

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PATRICIA I. ALEXANDER and U.S. POSTAL SERVICE,  
POST OFFICE, Fort Wainwright, AK

*Docket No. 01-926; Submitted on the Record;  
Issued December 4, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof to establish that she sustained a condition in her right forearm and wrist in the performance of duty.

The Board has 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.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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 limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> These are the essential elements of a claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

In an occupational disease claim such as this, a claimant must submit: (1) medical evidence establishing the 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 disease; and (3) medical evidence establishing that the employment factors

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Patrick H. Hall*, 48 ECAB 514 (1997).

were the proximate cause of the disease or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by a claimant.<sup>4</sup>

In this case, appellant, then a 57-year-old clerk, filed a notice of occupational disease on July 17, 2000 alleging that she sustained a sharp pain in her right forearm and wrist due to lifting packages out of a tub. However, she has failed to submit medical evidence establishing that this condition was related to her federal employment. Appellant has submitted numerous duty status reports, a physical therapy referral, an attending physician statement and an undated report all signed by nurses. However, a nurse is not a “physician” and their opinion regarding diagnosis or causal relationship would be of no probative value.<sup>5</sup> Appellant has submitted a report from the Fairbanks Urgent Care Center dated August 10, 2000 that appears to be signed by a physician, and although this physician diagnosed appellant as suffering from right lateral epicondylitis and right shoulder pain, the doctor failed to state whether this condition was caused by her federal employment. Thus, appellant has failed to meet her burden of providing medical evidence substantiating the fact that an injury occurred in the performance of duty.

The decision of the Office of Workers’ Compensation Programs dated October 31, 2000 is affirmed.<sup>6</sup>

Dated, Washington, DC  
December 4, 2001

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>4</sup> *Jerry D. Osterman*, 46 ECAB 500 (1995); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>5</sup> *Sheila A. Johnson*, 46 ECAB 323, 327 (1994). A nurse is not a physician as defined by the Act.

<sup>6</sup> The Board notes that this case record contains evidence that was submitted subsequent to the Office’s October 31, 2000 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).