U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DELORES ELLIS and U.S. POSTAL SERVICE,
POST OFFICE, Detroit, MI

Docket No. 99-196; Submitted on the Record;
Issued February 27, 2001

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issues are: (1) whether appellant has established in claim No. A9-413244 that she developed bilateral carpal tunnel syndrome (CTS), vertebrobasilar ischemia and right ulnar nerve compression on September 23, 1995 in the performance of duty, causally related to factors of her federal employment; (2) whether appellant has established in claim No. A9-431168 that she sustained a low back injury in June 1995; (3) whether appellant has established in claim No. A9-441017 that she developed a shoulder condition on July 9, 1997 due to aggravation from overhead reaching; and (4) whether the Office of Workers' Compensation Programs abused its discretion in denying appellant's request for merit of her case No. A9-413244 on their merits under 5 U.S.C. § 8128(a).

On February 18, 1996 appellant filed a Form CA-2, occupational disease claim, alleging that she sustained bilateral CTS, vertebrobasilar ischemia and ulnar nerve compression on September 23, 1995.[1] She claimed on September 23, 1995 she became aware that symptoms of severe pain, numbness and tingling, and increased contractures of the fingers on both hands, after throwing mail for a prolonged period. This claim was assigned number A9-413244. Appellant stopped work on September 23, 1995.

In support of her carpal tunnel claim, appellant submitted a March 14, 1995 release to return to work with restrictions with the diagnosis noted as "carpal tunnel bilaterally" and two certificates dated October 18 and November 10, 1995 to remain off work from Dr. Paul K. King,

[1] Appellant stated that she first became aware of the condition on March 14, 1995, and its employment relationship on September 23, 1995 but in an accompanying narrative statement she claimed that it occurred on May 27, 1995. She also alleged that the September 23, 1995 occupational disease occurrence was an aggravation of her condition related to claim No. A9-264872. Appellant's monetary compensation entitlement in claim No. A9-264872 had been terminated due to her refusal of suitable work by decision dated January 21, 1994 that was affirmed by decisions dated March 6, 1995 and May 20, 1996. A separate claim for a recurrence of No. A9-264872 was denied by decision dated December 2, 1994.

a Board-certified neurologist, who indicated the nature of appellant's illness as "vertebrobasilar ischemia, C7 radiculopathy, [and] recurrent carpal tunnel syndrome." A November 13, 1995 prescription from Dr. King also noted appellant's diagnosis as: "(1) bilateral carpal tunnel syndrome; (2) vertebrobasilar ischemia; [and] (3) ulnar nerve compression."

Also submitted was a March 1, 1996 supervisor statement from Alfrida Vella-Turner who noted that appellant had been off work since September 23, 1995, that appellant had been observed with her fingers starting to go into a lock position and that she had been repetitively sorting mail for eight hours per day.

By letter dated May 7, 1996, the Office requested further information including a list of tasks appellant was assigned to perform and a medical opinion with an opinion supporting causal relation with these tasks.

By statement dated May 21, 1996, Ms. Vella-Turner noted that appellant had had trouble with her hands for some time, that her doctor restricted repetitive motions, and that two of appellant's fingers were observed in the locked position. She noted that appellant had been assigned to light duty limited to casing mail using her hands in a repetitive manner, that she was permitted to work at her own pace and that short breaks were allowed.

In response appellant submitted a May 30, 1996 statement identifying repetitive throwing mail and lifting trays of mail as the employment activities which contributed to her condition.

On June 6, 1996 appellant submitted a November 10, 1995 narrative report from Dr. King which noted her present complaints of chronic neck pain, right arm and hand weakness, diagnosed vertebrobasilar insufficiency, right C7 radiculopathy, recurrent CTS and right ulnar neuropathy, noted that angiography demonstrated no stenotic lesions in the vertebrobasilar system and noted that electromyography revealed a C8 radiculopathy. Causation was not discussed.

By decision dated June 7, 1996, the Office rejected appellant's CTS claim finding that the evidence failed to demonstrate a causal relationship between factors of her employment and the claimed conditions. The Office found that the medical evidence submitted in support of appellant's claim were incomplete, lacked histories of the employment factors involved, lacked physical examination findings and lacked well-reasoned opinions supporting causal relation.

