

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARIO VALDEZ and SOCIAL SECURITY ADMINISTRATION,  
SALINAS MEGA TELESERVICE CENTER, Salinas, CA

*Docket No. 03-1070; Submitted on the Record;  
Issued July 3, 2003*

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DECISION and ORDER

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

The issue is whether appellant has sustained an injury causally related to his federal employment.

On November 17, 2002 appellant, then a 35-year-old teleservice representative, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that he injured the back of his neck and shoulder blades due to the repetitive keying and writing associated with his federal employment. On or about August 14, 2002 Dr. W. Brian Joyce, a Board-certified internist, completed a Doctor's First Report of Occupational Injury or Illness and indicated that appellant had sustained a neck strain from keying.

By letter dated December 13, 2002, the Office requested that appellant provide further information.

Appellant responded that he started to have problems with his neck and shoulder on August 5, 2002. He indicated that he worked on a computer all day inputting information and using the mouse 75 percent of the time.

Appellant submitted a November 5, 2002 report for California workers' compensation, wherein Dr. Joyce indicated that he was suffering from musculoskeletal strain of his neck and right shoulder. On November 20, 2002 Dr. Joyce listed the diagnosis as mild cervical strain. In an attending physician's report completed on or about February 12, 2003, he indicated that appellant had sustained a cervical strain and that he believed that this condition was caused or aggravated by appellant's employment because his computer workstation was not ergonomic.

A December 24, 2002 note by Yvonne Lomboy indicated that appellant had an ergonomic workstation. In A February 7, 2003 statement, she indicated that all workstations were outfitted with a motorized desk that raises and lowers by pushing a button. Ms. Lomboy noted that appellant was at work for 8.5 hours, which included two 15-minute breaks and a 30-minute lunch period. She indicated that most of appellant's 7.5 working hours were spent

reading from a video display screen and talking with telephone callers and that there was some intermittent computer keyboard and mouse use for some part of most of these telephone calls. Ms. Lomboy noted that the total amount of keystrokes made up less than one hour of time a day.

In a statement dated February 12, 2003, appellant indicated that he was unable to move his monitor up or down and that he had to use the mouse on 75 percent of the calls. He further noted that he did not believe that his outside activities had any effect on his injuries.

In an attending physician's report (Form CA-20), dated February 19, 2003, Dr. Joseph D. Toscano, an internist, indicated that appellant had a right trapeziums muscle strain. He believed that the condition was caused or aggravated by appellant's employment because computer work causes repetitive strain on muscles.

By decision dated March 4, 2003, the Office denied appellant's claim, finding that he had not established fact of injury.

The Board finds that appellant has not established that he sustained an injury due to his federal employment.

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 the 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.<sup>1</sup> The medical evidence required to establish a 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,<sup>2</sup> must be one of reasonable medical certainty<sup>3</sup> 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.<sup>4</sup> 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. Neither the fact that the condition became apparent during a

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<sup>1</sup> *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>2</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>3</sup> *Morris Scanlon*, 11 ECAB 384-85 (1960).

<sup>4</sup> *William E. Enright*, 31 ECAB 426, 430 (1980).

period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.<sup>5</sup>

Appellant has not met the criteria for establishing that he sustained an injury causally related to his federal employment. First, the Board notes that appellant's allegations as to how his alleged injury occurred was challenged by the employing establishment. He alleged that he injured the back of his neck and shoulder blades due to the repetitive keying and writing associated with his federal employment. Appellant indicated that he worked all day inputting information into the computer and that he had to use the mouse on 75 percent of the calls. However, the employing establishment, through statements by Ms. Lomboy, noted that most of appellant's working hours were spent reading from a video display screen and talking to telephone callers. Although, Ms. Lomboy acknowledged that there was some intermittent computer keyboard and mouse use on most of appellant's telephone calls, she indicated that the total amount of keystrokes made up less than one hour of time a day. Furthermore, Ms. Lomboy indicated that appellant had an ergonomic workstation. The Board finds that appellant's work duties did not entail significant keying or working in an unergonomic environment. Accordingly, appellant has not established work conditions leading to his alleged injuries.

The Board also finds that the medical evidence is insufficient to establish that appellant's injuries to his neck and shoulder were causally related to his federal employment. Although, Dr. Joyce indicated that he believed, that appellant's cervical strain was caused or aggravated by his employment, he reasoned that this occurred because appellant's work station was not ergonomic. However, as stated previously, the Board is persuaded that appellant's work station was ergonomically correct and, therefore, Dr. Joyce's conclusion is based on a faulty assumption. Although Dr. Toscano indicated that appellant's right trapezium strain was caused or aggravated by appellant's employment because computer work causes repetitive strain on the muscles, he failed to indicate that he understood the nature of appellant's work duties. Accordingly, the Board finds that Dr. Toscano's report is insufficiently rationalized to establish that there was a causal relationship between appellant's right trapeziums strain and his federal employment.

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<sup>5</sup> *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

The decision of the Office of Workers' Compensation Programs dated March 4, 2003 is hereby affirmed.

Dated, Washington, DC  
July 3, 2003

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member