

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

C.S., Appellant)

and)

DEPARTMENT OF AGRICULTURE,)
AGRICULTURAL MARKETING SERVICE,)
Olympia, WA, Employer)

**Docket No. 11-1497
Issued: February 2, 2012**

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
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 10, 2011 appellant filed a timely appeal from an April 18, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 established a right arm injury causally related to her federal employment.

FACTUAL HISTORY

On February 7, 2011 appellant, then a 62-year-old agricultural commodity grader, filed a Form CA-2 (occupational disease or illness claim) alleging that she sustained injuries as a result

¹ 5 U.S.C. § 8101 *et seq.*

of her federal employment. The claim form indicated that she had stopped working on January 11, 2011.

Appellant submitted a statement dated January 19, 2011 describing her work duties. She stated that as of November 2010 she had begun working longer hours and experienced right arm, wrist and elbow pain. Appellant indicated that by the end of 2010 the pain increased in severity and in January 2011 she sought medical treatment. As to her work duties, she stated that she constantly had to “use my arms to lift, grab, push, turn, twist, rotate and reach while lifting 15-30 pounds of 28-35 egg samples per day as part of the normal grading activities.” Appellant described in detail the typical movements of grading one sample of eggs.

By letter dated February 16, 2011, OWCP acknowledged the filing of the claim and advised appellant that additional evidence was needed. It noted that the evidence must include a medical report with a physician’s opinion, supported by a medical explanation, as to how work activities contributed to appellant’s condition.

With respect to medical evidence appellant submitted a January 11, 2011 note from Dr. Oumania Yue, a family practitioner, who indicated that she should be off work for two weeks. In a January 18, 2011 report, Dr. Michael Adams, Board-certified in family and occupational medicine, stated that appellant had worked as an egg inspector for about 19 years and had intermittent symptoms in her right elbow and wrist for approximately 16 years. He noted that her symptoms had increased recently with increased work hours. Dr. Adams indicated that appellant’s job involved lifting and flipping egg cases and cartons. He provided results on examination and diagnosed right wrist tenosynovitis and right elbow lateral epicondylitis.

In a report dated February 8, 2011, Dr. Adams stated that appellant was doing well following an elbow steroid injection. He noted that she was off work and when not using the wrist, it did not bother her. Dr. Adams indicated that appellant should remain off work for three additional weeks and should continue physical therapy. By report dated March 1, 2011, he indicated that she could return to work with no overtime hours. In a report dated March 15, 2011, Dr. Adams indicated that appellant should continue work with no overtime hours.

By decision dated April 18, 2011, OWCP denied the claim for compensation. It found the medical evidence of record was insufficient to establish the claim.

LEGAL PRECEDENT

A claimant seeking benefits under FECA² has the burden of establishing the essential elements of 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.³

² *Id.* at §§ 8101-8193.

³ 20 C.F.R. § 10.115(e), (f) (2005); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

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; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ 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.⁶ 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.⁷

ANALYSIS

Appellant submitted a factual statement describing her work duties that she felt contributed to a right arm injury. She noted such activities as lifting of egg cases and cartons, as well as constantly using her arm to turn, twist and rotate egg samples. Appellant has met the requirement to submit a factual statement identifying the employment factors alleged to have caused an injury and OWCP has accepted the employment factors occurred as alleged.

The issue, therefore, is whether the medical evidence is sufficient to establish causal relationship between a diagnosed condition or conditions and the identified employment factors. Dr. Adams diagnosed right wrist tenosynovitis and right elbow lateral epicondylitis, but as to causal relationship, he did not provide an opinion on causal relationship with the identified employment factors. In his January 18, 2011 report, he noted in his history some of the job duties appellant performs and her recent increase in symptoms. Dr. Adams did not, however, provide a specific opinion that the tenosynovitis or epicondylitis were causally related to the job duties. In his subsequent reports he provided results on examination but did not discuss casual relationship with employment. Dr. Adams noted that appellant reported decreased symptoms while not working, without discussing causal relationship between a diagnosed condition and the identified job duties.

The record indicates that appellant was examined by Dr. Yue, however he provided only a brief statement placing appellant off work without further detail.

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁵ *See Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

Appellant also received physical therapy, however reports of a physical therapist are of no probative medical value as they are not from a physician under FECA.⁸

As noted above, it is appellant's burden of proof to submit the necessary evidence to establish her claim. This burden includes the submission of rationalized medical opinion evidence on the issue of causal relationship between a diagnosed condition and the identified employment factors. The Board finds that appellant did not meet her burden of proof in this case.

On appeal, appellant states that her injury was sustained as a result of her work duties and is directly related to her job, but the issue is a medical issue and it must be resolved by medical evidence. A review of the medical evidence of record prior to the April 18, 2011 decision on appeal does not include a rationalized medical opinion on causal relationship with employment. For the reasons noted above, the Board will affirm the denial of the claim. 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 that appellant did not establish a right arm injury causally related to her federal employment.

⁸ Physical therapists are not physicians under FECA and their reports are of no probative value; *see Barbara J. Williams*, 40 ECAB 649 (1989); 5 U.S.C. § 8101(2).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 18, 2011 is affirmed.

Issued: February 2, 2012
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