On June 13, 1996 appellant requested an oral hearing regarding this claim, No. A9-413244.

In support she submitted a January 31, 1983 operative report from Dr. Maurice E. Castle, a Board-certified orthopedic surgeon, who noted surgical findings as including hyperemia[2] about the nerve as chronic changes from its compression and a February 3, 1983 discharge report in which he noted that appellant's postoperative course was uneventful.

[2] Hyperemia is blood engorgement in part due to local or general relaxation of the arterioles. *See* DORLAND'S Illustrated *Medical Dictionary*, 27th ed., (1988), page 792.

A September 23, 1995 hospital emergency room admission form listed a diagnosis of uncontrolled hypertension. A June 11, 1996 emergency room form was also submitted which noted the diagnoses of sciatica and lumbar sprain.

An October 27, 1995 nerve conduction velocity study and an electromyographic study were submitted which reported: "Nerve conduction studies of median and ulnar nerves are normal. Fibs and positive waves observed in C8-T1 innervated muscles except FDI. Fibs present in cervical paraspinals." The findings were noted as: "Findings consistent with C8 radiculopathy."

A November 10, 1995 report from Dr. King gave appellant's working diagnoses as: "(1) vertebrobasilar insufficiency, (2) right C7 radiculopathy, (3) recurrent carpal tunnel syndrome, and (4) right ulnar neuropathy." He noted that appellant's examination was more consistent with right ulnar neuropathy, with Tinel's at the elbow and weakness in the intrinsic muscles. Causation was not discussed.

Additionally submitted was a September 6, 1996 narrative report from Dr. King, which noted that appellant had ulnar nerve problems with a claw-hand deformity and which diagnosed "right ulnar nerve lesion most likely at the elbow, [and] possible herniated lumbar disc, S1 on the left."

Appellant submitted a September 21, 1996 attending physician's form report from Dr. King which noted her diagnoses as "r[igh]t ulnar nerve lesion [and] possible herniated disc," and which indicated that it was "unknown" whether the conditions found were caused or aggravated by appellant's employment.

By report dated June 3, 1997, Dr. King diagnosed "right ulnar nerve neuropathy, bilateral carpal tunnel syndrome, herniated lumbar disc, L4-5 v[ersu]s bulging disc, [and] did review the lumbar MRI [magnetic resonance imaging] and it shows a herniated disc at L4-5 with some thecal sac compression, but she has a large thecal sac and no nerve root." Causation was not discussed.

A July 9, 1997 report from Dr. William E. Siebert, a Board-certified orthopedic surgeon, noted that appellant had back pain while pushing a stool back, that she had been treated by Dr. King for CTS and ulnar neuropathy, and that she had worked as a clerk for the employing establishment. He conducted a physical examination and concluded that appellant had been diagnosed as having a herniated disc in the lumbar area, that he doubted that it was producing symptomatology, that her neurological examination was well within normal limits and that appellant did have evidence of impingement, and for that reason he recommended that overhead reaching be curtailed for prophylactic reasons. Otherwise, no restrictions were recommended and causal relation was not discussed.

Appellant requested a hearing which was held in on January 21, 1998 at which time she testified.

In support of her carpal tunnel claim, appellant submitted a July 18, 1984 report from Dr. Abelard G. Contreras, an orthopedic surgeon and neurologist, which noted that nerve

conduction velocity testing results on August 4, 1982 did not support CTS, that carpal tunnel surgery performed on February 4, 1983 did not do any good and that a second electromyographic testing postoperatively on December 5, 1983 showed only slowing of the ulnar motor nerve conduction velocities across the elbow which was of uncertain clinical significance. Dr. Contreras conducted a physical examination and opined that diagnostic possibilities included reflex sympathetic dystrophy, possible cervical spondylolysis with cervical radiculopathy probably from C6 to C8 roots, thoracic outlet syndrome, arthritis and bursitis. He did not discuss any causal relationship of these possible conditions with factors of appellant's employment.

