causally related to her federal employment. The Office requested that appellant submit the additional evidence within 30 days.

A March 9, 2006 emergency room treatment report outlined restrictions on appellant of no lifting exceeding 20 pounds and no repetitive use of the wrists through March 21, 2006. The report stated “not determined as work related.”

Appellant submitted treatment notes dated March 1 and April 4 and 18, 2006 from Dr. Daryl Rosenbaum, a specialist in family practice, whose reports indicated that appellant had bilateral carpal tunnel syndrome and placed her on light duty.

By decision dated May 3, 2006, the Office denied appellant’s claim, finding that she failed to submit medical evidence sufficient to establish that she sustained the claimed condition in the performance of duty.

On September 8, 2006 appellant requested reconsideration.

Dr. Shahla Namak, a specialist in family practice, submitted a medical capabilities form dated April 24, 2006. She indicated that appellant could do lifting, pushing and pulling up to 15 pounds, and reach overhead, bend, stoop, walk and sit as tolerated. Dr. Namak recommended a sedentary light-duty job in which appellant could do occasional light lifting up to five pounds, with no typing or keyboarding. She advised appellant to take a 15-minute break every 2 hours.

Dr. Kevin Hamel, Board-certified in orthopedic surgery, submitted a work restriction form dated May 25, 2006. He restricted appellant to a light-duty, sedentary job in which he could do lifting not exceeding 20 pounds, with frequent lifting and/or carrying of objects weighing up to 10 pounds, occasional reaching and no climbing.

In a June 28, 2006 report, Dr. William T. Mason, Board-certified in orthopedic surgery, stated:

“This is a 42-year-old female that presents with a history of bilateral carpal tunnel syndrome, bilateral shoulder pain. The right hand is worse than the left. It has been severe enough that [appellant] is taking Ibuprofen 600 milligrams but unfortunately it makes her nauseated.... She ... has had an electromyogram nerve conduction study showing that it is positive for carpal tunnel syndrome.

“[Appellant] describes the pain as sharp, stabbing, throbbing and aching. She also has swelling and numbness of both of her hands with tingling and weakness in her grip. [Appellant] seems to be getting worse as far as standing, walking, lifting, exercise, twisting, lying in bed, bending, squatting, kneeling, stairs and sitting.

“Because of the type of work that she does I think that this is probably related to the job at [the employing establishment] as a nursing assistant.”

In a July 31, 2006 treatment note, Dr. Mason indicated that appellant underwent right carpal tunnel release surgery.

By decision dated December 11, 2006, the Office denied modification of the May 3, 2006 decision.

On December 22, 2006 appellant requested reconsideration.

Dr. T. Scott Ellison, Board-certified in orthopedic surgery, submitted an August 7, 2006 report which was received by the Office on January 11, 2007. He noted that appellant was experiencing severe pain down her right arm and hand, with numbness and tingling; she expressed interest in having surgery to ameliorate these symptoms.

By decision dated April 4, 2007, the Office denied modification of the December 11, 2006 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing that 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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 related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed, or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.

The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁵

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that an employee's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁶ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

The Board finds that appellant has failed to submit sufficient medical evidence which relates her bilateral carpal tunnel condition to factors of her federal employment. For this reason, she has not discharged her burden of proof to establish that her condition was sustained in the performance of duty.

Appellant submitted reports from Drs. Rosenbaum, Namak, Hamel and Mason. However, the physicians did not provide a probative, rationalized medical opinion explaining how the claimed condition was causally related to employment factors. Dr. Rosenbaum diagnosed bilateral carpal tunnel syndrome and placed her on light duty. Drs. Namak and Hamel placed appellant on medical leave, imposed work restrictions on appellant and recommended a light, sedentary job upon her return to work. None of these reports addressed how appellant's work duties caused or contributed to her medical condition. Dr. Mason noted a history of bilateral carpal tunnel syndrome, shown by an electromyogram nerve conduction study, and related complaints of sharp, stabbing, throbbing pain, with swelling and numbness of both of her hands with tingling and weakness in her grip. He opined that due to the type of work she did her symptoms were probably related to her job as a nursing assistant. Although Dr. Mason briefly addressed causal relationship, his stated opinion is speculative in nature.

The medical reports of record do not describe appellant's job duties or explain the medical process through which such duties would have been competent to cause the claimed condition. These reports, therefore, are of limited probative value as they do not contain sufficient medical rationale explaining how or why appellant's claimed bilateral carpal tunnel condition was caused by or related to factors of her federal employment. Accordingly, appellant failed to submit medical evidence to establish that her claimed bilateral carpal tunnel condition was causally related to her employment. The Board will affirm the Office's December 11, 2006 decision.

Following the December 11, 2006 decision, appellant submitted Dr. Ellison's August 7, 2006 report. The weight of medical opinion is determined by the opportunity for and

⁴ *Id.*

⁵ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁶ *Id.*

thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁷ Dr. Ellison's report did not present a diagnosis of appellant's bilateral carpal tunnel syndrome or an opinion describing how appellant's work activities caused her claimed condition. The report did not contain an opinion which sufficiently described the medical process through which appellant's employment would have been competent to cause the claimed bilateral carpal tunnel condition. Appellant therefore failed to provide a rationalized, probative medical opinion relating her current condition to any factors of her employment.

The Office advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Consequently, she has not met her burden of proof in establishing that she sustained a bilateral carpal tunnel condition in the performance of duty.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof in establishing that her claimed bilateral carpal tunnel condition was sustained in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the April 4, 2007 and December 11, 2006 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: November 7, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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

⁷ See *Anna C. Leanza*, 48 ECAB 115 (1996).