

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**G.P., Appellant**

**and**

**U.S. POSTAL SERVICE, DOWNTOWN  
STATION, Trenton, NJ, Employer**

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**Docket No. 14-1583  
Issued: April 2, 2015**

*Appearances:*  
*Richard A. Daniels, for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
ALEC J. KOROMILAS, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On July 8, 2014 appellant, through his representative, filed a timely appeal from a May 23, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant established left carpal tunnel syndrome causally related to factors of his employment.

On appeal appellant's representative contends that OWCP erred in failing to consider his legal argument and medical evidence in denying modification.

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

## **FACTUAL HISTORY**

On January 17, 2012 appellant, then a 65-year-old city mail carrier, filed an occupational disease claim alleging that on July 14, 2011 he first realized that his left carpal tunnel syndrome was employment related. Specifically he attributed the condition to repetitive use of his left arm and hand in the delivery and handling of mail.

In correspondence dated February 14, 2012, OWCP informed appellant that the evidence of record was insufficient to establish his claim. Appellant was advised as to the medical and factual evidence required and given 30 days to provide the requested information.

In response to OWCP's request, appellant submitted medical and factual evidence as set forth below.

In a December 8, 2011 report, Dr. Emil Matarese, a treating Board-certified neurologist, conducted a neurological examination and provided findings from the examination. He related that appellant continued to have left hand grip strength weakness as well as left wrist pain. Dr. Matarese stated that appellant has a history of pain while delivering and carrying mail. He diagnosed moderate-to-severe left carpal tunnel syndrome based on review of a nerve conduction study.

In a December 20, 2011 progress report, Dr. R. Drew Krajeski, a treating Board-certified orthopedic surgeon, diagnosed left carpal tunnel syndrome. Under initial evaluation, he related that appellant works as a mail carrier which entails using the left hand for grasping mail. A physical examination revealed full cervical range of motion, no upper extremity motor deficits and negative Guyon's canal and Tinel's test at the carpal tunnel. Dr. Krajeski noted that an electromyograph test showed evidence of left wrist median nerve prolonged terminal latency and no evidence of cervical radiculopathy.

In a January 6, 2012 letter, Dr. Krajeski stated that appellant had been diagnosed with left carpal tunnel syndrome with a left medial nerve terminal latency of 8.11 milliseconds. He related that appellant stated that he grasps packages and delivers mail with his left hand. Thus, Dr. Krajeski stated that "[i]t is reasonable to assume that this repetitive activity could result in symptoms of carpal tunnel syndrome or aggravate preexisting carpal tunnel syndrome."

In a February 27, 2012 attending physician's report (Form CA-20), Dr. Matarese diagnosed left carpal tunnel syndrome and bilateral cervical strain. He checked "yes" to the question of whether the diagnosed condition was employment related. Under explanation, Dr. Matarese stated that appellant's repetitive duties of lifting and carrying caused or aggravated the condition.

By decision dated May 9, 2012, OWCP denied appellant's claim as he failed to establish fact of injury. It found that the evidence failed to establish a diagnosed medical condition causally related to the claimed work factors and/or event.

By letter dated April 30, 2013, appellant's representative requested reconsideration and submitted the following medical evidence in support of his request.

Dr. Matarese, in an April 10, 2012 report, noted that appellant had undergone left carpal tunnel decompression surgery on January 5, 2012 and continued to be disabled from working. He conducted a neurologic reevaluation and reported significant improvement in appellant's left hand and wrist numbness and pain. Dr. Matarese noted that appellant continued to have restricted mobility in his left wrist with discomfort on increased activity. In concluding, he diagnosed left carpal tunnel syndrome which he attributed to appellant's repetitive duties as a letter carrier.

In a July 10, 2012 report, Dr. Matarese reevaluated appellant for left wrist pain complaints. He noted that appellant continued to have left wrist pain following decompression surgery for his left carpal tunnel syndrome. Dr. Matarese stated that appellant's injury was due to repetitive trauma as a result of his duties as a letter carrier.

In an April 17, 2013 report, Dr. Krajeski attributed appellant's carpal tunnel syndrome to appellant's work duties which involved repetitive grasping. A physical examination revealed normal motor examination, negative Guyon's canal and Tinel's test and a positive Phalen's test after two seconds. Dr. Krajeski reported that an electromyograph demonstrated moderate-to-severe left carpal tunnel syndrome and that on January 5, 2012 appellant underwent left carpal tunnel surgery.

By decision dated July 29, 2013, OWCP found the evidence sufficient to warrant modification, but denied the claim on the basis that the medical evidence was insufficient to establish causal relationship.

