

In a December 17, 2009 letter, the Office informed appellant that the evidence submitted was insufficient to establish her claim and advised her of the evidence needed to establish her claim. It requested a medical report from her physician containing a diagnosis and the physician's opinion as to the cause of the diagnosed condition. The Office also requested additional information from the employing establishment.

Appellant submitted a January 12, 2010 letter, in which she stated that her primary job duty as a language analyst was to translate recorded materials and documents. She recounted that approximately five years ago she began to feel numbness and pain in both hands during and after work hours. Appellant sought medical treatment and obtained wrist braces and an ergonomic keyboard, which helped relieve the pain. She asserted that the numbness continued and worsened as she performed certain tasks. In October 2009, appellant began to experience constant pain in her left shoulder and sporadic numbness of the left arm. In November 2009, she noted seeing a physician who performed a nerve test and diagnosed moderate carpal tunnel syndrome of the left hand and severe carpal tunnel syndrome of the right hand. Appellant also stated that she was undergoing physical therapy.

In a July 29, 2009 letter,¹ the employing establishment concurred with appellant's statements regarding her work. It noted that her job tasks involved repetitive typing and wrist movement and she was at her desk almost eight hours a day. The employing establishment also noted that appellant used wrist braces and an ergonomic keyboard, but neither appeared to alleviate her pain.

By decision dated January 27, 2010, the Office denied appellant's claim on the grounds that the evidence submitted was insufficient to establish the occurrence of a work-related event and that no medical evidence was submitted providing a diagnosis that could be connected to such an event.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of 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 timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

¹ The date of the letter appears to be erroneous as the employing establishment stated that it was in response to a December 17, 2009 request for information.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁵ To establish fact of injury in an occupational disease claim, 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.⁶

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes 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. The opinion of the physician must be based on a complete factual and medical background, 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 claimant.⁷

ANALYSIS

The Board finds that the evidence supports that appellant typed approximately seven hours each workday as part of her translation tasks. Appellant provided a factual statement, with which the employing establishment concurred, identifying repetitive typing as the cause of her claimed upper extremity symptoms. The Board has held that an employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value.⁸ Although the Office found that the evidence was insufficient to establish that the claimed work event occurred as alleged, the employer agreed with appellant's description of her duties involving typing and repetitive wrist movement. The Board will modify the Office's January 27, 2010 decision to find that she has established the claimed workplace activity, typing, to which she attributes her claimed carpal tunnel condition.

While the evidence supports that appellant performed the duties that she alleged, she has not met her burden of proof to establish her claim as she has not submitted medical evidence that diagnoses a medical condition for which compensation is claimed and she also has not submitted any medical evidence establishing that her work duties caused or aggravated a diagnosed medical condition.

On December 17, 2009 the Office advised appellant of the medical evidence needed to establish her claim. Specifically, it asked her to submit a medical report from her physician containing a diagnosis and the physician's opinion as to the cause of the diagnosed condition.

⁵ See *S.P.*, 59 ECAB 184, 188 (2007).

⁶ See *R.R.*, 60 ECAB ___ n.12 (Docket No. 08-2010, issued April 3, 2009); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005).

⁷ *I.J.*, 59 ECAB 408, 415 (2008); *Woodhams*, *supra* note 4 at 352.

⁸ *R.T.*, 60 ECAB ___ (Docket No. 08-408, issued December 16, 2008).

No medical evidence was submitted. Appellant submitted a January 12, 2010 letter noting that she was diagnosed with bilateral carpal tunnel syndrome by her physician in November 2009. However, she did not furnish any medical reports from her physician before the Office denied her claim on January 27, 2010. Because there was no medical evidence submitted in support of her duties, she failed to provide the medical evidence required to establish a *prima facie* claim.⁹

Appellant argues on appeal that she addressed the deficiencies in her claim as pointed out in the Office's December 17, 2009 letter and submitted evidence in a timely manner. She also contends that she asked her physician on January 11, 2010 to send her medical records to the Office. However, the Office did not receive any medical evidence prior to the issuance of its January 27, 2010 decision.¹⁰ Appellant did not meet her burden of proof to establish her claim.

CONCLUSION

The Board finds that appellant did not establish that she sustained an occupational disease in the performance of duty.

⁹ A.C., 60 ECAB ___ (Docket No. 08-1453, issued November 18, 2008); *Richard H. Weiss*, 47 ECAB 182 (1995). See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Development of Claims*, Chapter 2.800.3(a) (April 1993).

¹⁰ The Board notes that appellant submitted new medical evidence on appeal. As the Office did not consider this evidence in reaching the January 27, 2010 decision, the Board may not consider it for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

ORDER

IT IS HEREBY ORDERED THAT the January 27, 2010 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Issued: November 16, 2010
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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