

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

S.F., Appellant	)	
	)	
and	)	Docket No. 15-1272
	)	Issued: September 4, 2015
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Spokane, WA, Employer	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
ALEC J. KOROMILAS, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On May 19, 2015 appellant filed a timely appeal from a March 30, 2015 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 has met his burden of proof to establish that he sustained a right arm condition casually related to his federal employment.<sup>2</sup>

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

<sup>2</sup> On appeal, appellant submitted additional evidence. The Board can review only evidence that was before OWCP at the time of the final decision on appeal. 20 C.F.R. § 501.2(c)(1).

## **FACTUAL HISTORY**

On January 15, 2015 appellant, then a 41-year-old maintenance mechanic, filed a Form CA-2 (claim for occupational disease or illness) alleging that he sustained a right wrist injury causally related to repetitive activity while vacuuming in his federal employment. He indicated on the claim form that he realized his condition was related to his federal employment on December 11, 2014. Appellant also noted that he had initially filed a Form CA-1 (traumatic injury).<sup>3</sup> His supervisor noted on the claim form that appellant had not stopped work, but that he was placed on light duty, with lifting restrictions and vacuuming limited to one hour a day.

In a December 11, 2014 statement, appellant related that he vacuumed two to four hours a day, and his wrist hurt from the strain. He stated that he first noticed wrist pain on June 1, 2014. Appellant submitted form reports from a physician assistant, and physical therapy notes.

By letter dated January 21, 2015, OWCP advised appellant that he should submit additional factual and medical evidence to support his claim. It indicated that medical evidence must be from a physician, and a physician assistant was not considered a qualified physician under FECA.

Appellant submitted a statement dated January 25, 2015. He stated that he vacuumed three to four hours a day, and the pain in his wrist and forearm became worse in December 2014. The record indicates that appellant continued to submit reports from physician assistants regarding treatment for this right wrist and arm. In a report dated February 3, 2015, Patrick Castellano, a physician assistant, stated that appellant had a wrist strain with bilateral positive Tinel's sign.

By decision dated March 30, 2015, OWCP denied the claim for compensation. It found the medical evidence was insufficient to establish the claim.

## **LEGAL PRECEDENT**

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.<sup>4</sup>

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or 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 presence or occurrence of the disease or condition;

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<sup>3</sup> A traumatic injury is an injury caused by an incident or incidents occurring within one workday or shift. An occupational disease or illness is a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. §§ 10.5(ee) and (q).

<sup>4</sup> *Id.* at § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>5</sup>

5 U.S.C. § 8101(2) provides that a physician includes, “surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law.”<sup>6</sup> Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered physicians as defined under FECA.<sup>7</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>8</sup>

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.<sup>9</sup> A physician’s opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.<sup>10</sup> Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant’s specific employment factors.<sup>11</sup>

### ANALYSIS

In the present case, appellant has alleged that he sustained a right arm condition casually related to vacuuming, one of his job duties. He stated that his daily work activity involved up to four hours of vacuuming. OWCP found that appellant had not submitted sufficient medical evidence to establish his claim.

The medical evidence of record does not contain a report from a physician. As noted above, neither physician assistants nor physical therapists are considered physicians under FECA. To meet his burden of proof, appellant must submit evidence from a physician who provides a diagnosis of a medical condition, and a rationalized medical opinion substantiating causal relationship between the identified work activity and the diagnosed condition.

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<sup>5</sup> *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>6</sup> 5 U.S.C. § 8101(2).

<sup>7</sup> *M.M.*, Docket No. 14-1021 (issued July 1, 2015); *J.M.*, Docket No. 12-469 (issued January 9, 2013).

<sup>8</sup> See *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006); *George H. Clark*, 56 ECAB 162 (2004).

<sup>9</sup> See *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>10</sup> *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>11</sup> *Id.*

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 appellant did not meet his burden of proof to establish that he sustained a right arm condition causally related to his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 30, 2015 is affirmed.

Issued: September 4, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

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