By decision dated April 7, 1998, the hearing representative affirmed the June 7, 1996 decision finding that the medical evidence of record failed to identify the employment factors appellant implicated in the causation of her CTS, vertebrobasilar ischemia and C7 radiculopathy conditions. The hearing representative found that none of the medical evidence submitted discussed causal relation.[3]

By letter dated September 18, 1998, appellant requested reconsideration of the April 7, 1998 decision and claimed that she was submitting new relevant and pertinent evidence not previously considered by the Office. She also argued that the light-duty position she had been offered in 1993 was unsuitable and that the order in claim No. A9-264872 should be amended as "the cases arise out of the same occurrence."[4] In a second request also dated September 18, 1998, appellant claimed that "the accepted conditions of CTS, ulnar neuropathy and thoracic outlet syndrome are still present" and "are still due to the original injury."[5]

In support appellant submitted a duplicate copy of Dr. Contreras' July 18, 1984 report, a duplicate of Dr. Siebert's July 9, 1997 report, forms relating to personnel actions and grievances, and an August 30, 1993 disability certificate from Dr. Susan E. Stephens, a Board-certified orthopedic surgeon, which noted a diagnosis of CTS and checked the box "work[-]related injury." Appellant also submitted a November 1985 medical progress note from Dr. Castle discussing whether appellant had thoracic outlet syndrome and a July 5, 1994 medical progress note indicating that appellant had some clawing of the fourth and fifth fingers on the right side. A neurosurgical referral was suggested.

An August 20, 1998 report from Dr. King was also submitted which noted that appellant had back pain and left upper extremity symptomatology, and he diagnosed herniated lumbar disc with spinal stenosis, neck pain, left ulnar neuropathy and left CTS. Causation was not discussed.

[3] The hearing representative, however, noted that claim No. A9-264872 had been accepted for CTS, de Quervain's disease and ulnar neuropathy. Appellant returned to work on December 16, 1993.

[4] The Board notes that according to the original individual claim forms, the cases did not arise out of the same occurrence.

[5] Appellant's previous claim, No. A9-264872, stemmed from a June 10, 1982 incident in which appellant was struck on her right wrist with a mail tray, and was accepted for blunt trauma of the right wrist, soft tissue injury of the right forearm, de Quervain's tenosynovitis and CTS for which she underwent a right median nerve decompression in 1983.

By decision dated September 23, 1998, the Office denied appellant's application for review of the case on its merits finding that appellant failed to submit any relevant medical evidence not previously considered and failed to advance any new legal contentions or arguments of fact. The Office found that the only new medical report submitted was that of Dr. King who merely discussed appellant's symptoms, did not address causal relation and did not attempt to connect the diagnoses of herniated lumbar disc with spinal stenosis, neck pain, left ulnar neuropathy or left CTS with any employment factors.

The Board finds that appellant has failed to establish in claim No. A9-413244 that she developed bilateral CTS, vertebrobasilar ischemia and right ulnar nerve compression on September 23, 1995 in the performance of duty, causally related to factors of her federal employment

An award of compensation may not be based on surmise, conjecture, speculation or appellant's belief of causal relationship.[6] A person who claims benefits under the Federal Employees' Compensation Act[7] has the burden of establishing the essential elements of his or her claim.[8] A claimant must establish that he or she sustained an injury in the performance of duty and that her disability resulted from such injury.[9] As part of this burden, a claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.[10] The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.[11] Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.[12]

The Office had previously accepted that appellant sustained right wrist contusion, stenosing tenosynovitis and carpal tunnel syndrome as a result of a traumatic injury on June 10, 1982. The Office terminated benefits for this claim on January 21, 1994 on the grounds that appellant refused suitable work. In the present case, although appellant claimed that she developed bilateral CTS, vertebrobasilar ischemia and right ulnar nerve compression on September 23, 1995, she failed to submit any rationalized medical evidence to establish this contention.

Appellant submitted several disability certificates which merely noted bilateral CTS as a diagnosis but which did not discuss any causal relationship with specific factors of her

[6] *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979); *Miriam L. Jackson Gholikely*, 5 ECAB 537, 538-39 (1953).

[7] 5 U.S.C. §§ 8101-8193 (1974).