In a letter dated March 5, 2014, appellant's representative requested reconsideration. He argued that, while the medical evidence submitted was not fully rationalized, it was uncontradicted and, thus, OWCP erred in failing to develop the medical evidence. Appellant's representative noted that Dr. Matarese's April 10, 2012 report was detailed, but found by OWCP to contain insufficient reasoning regarding causal relationship. He contended that letter carrier duties are common knowledge and, thus, it is unnecessary to provide a description. Appellant's representative argued that Dr. Matarese understood both appellant's work duties and medical history. In concluding, he argued that OWCP had a duty to further develop the medical evidence as there was no medical evidence contradicting Dr. Matarese's opinion.

Following his request for reconsideration, appellant submitted additional medical evidence from Dr. Matarese as set forth below.

In a March 3, 2014 disability note, Dr. Matarese indicated that appellant continued to be disabled from performing his duties as a letter carrier due to his left carpal tunnel syndrome.

In a work capacity evaluation form (OWCP-5c) dated March 3, 2014, Dr. Matarese indicated that appellant was permanently disabled from performing his usual employment duties. Under the comments section, he stated that appellant failed decompressive surgery and currently uses medication to control his pain.

Dr. Matarese, in a March 3, 2014 duty status form (CA-17), diagnosed carpal tunnel syndrome which he opined was caused by repetitive trauma from appellant's employment. He then provided work restrictions.

By decision dated May 23, 2014, OWCP denied modification.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of establishing the essential elements of his claim, including the fact that the individual is an employee of the United States within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup>

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 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.<sup>5</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>

### **ANALYSIS**

The Board finds that appellant failed to meet his burden of proof to establish that his left hand condition was causally related to his federal employment. OWCP accepted that his employment duties required delivering and handling mail. The Board finds that appellant failed

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<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>4</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *D.U.*, Docket No. 10-144 (issued July 27, 2010); *R.H.*, 59 ECAB 382 (2008); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Donald W. Wenzel*, 56 ECAB 390 (2005).

<sup>6</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

<sup>7</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>8</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

to provide a rationalized medical opinion explaining how his left carpal tunnel condition was causally related to these employment duties.

Appellant provided reports from Drs. Krajewski and Matarese in support of his claim that his left carpal tunnel condition was employment related. Dr. Matarese, in reports dated April 10 and July 10, 2012 and March 3, 2014, and a March 3, 2014 duty status report, attributed appellant's left carpal tunnel condition to his repetitive letter carrier duties. In a January 6, 2012 letter and April 17, 2013 report, Dr. Krajewski diagnosed left carpal tunnel syndrome which he attributed to appellant's work duties requiring repetitive grasping. However, neither Dr. Krajewski nor Dr. Matarese provided any rationale for their causation finding. A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant's burden of proof.<sup>9</sup>

The Board has held that the fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.<sup>10</sup> An award of compensation may not be based on surmise, conjecture, or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.<sup>11</sup>

OWCP advised appellant that it was his responsibility to provide a comprehensive medical report which described his symptoms, test results, diagnosis, treatment, and the physician's opinion, with medical reasons, on the cause of his condition. Appellant failed to submit appropriate medical documentation in response to OWCP's request. As there is no probative, rationalized medical evidence addressing how his claimed left carpal tunnel condition was caused or aggravated by identified employment factors, he has not met his burden of proof.

On appeal appellant's counsel argues that appellant has established his claim as both Drs. Krajewski and Matarese attributed appellant's left carpal tunnel condition to his work and there is no contrary evidence. As discussed above, however, the reports from Drs. Krajewski and Matarese are insufficient to support his claim as the opinions from the physicians were conclusory and without any supporting rationale explaining their conclusions. Since appellant failed to submit any medical opinion evidence explaining how the diagnosed condition was causally related to the accepted employment factors, he did not meet his burden of proof. The Board will therefore affirm OWCP's decision.

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<sup>9</sup> See *S.S.*, 59 ECAB 315 (2008) (medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof); *Beverly A. Spencer*, 55 ECAB 501 (2004) (a mere conclusion without the necessary medical rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet the claimant's burden of proof).

<sup>10</sup> *L.D.*, Docket No. 09-1503 (issued April 15, 2010); *D.I.*, 59 ECAB 158 (2007) *Daniel O. Vasquez*, 57 ECAB 559 (2006).

<sup>11</sup> See *D.U.*, *supra* note 5; *D.I.*, *id.*; *Robert Broome*, 55 ECAB 339 (2004); *Anna C. Leanza*, 48 ECAB 115 (1996).

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.

**CONCLUSION**

The Board finds that appellant has not established that his left carpal tunnel syndrome was causally related to factors of his employment

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 23, 2014 is affirmed.

Issued: April 2, 2015  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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