

FACTUAL HISTORY

On June 10, 2011 appellant, then a 52-year-old review clerk, filed an occupational disease claim (Form CA-2) in claim No. xxxxxx875 alleging that she developed left arm CTS as a result of repetitively lifting and pulling during her employment activities. She first became aware of her condition and of its relationship to her employment on April 27, 2011.³

In April 27 and June 13, 2011 narrative statements, appellant reported that she had been a review clerk for eleven years. Her duties included heavy lifting and pulling and pushing equipment for about five hours daily. Appellant was on restricted duty, with three hours of sitting and two hours of walking, pulling and lifting tubs of mail which weighed 30 to 40 pounds. She reported that her employment as a review clerk caused discomfort and pain in her left arm from lifting, pulling and pushing postal mail. An official United States Postal Service position description for a review clerk was also submitted.

In a May 6, 2011 attending physician's report, Therese Moltz, a physician's assistant, stated that appellant returned for a follow-up visit due to a lumbar strain she sustained on April 27, 2011 from picking up plastic buckets. She noted that appellant's medical history included a diagnosis of work-related bilateral CTS from 10 years ago for which she still sought treatment. Appellant stated that her preexisting symptoms increased on April 28, 2011 when her left arm was throbbing and felt stiff.

By letter dated June 21, 2011, OWCP informed appellant that the evidence of record was insufficient to support her claim. It requested that she provide additional factual and medical evidence within 30 days.

Appellant submitted duty status reports dated September 7, 2006 to August 11, 2008 from Dr. Jeffrey Kirschman, Board-certified in family medicine, under claim No. xxxxxx142.⁴ On September 7, 2006 Dr. Kirschman diagnosed right CTS and bilateral wrist pain. He stated that appellant's diagnosed conditions were caused by repetitive work activities. In subsequent duty status reports dated December 4, 2006 to August 22, 2008, Dr. Kirschman diagnosed bilateral CTS. In the reports he did not offer any opinion regarding the cause of appellant's bilateral CTS.

In a May 12, 2011 medical report, Dr. Patricia S. Grayson, a treating physician, diagnosed appellant with hypertension and CTS.

³ On April 27, 2011 appellant filed a traumatic injury claim (Form CA-1) in claim No. xxxxxx825 alleging that on that same date, she sustained a left arm and lower back injury from lifting plastic tubs filled with flats. OWCP accepted the claim for sprain of back, lumbar region, bilateral. Appellant's upper back thoracic condition and left arm sprain were not accepted. OWCP combined claim No. xxxxxx875 and No. xxxxxx825 into master claim No. xxxxxx825.

⁴ In September 2006, appellant filed an occupational disease claim for injury to her right arm, left arm and right shoulder, claim No. xxxxxx142. She also filed an occupational disease claim in July 2003 for the left arm, claim No. xxxxxx785. OWCP denied both claims. No further information regarding these claims is available.

In medical reports dated June 21, 2011, Dr. Kirschman reported that on April 27, 2011 appellant was lifting a heavy tub and felt increased pain in her lower back and left elbow. Appellant was taken to St. Vincent's Hospital. The pain persisted in her left elbow and Dr. Kirschman diagnosed an elbow sprain. He opined that appellant sprained her left elbow when performing heavy lifts and transfers at work on April 27, 2011, the same time she injured her lower back. Dr. Kirschman also noted that appellant did not have a preexisting condition which could have contributed to her elbow sprain. In a June 21, 2011 duty status report, he noted that she could return to work full time without restrictions.

By decision dated August 9, 2011, OWCP denied appellant's claim finding that the medical evidence did not establish that her left carpal tunnel condition was causally related to the established work-related activities.

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 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.⁵ These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

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.⁷ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

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.⁸

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

⁵ *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

⁶ *Michael E. Smith*, 50 ECAB 313 (1999).

⁷ *Elaine Pendleton*, *supra* note 5.

⁸ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁹ 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.¹⁰

ANALYSIS

Appellant filed an occupational disease claim alleging that she sustained left CTS causally related to factors of her federal employment. OWCP accepted that she engaged in repetitive lifting, pushing and pulling in her employment as a review clerk. It denied appellant's claim, however, on the grounds that the evidence failed to establish a causal relationship between these activities and the alleged condition. The Board finds that the medical evidence of record is insufficient to establish that she sustained left CTS causally related to factors of her employment as a review clerk.

Appellant submitted medical reports which diagnosed left CTS. Dr. Kirschman's reports in 2006 initially diagnosed right CTS, but as of December 24, 2008, he diagnosed bilateral CTS. These reports were also submitted in support of her previous occupational disease claims, which were denied by OWCP. The Board finds that these reports are of diminished probative value as Dr. Kirschman offered no opinion regarding the cause of appellant's left CTS. His reports only addressed causal relationship regarding the right CTS.

In a May 12, 2011 medical report, Dr. Grayson diagnosed appellant with hypertension and CTS. This medical report contains no other information regarding her CTS. Dr. Grayson failed to address appellant's prior medical history, the cause of her injury or mention her employment activities. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹¹ Without medical reasoning explaining how the accepted employment factors caused her CTS, Dr. Grayson's report is not sufficient to meet appellant's burden of proof.¹²

The only other report of record which addressed appellant's CTS was the May 6, 2011 report from Ms. Molz, a physician's assistant. This report related appellant's medical history, noting that appellant had a diagnosis of bilateral CTS, from 10 years ago, for which she was still seeking treatment. The Board has long held that a physician's assistant is not a "physician" as

⁹ See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

¹⁰ *James Mack*, 43 ECAB 321 (1991).

¹¹ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹² *C.B.*, Docket No. 08-1583 (issued December 9, 2008).

defined under FECA and cannot diagnosis a condition or offer a medical opinion regarding causal relationship.¹³

OWCP received other medical reports from Dr. Kirschman, but the reports did not mention appellant's left CTS. Rather, he addressed her low back and left elbow conditions, which are the subject of another claim.

Appellant has failed to submit any rationalized medical evidence to establish that her left carpal tunnel condition is causally related to factors of her federal employment. In this claim, she is alleging an occupational injury from her overall duties as a review clerk. Specifically, appellant identified her injury as left arm CTS on her Form CA-2. In so far as she is alleging that her left elbow sprain is a result of the April 27, 2011 traumatic injury, she should pursue her claim under claim No. xxxxxx825. In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between the accepted factors of employment and appellant's left carpal tunnel syndrome. Thus, appellant has failed to meet her burden of proof.

Appellant may submit additional evidence, 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 her burden of proof to establish that her left CTS condition is causally related to factors of her employment as a review clerk.

¹³ Section 8102(2) of FECA provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. As nurses and physician's assistants are not physicians as defined by FECA, their medical opinions regarding diagnosis and causal relationship are of no probative medical value. *See* 5 U.S.C. § 8101(2); *E.H.*, Docket No. 08-1862 (issued July 8, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Roy L. Humphrey*, 57 ECAB 238 (2005).

ORDER

IT IS HEREBY ORDERED THAT the August 9, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 25, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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