[8] *Nathaniel Milton*, 37 ECAB 712, 722 (1986); *Paul D. Weiss*, 36 ECAB 720, 721 (1985).

[9] *Daniel R. Hickman*, 34 ECAB 1220, 1223 (1983).

[10] *Mary J. Briggs*, 37 ECAB 578, 581 (1986); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

[11] *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

[12] *Bruce E. Martin*, 35 ECAB 1090, 1093 (1984); *Dorothy P. Goad*, 5 ECAB 192, 193 (1952).

employment. As causal relationship must be established by a rationalized medical opinion,[13] and as these certificates contained no opinion on causal relationship or medical rationale, they are insufficient to establish appellant's claim.

Dr. King's November 10, 1995, June 6, September 6 and 21, 1996, June 3, 1997 and August 20, 1998 reports also lack any opinion on causal relation and they do not contain any medical rationale for the diagnostic conclusions stated. They, therefore, are also insufficient to establish appellant's September 23, 1995 claim. The Board notes that, in his September 21, 1996 form report, Dr. King specifically indicated that it was unknown whether the conditions found were caused or aggravated by appellant's employment. This opinion does not suggest causal relation.

Dr. Siebert's report identified a new injury, which allegedly occurred while appellant was pushing a stool back. He diagnosed a herniated lumbar disc, noted that her neurological examination was within normal limits, but noted that she did have evidence of impingement and he recommended prophylactic duty restrictions of reaching overhead. No finding of disability due to bilateral CTS, vertebrobasilar ischemia or right ulnar nerve compression was made. Therefore, this report does not support appellant's claim.

Appellant submitted a July 18, 1984 report from Dr. Contreras which was not relevant to the issue of appellant's condition in 1995. Therefore, this report does not support appellant's claim.

Thereafter the hearing representative affirmed the prior Office decision finding that the medical evidence of record failed to identify the employment factors implicated in the causation of her CTS, vertebrobasilar ischemia and C7 radiculopthy

Appellant requested reconsideration and in support she submitted duplicative medical evidence, an August 30, 1993 disability certificate from Dr. Stephens, which preceded the alleged onset of her claimed conditions by two years and hence had no probative value, a November 1985 medical progress note from Dr. Castle discussing whether appellant had thoracic outlet syndrome, which preceded appellant's claim by 10 years and hence had no probative value, and a July 5, 1994 medical progress note merely indicating that appellant had some clawing of the fourth and fifth fingers on the right hand. Causation was not discussed. Therefore, this progress note is insufficient to establish appellant's 1995 CTS claim.

The Office, on September 23, 1998, declined to reopen appellant's case for a further review on its merits as none of the medical evidence submitted was relevant, as it addressed other conditions unrelated to the September 1995 claimed occurrence or was duplicative, and hence of no evidentiary value.

Under 20 C.F.R. § 10.138(b)(1), a claimant may obtain review of the merits of her claim by showing that the Office erroneously applied or interpreted a point of law, advancing a point of law or fact not previously considered by the Office, or submitting relevant and pertinent

[13] *See supra* note 11.

evidence not previously considered by the Office. Section 10.138(b)(2) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements, the Office will deny the application for review without reviewing the merits of the claim.[14] Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.[15] Evidence that does not address causation of the particular issue involved, in this case the 1995 development of CTS, vertebrobasilar ischemic, and ulnar nerve compression, also does not constitute a basis for reopening a case.[16] In this case, appellant has failed to submit evidence sufficient to warrant further review of her case on its merits.

As the only limitation on the Office's authority is reasonableness, abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from known facts.[17] No such manifest error or unreasonable exercise of judgment was evidence in this case; therefore, the Board finds that the refusal of the Office to reopen appellant's case for further merit review was not an abuse of discretion.

