

FACTUAL HISTORY

On October 6, 2010 appellant, then a 51-year-old mail handler, filed a claim for compensation, alleging that he felt numbness and pain in his left middle finger and thumb on September 20 and 23, 2010 as he was gripping and pulling heavy containers of mail.²

Along with the claim appellant submitted a duty status report Form CA-17 dated October 4, 2010, which noted trigger finger of the left hand and advised him to resume work on the same day. Carpal tunnel of the left wrist was also diagnosed. The form box inquiring whether the diagnosis corresponded with the history of injury was marked “yes.” The report was signed by a physician whose signature is illegible.

On November 16, 2010 OWCP requested that appellant submit additional evidence in support of his claim, including a medical report containing a history of injury, diagnosis of his condition and medical rationale in support of that diagnosis. No further evidence was received by it.

By decision dated January 10, 2011, OWCP denied appellant’s claim on the grounds that the medical evidence was not sufficient to establish that a medical condition was diagnosed in connection with the claimed event and work factors.

Appellant disagreed with the decision and requested reconsideration on April 15, 2011. No further evidence was submitted in support of appellant’s reconsideration request.

In a decision dated May 3, 2011, OWCP denied appellant’s request to reopen his case for merit review.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,⁴ including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.⁵

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition

² Appellant filed this claim, a notice of recurrence of disability, indicating that the date of original injury was September 15, 2004. OWCP converted the claim to an occupational disease claim on October 27, 2010.

³ 5 U.S.C. §§ 8101-8193.

⁴ *J.P.*, 59 ECAB 178 (2008); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

⁵ *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁷ In addition, the Board has long held that medical conclusions unsupported by rationale are of diminished probative value and insufficient to establish causal relationship.⁸

ANALYSIS -- ISSUE 1

Appellant alleged that his employment duties of gripping and pulling heavy containers of mail caused numbness and pain in his left middle finger and thumb on September 10 and 23, 2010. He has however submitted insufficient medical evidence to establish that his current left hand condition was caused by his federal employment.

The only evidence appellant submitted in support of his claim was the Form CA-17 dated October 4, 2010, bearing an illegible physicians' signature, which described his injury as pain in the left hand, trigger finger and carpal tunnel. No history of injury or history of appellant's employment duties was provided. Moreover, the form did not include a well-rationalized medical opinion explaining how his job duties would have caused the diagnosed conditions. Although a box was checked "yes" indicating that the diagnosed conditions corresponded to the history of injury, a mere box checked "yes" in addressing the causation issue is insufficient to establish a claim for compensation.⁹

OWCP advised appellant that it was his responsibility to provide a comprehensive medical report which provided a diagnosis of his condition and a medical explanation as to how his employment caused the diagnosed condition. However, appellant failed to submit any medical documentation in response to its request.

As there is no probative, rationalized medical report containing a diagnosis of appellant's condition, a history of his employment duties and medical rationale addressing how his claimed injuries were caused by his employment, he has not met his burden of proof in establishing that

⁶ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ *I.J.*, 59 ECAB 264 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

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

⁹ See *A.U.*, Docket No. 10-2224 (issued September 14, 2011) (a check mark in the box under "employment-related injury" without more, by way of rationale, is insufficient to establish a claim for compensation); see also *Frederick H. Coward, Jr.*, 41 ECAB 843 (1990); *Lillian M. Jones*, 34 ECAB 379 (1982).

he sustained an injury in the performance of duty causally related to factors of his federal employment.

LEGAL PRECEDENT -- ISSUE 2

Pursuant to 20 C.F.R. § 10.606(b), a claimant may obtain review of the merits of his or her claim by showing that OWCP erroneously applied or interpreted a point of law, by advancing a relevant legal argument not previously considered by it or by submitting relevant and pertinent evidence not previously considered by OWCP. Section 10.608(b) provides that when an application for review of the merits of a claim does not meet at least one of these three requirements OWCP will deny the application for review without reviewing the merits of the claim.

ANALYSIS -- ISSUE 2

In this case, appellant did not attempt to show that OWCP erroneously applied or interpreted a point of law, failed to advance any new legal argument or submit any new and relevant evidence between the date of initial denial, January 10, 2011, and the date of the reconsideration decision, May 3, 2011. Therefore, he did not meet the requirements of 20 C.F.R. § 10.606(b). Accordingly OWCP properly denied appellant's request to reopen his case for further reconsideration on its merits in accordance with 20 C.F.R. § 10.608(b).

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained an injury in the performance of his federal employment and OWCP properly refused to reopen his case for a review on its merits.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

ORDER

IT IS HEREBY ORDERED THAT the May 3 and January 10, 2011 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 13, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board