

radiating up to her shoulder and neck due to writing and typing. She became aware of her condition and its relationship to her employment on October 15, 2008. Appellant did not miss work.²

OWCP informed appellant in a January 7, 2009 letter that additional evidence was needed to establish her claim. It gave her 30 days to submit a statement describing the employment factors that contributed to her condition and medical reports offering a physician's reasoned opinion as to how the identified factors caused or aggravated a diagnosed injury. OWCP received an undated position description, which stated that the job duties of an office automation clerk included typing, compiling data, producing reports and maintaining various logs and files.

The employing establishment controverted the claim in a January 16, 2009 letter, asserting that appellant's duties were limited to answering telephone calls, greeting visitors, recording outgoing certified mail and timekeeping and that typing or writing was kept to a minimum.

By decision dated March 27, 2009, OWCP denied appellant's claim, finding the medical evidence insufficient to establish that the accepted work activity caused a diagnosed injury.

Appellant requested reconsideration on March 5, 2010. She submitted a statement detailing that she worked for the employing establishment beginning on September 24, 1978 and first experienced bilateral arm pain in 1988. Appellant performed repetitive motion activities for over 30 years, such as typing on the computer, writing, taking dictation, answering telephone calls, logging attendance, photocopying, collating, processing certified mail, pushing carts and lifting files and other items weighing up to 40 pounds.

In an October 15, 2008 report, Dr. Robert L. Rundorff, a Board-certified physiatrist, related that appellant presented bilateral upper extremity pain, numbness and paresthesia since 1988 as well as neck pain. He conducted an electromyogram (EMG) and found right carpal tunnel syndrome.

An October 20, 2008 attending physician's report from Dr. Carol Kowtoniuk, an osteopath and general practitioner, noted appellant's history of wrist symptoms and diagnosed right carpal tunnel syndrome. She checked "yes" in response to a form question asking whether employment activity caused or aggravated the diagnosed condition. A March 5, 2009 record from Dr. Joel E. Borkow, a Board-certified plastic surgeon, added that appellant was an office clerk, wrote and lifted and had bilateral hand numbness and tingling for 21 years. Due to pain, Dr. Borkow was unable to perform a Phalen's maneuver. He diagnosed right carpal tunnel syndrome and recommended a carpal tunnel release.³

The employing establishment agency controverted the claim in April 21, 2010, asserting that appellant exaggerated her job duties and that she received a workplace accommodation that

² The record indicates that appellant is retired.

³ Drs. Kowtoniuk and Borkow both alluded to the results of the October 15, 2008 EMG study.

complied with her medical restrictions. The employing establishment attached a June 3, 2009 note from Dr. Kowtoniuk that placed appellant on modified duty.

On May 4, 2010 OWCP modified the March 27, 2009 decision to find that appellant was diagnosed with right carpal tunnel syndrome. However, it denied her claim on the grounds that the medical evidence remained insufficient to establish that the accepted work activity caused or contributed to her condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was timely filed within the applicable time limitation period, 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.⁴ 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.⁵

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁶ 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.⁷

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.⁸

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *See S.P.*, 59 ECAB 184, 188 (2007).

⁷ *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *see R.R.*, Docket No. 08-2010 (issued April 3, 2009).

⁸ *I.J.*, 59 ECAB 408 (2008); *Woodhams*, *supra* note 5.

ANALYSIS

The evidence supports that appellant typed, answered telephone calls, maintained records and logs, processed certified mail and other items and conducted other clerical tasks. Medical evidence also supports a diagnosis of right carpal tunnel syndrome. Nonetheless, the medical evidence is insufficient to establish that these occupational factors caused appellant's condition.

Dr. Kowtoniuk's opinion on causal relationship solely consisted of a "yes" checkmark in response to a question in an October 20, 2008 attending physician's report regarding whether appellant's right carpal tunnel syndrome was employment related. Her report is of diminished probative value because she failed to provide medical rationale explaining how writing or lifting pathophysiologically caused the injury.⁹ A checkmark response, without further explanation or rationale, is insufficient to meet this standard.¹⁰

Dr. Borkow related in a March 5, 2009 record that appellant wrote and lifted at work and advised surgery for her right carpal tunnel syndrome. His opinion, however, lacks fortifying medical rationale and has little probative value on the issue of causal relationship.¹¹ Dr. Borkow did not specifically explain how specific work activities caused or aggravated appellant's carpal tunnel syndrome.

The remaining medical evidence, namely Dr. Kowtoniuk's June 3, 2009 work restriction note and Dr. Rundorff's October 15, 2008 EMG report, did not address the cause of appellant's right carpal tunnel syndrome. Hence, they are insufficient to establish the claim as medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value.¹²

Appellant contends on appeal that she performed repetitive motion activities on the job and continues to experience symptoms. As noted, the evidence supports that she typed, answered telephone calls, maintained records and logs, processed certified mail, pushed carts, carried files and other items and conducted other repetitive clerical tasks. Nonetheless, the medical evidence did not explain how these employment factors led to appellant's right carpal tunnel syndrome. In the absence of well-reasoned medical opinion explaining this relationship, she failed to meet her burden.

The Board points out that appellant submitted new evidence on appeal. The Board lacks jurisdiction to review evidence for the first time on appeal.¹³ However, appellant may submit

⁹ *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994). The Board also notes that Dr. Kowtoniuk did not identify the employment factors that contributed to appellant's condition. See *John W. Montoya*, 54 ECAB 306, 309 (2003) (a physician must discuss whether the employment incident described by the claimant caused or contributed to the diagnosed medical condition).

¹⁰ See *Alberta S. Williamson*, 47 ECAB 569 (1996).

¹¹ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954). The Board notes that Dr. Borkow did not expressly attribute appellant's condition to writing, lifting or any other job duties.

¹² *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹³ 20 C.F.R. § 501.2(c).

new evidence or argument as part of a formal 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 did not establish that she sustained an occupational disease claim in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the May 4, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 8, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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