

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

W.C., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Las Vegas, NV, Employer**

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**Docket No. 11-346
Issued: September 20, 2011**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On November 26, 2010 appellant filed a timely appeal from a June 1, 2010 merit decision of the Office of Workers' Compensation Programs (OWCP) denying his occupational injury claim. Pursuant to the Federal Employees' Compensation Act (FECA)¹ 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 met his burden of proof to establish that he developed a right middle finger ganglion cyst causally related to factors of his employment.

FACTUAL HISTORY

On April 16, 2010 appellant, then a 65-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he developed lumps, swelling and stiffness on the joint of his right middle finger due to pitching and placing mail in boxes. He first became aware of

¹ 5 U.S.C. § 8101 *et seq.*

his condition and of its relationship to his employment on April 12, 2010. Appellant notified his supervisor and first received medical care on April 16, 2010.

In an April 16, 2010 urgent care report, Dr. Vahe Kazarian, Board-certified in family medicine, noted that appellant was seen because of swelling of the middle finger of the right upper extremity since April 12, 2010. He noted that appellant denied previous trauma and believed that his injury was caused by his employment as a letter carrier. Dr. Kazarian diagnosed ganglions of the right middle finger and opined that appellant's condition was likely not related to his employment.

In an April 21, 2010 temporary light-duty assignment, Dr. Grace Galik, Board-certified in internal medicine, placed appellant on light duty for six months. She restricted him from lifting or pushing more than 15 pounds of mail and driving a USPS vehicle.

In an April 22, 2010 physician activity status report, Dr. Farooq Kayani, Board-certified in family medicine, diagnosed a ganglion cyst and allowed appellant to return to regular duty on April 22, 2010.

By letter dated April 27, 2010, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised of the medical and factual evidence needed and was directed to submit it within 30 days.

In an April 22, 2010 report, Dr. Kayani obtained a history that appellant was sorting mail on April 12, 2010 when he noticed joint swelling and lumps on both sides of his hand. He diagnosed two ganglion cysts on the right middle finger dorsal side.

In a May 6, 2010 report, Dr. Carl N. Williams Jr., Board-certified in hand surgery, noted lumps on either side of appellant's knuckle on the right hand at the arthritic proximal interphalangeal (PIP) joint third digit. Appellant informed Dr. Williams that, since April 12, 2010, he experienced pain and stiffness during work when sorting mail and turning the key in the ignition of his mail truck. Dr. Williams opined that appellant could have a giant cell tumor of the right third PIP joint and recommended a magnetic resonance imaging (MRI) scan.

By decision dated June 1, 2010, OWCP denied appellant's claim finding that the medical evidence did not establish that the ganglion cyst was causally related to the accepted work activities.²

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 filed within the applicable time

² The Board notes that appellant submitted additional evidence after OWCP issued its June 1, 2010 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision and therefore, this additional evidence cannot be considered on appeal. 20 C.F.R. § 510.2(c)(1); *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952). Appellant may submit this evidence to OWCP, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

limitation; that an injury was sustained while in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.⁴

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁵ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁶ The opinion of the physician must be based on a complete factual and medical background of the claimant, 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁷

ANALYSIS

OWCP accepted that appellant engaged in repetitive pitching and placing mail in boxes as a letter carrier. It denied his claim as the medical evidence failed to establish a causal relationship between these activities and his right middle finger ganglion cyst. The Board finds that the medical evidence of record is insufficient to establish that appellant sustained right middle finger ganglion cyst causally related to factors of his employment as a letter carrier.

In an April 16, 2010 urgent care report, Dr. Kazarian diagnosed ganglions of the right middle finger and opined that appellant's condition was likely not related to his employment. This medical report does not support appellant's occupational injury claim because it stated that his ganglion cyst was not related to his employment factors.

³ *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

⁴ *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁷ *James Mack*, 43 ECAB 321 (1991).

In an April 21, 2010 light-duty assignment, Dr. Galik restricted appellant from lifting or pushing more than 15 pounds and driving a USPS vehicle. He did not provide any medical diagnosis or state how appellant's employment factors caused his injury. This report is insufficient to meet appellant's burden of proof.⁸

In an April 22, 2010 medical report, Dr. Kayani listed a history that appellant was sorting mail on April 12, 2010 when he noticed joint swelling and lumps on both sides of his hand. He diagnosed two ganglion cysts on the right middle finger dorsal side. While Dr. Kayani diagnosed appellant's injury, he did not address its cause or mention appellant's employment activities except to note that he was sorting mail. Without medical reasoning explaining how appellant's employment factors might have caused his ganglion cysts, Dr. Kayani's report is insufficient to meet appellant's burden of proof.⁹

In a May 6, 2010 report, Dr. Williams advised that, since April 12, 2010, appellant had pain and stiffness during work when sorting mail and turning the key in the ignition of his mail truck. He reported lumps on either side of appellant's knuckle on the right hand at the third digit PIP joint and opined that appellant could have a giant cell tumor of the right third PIP joint. Dr. Williams recommended an MRI scan. The relevant record before the Board does not include test results, if any.

The Board finds that the opinion of Dr. Williams is not well rationalized. Dr. Williams did not explain how appellant's work activities contributed to or caused his right knuckle condition. Further, he did not provide a firm medical diagnosis and merely opined that appellant could have a giant cell tumor of the right third PIP joint pending the results of an MRI scan. It becomes almost impossible to establish causal connection in appellant's claim based on Dr. Williams' report because he did not identify a medical condition. Dr. Williams does not provide probative medical opinion because he failed to state a clear diagnosis or adequately explain the cause of appellant's condition.¹⁰

On appeal, appellant contends that his employment as a letter carrier for the last 19 years caused his injury. His honest belief that work caused his medical problem is not in question. But that belief, however sincerely held, does not constitute the medical evidence necessary to establish causal relationship. In the instant case, the record is without rationalized medical evidence establishing a causal relationship between the accepted factors of employment and appellant's right middle finger ganglion cyst. Thus, appellant has failed to meet his burden of proof.

Evidence submitted by appellant after the final decision cannot be considered by the Board. As previously noted, the Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its decision.¹¹ Appellant may submit additional evidence,

⁸ *C.B.*, Docket No. 08-1583 (issued December 9, 2008).

⁹ *Id.*

¹⁰ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

¹¹ 20 C.F.R. § 501.2(c)(1).

together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that his right middle finger ganglion cyst is causally related to factors of his employment as a letter carrier.

ORDER

IT IS HEREBY ORDERED THAT the June 1, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 20, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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