United States Department of Labor
Employees' Compensation Appeals Board

ROBERTA J. GARRETT, Appellant	)	
and	)	**Docket No. 05-906**
	)	**Issued: December 1, 2005**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Denver, CO, Employer	)	

Appearances:
John E. Goodwin, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
WILLIE T.C. THOMAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 18, 2005 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated August 20, 2004, which denied her thoracic outlet syndrome claim.[1] Pursuant to 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 that a thoracic outlet syndrome was causally related to her federal employment.

[1] The Board notes that in decisions dated April 5, August 20 and October 18, 2004, and January 3, 2005, the Office denied appellant's claims for wage-loss compensation for specific periods. Appellant, who is represented by counsel, did not file appeals with the Board regarding these decisions.

FACTUAL HISTORY

On September 18, 2003 appellant, then a 36-year-old program support clerk, filed a Form CA-2, occupational disease claim, alleging that factors of her federal employment caused pain to the neck, shoulder, arm, wrist, hand and fingers on the right and to her low back. She first became aware of the condition and its relationship to her employment on July 30, 2002 and did not stop work. In a statement dated September 26, 2003, appellant further described her neck and upper extremity pain and advised that she had a service-related low back injury that had been in constant spasm since July 2002, noting that she required emergency room treatment on July 30, 2002. In support of her claim, appellant submitted a treatment note in which an employing establishment nurse noted a history that appellant had begun a new data entry job two months prior. The report diagnosed right arm repetitive strain and depression secondary to pain. In a September 25, 2003 report, Dr. Joel B. Cooperman, a Board-certified osteopath specializing in manipulative medicine, advised that appellant had various musculoskeletal complaints that were work related and noted that her response to treatment had been poor.

By letter dated October 7, 2003, the Office informed appellant of the evidence needed to support her claim. She submitted reports dated October 29 and November 3, 2003 in which Dr. Cooperman noted treating appellant since October 2002 for various musculoskeletal complaints in the neck, low back, arms and legs. He noted that a magnetic resonance imaging (MRI) scan obtained on October 5, 2002 demonstrated mild degenerative changes of the cervical spine from C2-3 through C6-7 and a lumbar spine MRI scan demonstrated changes at L2-3 and multilevel degenerative disc disease at L2-3 through L4-5. Physical examination noted paravertebral muscle spasm and somatic dysfunction of the cervical, thoracic and lumbar spines and recurring tendinitis in all major joint spaces of the right arm and shoulder which he attributed to her daily repetitive activities at work.

On October 30, 2003 appellant filed a Form CA-7, claim for compensation, for the period March 27 through April 11, 2003 and August 1, 2003 and forward.

By letter dated December 1, 2003, the Office accepted that appellant sustained employment-related adhesive capsulitis of the right shoulder, a temporary aggravation of displacement of the cervical intervertebral discs at C2-3 through C6-7 and temporary aggravation of displacement of the lumbar discs at L2-3 and L4-5.

Appellant submitted a July 10, 2003 report in which Dr. Samuel Y. Chan, a Board-certified physiatrist, reviewed her October 2002 lumbar spine MRI scan and diagnosed severe degenerative disc disease at L3-4 and L4-5.[2] He stated that she had normal electromyography (EMG) of the lower extremities. In reports dated August 7, 2003 to March 22, 2004, Dr. Scott Hompland, Board-certified in anesthesiology, noted appellant's complaints, diagnosed right neck and upper extremity pain and probable posterior column pain with intervertebral disc disruption at L3-4. He provided treatments for pain management.

[2] Appellant also submitted treatment notes for physical and occupational therapy and an emergency room report dated March 17, 2004, documenting a right knee abrasion caused by a fall. The record also contains a Veterans Administration decision dated October 8, 2002 in which appellant was awarded a 40 percent service-connected disability for degenerative disease at L3 through S1.

In a November 20, 2003 report, Dr. Kristin D. Mason, a Board-certified physiatrist, noted a history of low, middle and upper back pain since 1987 with neck pain radiating down the shoulder, arm, elbow and wrist. She reported findings on examination and diagnosed multifactorial pain syndrome. In response to an Office inquiry, on January 28, 2004 Dr. Cooperman advised that appellant's accepted conditions were work related, opining that they were due to mechanical/positional stress at her workstation but that she could not determine if the conditions were temporary or permanent.

By decision dated April 4, 2004, the Office found that the medical evidence of record was insufficient to establish entitlement to compensation benefits for the period March 27 to April 11, 2003.

In an unsigned May 4, 2004 report, Dr. Virginia D. Thommen, a Board-certified orthopedic surgeon, noted appellant's two-year history of right shoulder pain radiating down her arm with bilateral shoulder, neck, low back pain and headaches. Physical examination demonstrated positive Phalen's tests bilaterally and positive Tinel's on the right with decreased sensation to light touch in the right small finger only. Two-point discrimination and motor examination were intact. Bilateral tenderness was found over the lateral and medial epicondylar areas with a positive hyperabduction thoracic outlet syndrome test. X-rays were reported as normal. The physician's assessment was bilateral upper extremity pain and paresthesias associated with neck pain, rule-out thoracic outlet syndrome; evidence of bilateral lateral and medial epicondylitis; and rule-out ulnar neuritis and carpal tunnel syndrome.