On June 27, 1997 appellant filed a claim alleging that she sustained a herniated disc, lumbar radiculopathy and C8 radiculopathy in June 1995 while pushing a stool.[18] This claim was identified as No. A9-431168. In support appellant submitted medical evidence dated September 23, 1994 diagnosing vertebrobasilar ischemia, right C7 radiculopathy and recurrent CTS, or compression of the ulnar nerve at the level of the elbow, cardiac rhythm tracings and chest x-ray results, right hand weakness and left leg pain. A September 23, 1995 emergency room treatment sheet was submitted which noted that appellant was treated that date for high blood pressure. An October 27, 1995 nerve conduction velocity report was also submitted, which diagnosed C8 radiculopathy. An illegibly dated emergency room treatment sheet was submitted which noted that appellant had had low back pain for one week but noted "no recurrent trauma." The report noted that appellant had pain radiating to her left leg and that she had experienced a mild pop in her left sacroiliac area. Causation was not discussed. Another emergency room report from 1996 was submitted which noted that appellant complained of back pain with radiation into the left leg. Again causation was not discussed.

A November 10, 1995 report from Dr. King noted that appellant was seen that date with chronic neck pain and right arm and hand weakness as well as dizziness and lightheadedness, and he diagnosed vertebrobasilar insufficiency, right C7 radiculopathy, recurrent carpal tunnel syndrome and right ulnar neuropathy. He noted that appellant had right hand clawing and a positive Tinel's sign at the elbow and weakness in the intrinsic muscles.

[14] 20 C.F.R. § 10.138(b)(2).

[15] *Eugene F. Butler*, 36 ECAB 393, 398 (1984); *Bruce E. Martin*, *supra* note 12.

[16] *Edward Matthew Diekemper*, 31 ECAB 224, 225 (1979).

[17] *Daniel J. Perea*, 42 ECAB 214 (1990).

[18] No specific date of injury was identified.

A May 30, 1996 letter from appellant clearly intended for and annotated accordingly for inclusion in her case No. A9-413244 was also improperly included in the case record of this claim. Appellant indicated that throwing mail and lifting trays of mail contributed to her condition. A Form CA-20 attending physician's report from Dr. King relating to case No. A9-413244 was additionally improperly included in this case record. Dr. King diagnosed right ulnar nerve lesion and possible herniated disc, and indicated that any employment relationship was "unknown."

A September 6, 1996 report from Dr. King was submitted which noted that appellant was treated for ulnar neuropathy and back pain, the most recent prior visit being in November 1995. Dr. King diagnosed "right ulnar nerve lesion most likely at the elbow, [and] possible herniated lumbar disc, S1 on the left," but he failed to address causation.

A 1996 x-ray report of the lumbar spine was submitted which reported slight L5-S1 disc space narrowing and diagnosed degenerative change of the lumbar spine. A 1996 MRI scan was reported as demonstrating degenerative disc disease at L4-5 with some posterior and left lateral bulging.

By report dated December 11, 1996, Dr. Jerome B. Yokiel, a Board-certified physiatrist, described appellant's symptoms, examined her and diagnosed "lumbar radiculopathy." Causation was not discussed.

A June 3, 1997 report from Dr. King was submitted which noted that appellant was seen stating that she was ready to return to work as her back pain, arm pain and things were being managed quite well. He noted that appellant complained of some left posterior thigh pain, but otherwise, examination was normal with good ranges of cervical and lumbar spinal motion and no Tinel's sign over the carpal tunnel or over the ulnar nerve. Dr. King diagnosed right ulnar nerve neuropathy, bilateral CTS and herniated versus bulging L4-5 disc. He opined that appellant could return to sedentary work with restrictions on lifting more than 10 pounds and on repetitive motions on June 9, 1997.

A July 9, 1997 report from Dr. Siebert, a Board-certified orthopedic surgeon, noted that appellant had back pain while pushing a stool back, that she had been treated by Dr. King for carpal tunnel syndrome and ulnar neuropathy, and that she had worked as a clerk for the employing establishment. He conducted a physical examination and concluded that appellant had been diagnosed as having a herniated disc in the lumbar area, that he doubted that it was producing symptomatology, that her neurological examination was well within normal limits, and that appellant did have evidence of impingement, and for that reason he recommended that overhead reaching be curtailed for prophylactic reasons. No restrictions were recommended and causal relation was not discussed.

