U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CONSTANCE BOYER and DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, Roanoke, Va.

Docket No. 96-1745; Submitted on the Record;
Issued June 2, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty, as alleged.

The Board has duly reviewed the case record in the present appeal and finds that the Office of Workers' Compensation Programs properly determined that appellant failed to meet her burden of proof in establishing that she sustained an injury in the performance of duty, as alleged

. An employee seeking benefits under the Federal Employees' Compensation Act[1] 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 the Act, that the claim was filed within the applicable time limitations 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 is 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 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

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[1] 5 U.S.C. § 8101.

[2] *Joe Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

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

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, generally, is rationalized medical opinion 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 nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[4]

In this case appellant filed an occupational disease claim on November 27, 1995, alleging that she developed tendonitis in her left forearm and wrist and pain in her neck as a result of performing her duties as a hearing office clerk, beginning November 1, 1995 and continuing. The Office denied appellant's claim on April 17, 1996 finding that the evidence supported that the claimed events, incidents and exposures occurred at the time, place and in the manner alleged. However, a medical condition resulting from the accepted trauma or exposure was not supported by the medical evidence.

The medical evidence in support of appellant's claim consists of an attending physician's report dated December 1, 1995 by Dr. William A. Roelofsen, a chiropractor; and a March 11, 1996 report by Dr. J.M. Becker, a chiropractor.

The December 1, 1995 attending physician's report indicated appellant was first seen on November 17, 1995, for pain in left forearm and left wrist which appellant claimed was caused by repeatedly lifting and transferring files from one file cabinet to another. The findings on examination were tenderness to the touch over the left wrist and left forearm and positive test indicating possible lateral epicondylitis. It was noted that no x-rays were taken. A diagnosis was only given by a number code. Treatment was described as manipulation of spine and extremities in conjunction with physical therapy. It was also indicated that appellant's condition was causally related to factors of her employment by checking "yes" to the question of whether appellant's diagnosed condition is due to the occurrence described by appellant.

The March 11, 1996 report by Dr. Becker stated that "Cervical x-rays of the above captioned show decreased spacing between C5-C6, C6 and C7."

Section 8101(2) of the Act provides that the term " 'physician' includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist."

Dr. Roelofsen did not diagnose a subluxation based on x-rays, as no x-rays were taken. Therefore, Dr. Roelofsen may not be considered a physician and his December 1, 1995 report

[4] *Id.*

does not constitute competent medical evidence. -Dr. Becker's March 11, 1996 report did not indicate that he was treating appellant for a subluxation as demonstrated by x-ray to exist. Therefore, Dr. Becker is also not considered a "physician" under the Act and his report does not constitute competent medical evidence.

By letters dated February 6, 1996, the Office advised appellant of the specific type of evidence needed to establish her occupational disease claim, and specifically what was needed if the evidence was from a chiropractor, but such evidence was not submitted. The Board finds that the evidence of record is insufficient to meet appellant's burden of proof.

The decision of the Office of Workers' Compensation Programs dated April 17, 1996 is affirmed.[5]

Dated, Washington, D.C.
June 2, 1998

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

[5] The Board notes that on April 17, 1996, the same day the Office issued its final decision in this case, the Office received thirteen (13) documents. Five (5) documents were duplicative of evidence already of record, six (6) documents were bills from a chiropractor, one (1) document was a copy of an Office of Workers' Compensation Programs form explaining evidence needed for a carpal tunnel syndrome claim and the final document was a statement from appellant listing typing and lifting as factors of her employment (such factors were already of record.) The Board finds that this evidence was either duplicative, cumulative or irrelevant to the subject matter, and would not impact the disposition of the Board's decision in the instant case.