In an unsigned report dated May 11, 2004, Dr. Brian Reiss, Board-certified in orthopedic surgery, evaluated appellant for back and upper extremity complaints. On physical examination, he noted patchy tenderness throughout her thoracic and lumbar spine into her sacroiliac and the gluteal area with limitation of back motion and negative straight leg raising examination. Dr. Reiss noted x-ray findings of degenerative disc disease of the lumbar spine and diagnosed low back and neck pain, degenerative disc disease and spondylolisthesis and advised that appellant lost work because of back pain. Dr. John A. Myers, a Board-certified neurologist, conducted EMG and nerve conduction studies of appellant's upper extremities on May 12, 2004, reporting that the study was abnormal and most consistent with carpal tunnel syndrome, right worse than left.

Dr. Stephen J. Annest, Board-certified in surgery and vascular surgery, evaluated appellant for thoracic outlet syndrome on May 18, 2004. He noted her bilateral upper extremity complaints and his review of medical evidence provided by her. Examination findings included low back tenderness to percussion and bilaterally to the hand musculature and bicipital tendon with minimal rotator cuff tenderness and no weakness. Palpation of the neck, shoulder and back demonstrated tenderness on the right over the paracervicals, the trapezius, the rhomboids, the infraspinatus, the sternocleidomastoid and pectoralis major muscles with tenderness on the left limited to the pectoralis major muscle. Upper extremity neurological examination was normal to light touch with equal reflexes bilaterally. Tinel's test was reported as essentially normal with Phalen's causing numbness of the right small finger and wrist pain. Strength evaluation was essentially normal. Dr. Annest also performed stretch and axillary load testing, brachial plexus manipulation and nerve glide testing of the median and ulnar nerves bilaterally. He advised that appellant had electrodiagnostic evidence of carpal tunnel disease, right worse than left and a

history and physical findings pointing to irritation of the brachial plexus, right more than left, supported by a positive stretch test, tenderness on palpation of the brachial plexus, and bilateral positive nerve glides, much more right than left, which were also indicative of compression at the carpal tunnel and perhaps at the cubital tunnel or at Guyon's canal. He was also "concerned" that she could have fibromyalgia. Dr. Annest recommended a rheumatology consultation and concluded, "I recommend that she discuss with Dr. Cooperman [her] decision as to whether to continue to work or to go on disability." A disability slip dated May 20, 2004, stamped with Dr. Annest's signature, advised that appellant could not work from May 24 to June 25, 2004 due to "medical issues and ongoing evaluations."

On May 24, 2004 appellant submitted a Form CA-7, claim for compensation, for the period June 2 to 25, 2004. In an unsigned June 1, 2004 report, Dr. Thommen noted findings on examination and diagnosed thoracic outlet syndrome, bilateral carpal tunnel syndrome, right ulnar neuritis at the wrist, and bilateral medial and lateral epicondylitis. She related that Dr. Annest took appellant off work for four weeks. In an unsigned June 1, 2004 report, Dr. Reiss noted that an MRI scan demonstrated degenerative changes of the lumbar spine. Dr. Annest provided a June 2, 2004 attending physician's report in which he reported that appellant was partially disabled from May 24 to June 25, 2004 and could resume light duty on June 28, 2004. He stated that her limitations were unknown, the period of total disability was unknown, and diagnosed "brachial plexus irritation, *i.e.*, thoracic outlet syndrome." Dr. Bradley D. Vilims, Board-certified in anesthesiology, provided a June 3, 2004 procedure note for a right anterior scalene muscle block and diagnosed possible scalenus anticus syndrome. In an unsigned June 8, 2004 report, Dr. James P. Lindberg, a Board-certified orthopedic surgeon, diagnosed mild bursitis and myofascial pain at the medial border of the scapula. He recommended treatment for thoracic outlet syndrome.

In reports dated June 2, 2004, Dr. David S. Korman, Board-certified in internal medicine, reported normal neck range of motion and shoulder, elbow, wrist, hip, knee and ankle examinations within normal limits and low back tenderness. He diagnosed chronic pain syndrome, noting that there were no good findings by history, physical examination, or laboratory tests to suggest an inflammatory or autoimmune rheumatic disease. A June 21, 2004 electrodiagnostic consultation that was not signed or otherwise identified noted C8-T1 nerve stimulation that was most consistent with thoracic outlet syndrome.

On June 24, 2004 appellant filed a Form CA-7 claim for compensation for the period June 28 to July 23, 2004.