By letter dated August 25, 1997, the Office requested further information including details on exactly how the injury occurred and what were the immediate results and reactions. In an undated response, appellant claimed that she did not realize that she had injured herself, and that the injury occurred when she was pushing a rest bar to her duty station and felt a pull on her left side at the waist. Appellant noted that there was no immediate pain but more of a burning strain, which eased when she sat down. No specific date of occurrence was identified.

On September 15, 1997 appellant requested an oral hearing in case No. A9-431168 and requested information about how to combine her cases. She noted that she had filed the same medical information under both No. A9-413244 and No. A9-431168. The Branch of Hearings and Review returned the case to the Office noting that it was not in posture for a hearing as it lacked any formal final decision.

By decision dated September 25, 1997, the Office rejected appellant's claim finding that the medical evidence lacked specific histories of a work injury, provided no back or neck-related diagnoses, and contained no statement supporting causal relation.

Following this decision, an oral hearing was held on January 21, 1998.

By decision dated April 24, 1998, the hearing representative affirmed the September 25, 1997 decision finding that appellant had not submitted any evidence that established that she sustained a back condition, causally related to an implicated employment incident.

The Board has given careful consideration to the issues involved, the contentions of the parties on appeal and the entire case record. The Board finds that the April 24, 1998 decision of the Office hearing representative is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.

On April 28, 1998 appellant filed a new occupational injury claim for a shoulder injury/condition occurring around July 9, 1997.[19] This claim was designated as No. A9-441017. However, the medical evidence submitted in support of the claim addressed CTS and a low back condition.[20]

By decision dated August 26, 1998, the Office rejected appellant's claim for a shoulder condition finding that the medical evidence, which indicated left shoulder spurring on the anterior acromion and damage to the acromioclavicular joint with superior spurring, failed to provide a well-reasoned opinion on causal relation with her employment factors.

By letter dated July 24, 1998, appellant requested reconsideration of No. A9-413244 and asked that Dr. Rusko's medical report be considered.[21] She further stated that the conditions of thoracic outlet syndrome and ulnar nerve surgery had been accepted on June 12, 1986. Again by letter dated September 18, 1998 appellant requested review of the "above-entitled case," identified as No. A9-413244, (the CTS claim) which she claimed should be amended into case No. A9-264872.

By letter dated September 21, 1998, appellant requested reconsideration of No. A9-441017 on the grounds that she did not refuse suitable work. Case No. A9-441017 did

[19] The involved shoulder was not identified as being either the right or the left on appellant's claim form.

[20] Appellant submitted a copy of Dr. Siebert's July 9, 1997 report previously reviewed in this case, a work release form noting the diagnosis "carpal tunnel bilaterally." Dr. Contreras' July 18, 1984 report previously reviewed in this case and an excerpt from a medical publication regarding thoracic outlet syndrome.

[21] The Board does not find any report from Dr. Rusko in file No. A9-413244.

not involve termination of compensation for refusal of suitable work but involved denial of a new claim for shoulder injury.

On September 23, 1998 the Office requested clarification of what appellant wanted. It advised that her "September 18, 1998" letter was untimely and could not be used as a basis of reconsideration for the May 20, 1996 affirmance of termination of compensation for refusal of suitable work.

By letter dated September 28, 1998, appellant requested an appeal of the Office's September 23, 1998 refusal to grant her reconsideration on claim No. A9-413244, (regarding her CTS claim). She stated that the Office overlooked Dr. Rusko's report which would support that the duties of the position offered were not within her medical limitations and that therefore she did not refuse an offer of suitable work.[22] This appeal was docketed as No. 99-196, and the Board took jurisdiction over the case on October 1, 1998.[23]

On appeal appellant expresses a desire for review of claim No. A9-264872, but the Board notes that, since the most recent decision rendered in that case was issued on May 20, 1996, it does not have jurisdiction to review that issue.[24]

The Board finds that appellant has failed to establish in claim No. A9-441017 that she sustained a shoulder condition or injury on July 9, 1997 in the performance of duty, causally related to factors of her federal employment.