In a June 29, 2004 report, Dr. Annest noted appellant's continued pain complaints and advised that her diagnostic picture was still unclear. His assessment was multiple medical problems with pain complaints. In reports dated June 29, 2004, Dr. Thommen reiterated her findings and diagnoses and advised that appellant was totally disabled from June 29 to July 23, 2004. In reports dated July 7 and 13, 2004, Dr. Vilims noted appellant's continued complaints of right neck, scapulothoracic and upper extremity pain "that began in July of 2002 after an injury to her arm." He administered a supraclavicular marcaine block and advised that her right neck and upper extremity pain had characteristics and response consistent with thoracic outlet syndrome. Dr. Vilims noted that appellant had an extremely anxious affect and might benefit from psychological pain therapy.

By letter dated July 16, 2004, the Office informed appellant that the medical evidence submitted regarding her claimed disability for the period May 24 to June 25, 2004 was insufficient and gave her 30 days to respond.

In a decision dated August 20, 2004, the Office found that the medical evidence of record was insufficient to establish appellant's disability for the period May 24 to June 25, 2004. In a second August 20, 2004 decision, the Office accepted that appellant sustained employment-related bilateral carpal tunnel syndrome and medial and lateral epicondylitis. The Office did not accept thoracic outlet syndrome pending a second opinion evaluation.

LEGAL PRECEDENT

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.[3] Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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 nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[4] Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[5]

ANALYSIS

In this case, the Office accepted that appellant sustained employment-related adhesive capsulitis of the right shoulder, temporary aggravation of displacement of cervical intervertebral discs at C2-3 through C6-7, temporary aggravation of displacement of lumbar discs at L2-3 and L4-5, and bilateral carpal tunnel syndrome and medial and lateral epicondylitis.[6]

The Board finds that appellant had not met her burden of proof to establish that a thoracic outlet syndrome was employment related at the time the Office issued its August 20, 2004 decision. While the record contains numerous medical reports from Drs. Annest, Thommen, Lindberg and Korman, who all noted complaints of neck and upper extremity pain, and Dr. Annest provided a May 18, 2004 evaluation for thoracic outlet syndrome and advised that physical findings pointed to irritation of the brachial plexus supported by a positive stretch test, tenderness on palpation of the brachial plexus and bilateral positive nerve glides, he also diagnosed carpal tunnel syndrome and was concerned that appellant could have fibromyalgia.

[3] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[4] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[5] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[6] *See supra* note 2 (degenerative disc disease of the lower spine 45 percent service connected).

He again provided this diagnosis on June 2, 2004. In a June 29, 2004 report, he advised that appellant's diagnostic picture was still unclear.

The Board finds these reports insufficient to meet appellant's burden to establish that she had thoracic outlet syndrome caused by her federal employment as the physicians did not provide an opinion regarding the cause of appellant's condition, and 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 relationship.[7]

While Dr. Vilims noted in July 2004 reports that appellant's continued complaints of right neck, scapulothoracic and upper extremity pain began in July 2002 after an injury to her arm, he provides no other history of injury. Medical conclusions unsupported by rationale are of diminished probative value and are insufficient to establish causal relationship.[8] 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 such relationship must be supported with affirmative evidence, based upon a complete and accurate medical and factual background of the claimant.[9] The physician must support that opinion with medical reasoning to demonstrate that the conclusion reached is sound, logical and rational.[10] The Board finds that Dr. Vilims' general conclusion that appellant's upper extremity pain began in July 2002 after an injury to her arm is insufficient to meet her burden of proof to establish a thoracic outlet syndrome condition as employment related as he did not provide a rationalized explanation of how her specific work activities caused any diagnosed condition.[11]

The Board notes that a May 12, 2004 EMG demonstrated carpal tunnel syndrome, an accepted condition, and an electrodiagnostic study performed on June 21, 2004 which noted C8-T1 nerve stimulation that was most consistent with thoracic outlet syndrome, was not signed or otherwise identified. To be of probative value, medical evidence must be in the form of a reasoned opinion by a qualified physician and based upon a complete and accurate factual and medical history.[12] There is no evidence that this report was rendered by a physician. It is, therefore, not competent medical evidence.

Appellant therefore failed to meet her burden of proof to establish that she had a thoracic outlet syndrome causally related to her federal employment, as she failed to submit a reasoned medical condition supporting causal relationship.[13]

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[7] *Michael E. Smith*, 50 ECAB 313 (1999).

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

[9] *Bonnie Goodman*, 50 ECAB 139 (1998).

[10] *John W. Montoya*, 54 ECAB ___ (Docket No. 02-2249, issued January 3, 2003).

[11] *Albert C. Brown*, *supra* note 8.

[12] *William D. Farrior*, 54 ECAB ____ (Docket No. 02-2139, issued May 13, 2003).

[13] *Albert C. Brown*, *supra* note 8.

CONCLUSION

The Board finds that the Office properly found in its August 20, 2004 decision that appellant's diagnosed condition of thoracic outlet syndrome required further medical development and therefore properly denied acceptance of the condition at that time.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 20, 2004 be affirmed.

Issued: December 1, 2005
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

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