As noted above, an award of compensation may not be based on surmise, conjecture, speculation, or appellant's belief of causal relationship.[25] A person who claims benefits under the Act[26] has the burden of establishing the essential elements of her claim.[27] A claimant must establish that she sustained an injury in the performance of duty and that her disability resulted from such injury.[28] As part of this burden, a claimant must present rationalized medical opinion

[22] This particular issue is not now within the Board's jurisdiction as the most recent decision on the issue was rendered on May 20, 1996.

[23] By decision dated October 2, 1998, the Office denied appellant's request for a merit review on case No. A9-441017, (the shoulder injury claim) finding that the September 21, 1998 letter "seeking modification of the decision therein dated August 26, 1998," did not contain relevant medical evidence not previously considered. On October 23, 1998 appellant requested reconsideration of claims Nos. A9-264872, A9-413244, A9-441017 and A9-431168, which she alleged had been combined under No. A9-264872. As the Board took jurisdiction of the case on October 1, 1998, any decisions issued by the Office after that date are null and void if they relate to the same issue on appeal.

[24] *See* 20 C.F.R. § 501.3(d)(2).

[25] *William Nimitz, Jr.*, *supra* note 6; *Miriam L. Jackson-Gholikely*, *supra* note 6.

[26] 5 U.S.C. §§ 8101-8193 (1974).

[27] *Nathaniel Milton*, *supra* note 8; *Paul D. Weiss*, *supra* note 8.

[28] *Daniel R. Hickman*, *supra* note 9.

evidence, based on a complete factual and medical background, showing causal relationship.[29] The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.[30] Neither the fact that the condition became apparent during a period of employment nor appellant's belief that the employment caused or aggravated her condition is sufficient to establish causal relationship.[31]

In the present case, although appellant claimed that she developed a shoulder condition from reaching overhead, she failed to submit any rationalized medical evidence to establish this contention.

Appellant submitted several medical reports duplicating previously submitted reports, which had been reviewed by the Office to ascertain whether they supported any other of appellant's claims, and were found to be incomplete and/or unrationalized for injury claim purposes. The work release had no explanation or rationale addressing causal relation and did not even mention a shoulder condition or impairment; hence, it had no probative value in this case. Dr. Siebert's July 9, 1997 report merely identified the presence of impingement, without stating which shoulder was involved and without addressing causal relation with factors of appellant's employment and he recommended prophylactically limiting her overhead reaching. As this report does not address the issue of causation, or provide a complete medical analysis to support his determination, it is insufficient to establish appellant's shoulder injury claim. Dr. Contreras' July 18, 1984 report was also resubmitted, but was insufficient to establish appellant's shoulder injury claim as he also failed to address causal relation. Dr. Contreras merely noted that in 1982 nerve conduction velocity testing did not support a diagnosis of CTS, and that ulnar nerve studies across the elbow were of uncertain clinical significance, and he speculated that diagnostic possibilities included reflex sympathetic dystrophy, possible cervical spondylolysis with cervical radiculopathy, thoracic outlet syndrome, arthritis and bursitis. He did not make any affirmative diagnoses regarding whether any of these possible diagnoses were any more probably than any other, and hence this report also fails to establish that appellant sustained a shoulder condition on July 9, 1997. Consequently, this opinion does not establish appellant's shoulder injury claim.

Further, appellant submitted an excerpt from a publication in support of her claim, but the Board has frequently explained that textual evidence has little probative value in resolving medical questions as it is of general application and is not determinative of whether a certain condition was caused by certain employment factors.[32]

By decision dated August 26, 1998, the Office properly rejected appellant's claim for a shoulder condition finding that the medical evidence, which indicated left shoulder spurring on

[29] *Mary J. Briggs*, *supra* note 10; *Joseph T. Gulla*, *supra* note 10.

[30] *Edward E. Olson*, *supra* note 11.

[31] *Bruce E. Martin*, *supra* note 12; *Dorothy P. Goad*, *supra* note 12.

[32] *See Ronald M. Cokes*, 46 ECAB 967 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

the anterior acromion and damage to the acromioclavicular joint with superior spurring, failed to provide a well-reasoned opinion on causal relation with her employment factors.

Accordingly, the decisions of the Office of Workers' Compensation Programs dated September 23, August 26, April 24 and April 7, 1998 are hereby affirmed.

Dated, Washington, DC
February 27, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member