

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

Y.P., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Wilmington, NC, Employer**

)
)
)
)
)
)
)
)
)
)

**Docket No. 12-581
Issued: July 5, 2012**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 24, 2012 appellant filed a timely appeal from the Office of Workers' Compensation Programs' (OWCP) January 10, 2012 merit decision denying her occupational disease claim. 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 met her burden of proof to establish that she sustained a right middle finger injury causally related to factors of her federal employment.

On appeal, appellant contends that her duties as a rural carrier caused her right finger condition.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On October 31, 2011 appellant, a 54-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained an injury to her right middle index finger due to repetitive employment duties. In a November 1, 2011 statement, she indicated that she had received no relief from treatments she had been receiving three times a week for her finger pain.²

Appellant submitted notes dated October 12, 2010 through August 12, 2011 from Dr. Robert M. Moore, a Board-certified orthopedic surgeon. Notes dated October 12, 2010 reflected that she had been experiencing pain in her right long finger for three months. Dr. Moore stated that appellant had been working as a carrier and frequently used the long finger to open mailboxes. Examination revealed tenderness over the flexor tendon sheath of the right long finger at the metacarpophalangeal (MCP) level. There was full range of motion, but with triggering near the terminal flexor. Dr. Moore diagnosed right long trigger finger. Follow-up notes dated December 30, 2010 reflected that appellant received injections to relieve pain in the right middle finger.

Notes from Dr. Moore dated March 22, May 23 and August 11, 2011 reflected that appellant was experiencing recurrent painful triggering of the right long finger. In each instance, he found tenderness over the flexor tendon sheath of the right long finger at the MCP level, with no joint contracture. Dr. Moore recommended against further injections due to the risk of tendon injury. On August 12, 2011 he indicated that appellant was scheduled for surgery on November 23, 2011.

Appellant submitted an October 21, 2011 report from Stewart Chiropractic, bearing an illegible signature. Notes reflected that appellant had red, swollen joints in the middle finger of the right hand, which developed from overuse delivering mail for 20 years.

On November 1, 2011 the employing establishment controverted appellant's claim on the grounds that she had not provided sufficient medical evidence to establish a causal relationship between her claimed finger condition and her employment activities.

In a letter dated November 14, 2011, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It requested additional details regarding the employment duties she believed caused or contributed to her claimed condition, as well as a comprehensive medical report from a treating physician, which contained symptoms, a definitive diagnosis and an opinion with an explanation as to the cause of her diagnosed condition.

In a December 2, 2011 statement, appellant reiterated her contention that her right finger condition was caused by employment activities, which included opening and closing mailboxes, lifting and sorting bundles and pushing and pulling letters, flats and parcels.

The record contains a December 2, 2011 surgical consent form authorizing a right trigger release: August 12, 2011 notes from Dr. Moore reflecting that right trigger release surgery had

² Appellant's August 9, 2007 traumatic injury claim was accepted for neck sprain and contusions of multiple sites (File No. xxxxxx811).

been scheduled; notes dated October 17 through November 4, 2011, bearing an illegible signature; reflecting pain in the right middle finger and hospital records and discharge instructions dated November 21 through 23, 2011.

By decision dated January 10, 2012, OWCP denied appellant's claim on the grounds that the medical evidence did not demonstrate that the claimed medical condition was causally related to the established work-related events.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of her claim, including the fact that an injury was sustained in the performance of duty as alleged³ and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the 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.⁵ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to claimant's diagnosed condition. To be of probative value, 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.⁶

An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents, is sufficient to establish a causal relationship.⁷

³ *Joseph W. Kripp*, 55 ECAB 121 (2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001). "When an employee claims that he sustained injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury." *See also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(q) and (ee) (2002) ("[o]ccupational disease or [i]llness" and "[traumatic injury]" defined).

⁴ *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

⁵ *Michael R. Shaffer*, 55 ECAB 386 (2004); *see also Solomon Polen*, 51 ECAB 341, 343 (2000).

⁶ *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

⁷ *Phillip L. Barnes*, 55 ECAB 426 (2004); *see also Dennis M. Mascarenas*, *supra* note 4 at 218.

ANALYSIS

The medical evidence submitted by appellant is insufficient to establish that she sustained a right middle finger condition due to established employment events. Therefore, she has failed to meet her burden of proof.

On October 12, 2010 Dr. Moore provided examination findings and diagnosed right long trigger finger. Although he stated that appellant had been working as a carrier and frequently used the long finger to open mailboxes, he did not provide a definitive opinion as to the cause of the diagnosed condition. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁸ Moreover, to the extent that his statement may be construed to constitute an opinion on the cause of appellant's condition, it fails to explain how her established work activities were competent to cause the right middle finger condition. Medical conclusions unsupported by rationale are of little probative value and are insufficient to establish causal relationship.⁹ Subsequent notes and reports from Dr. Moore do not contain an opinion on the cause of appellant's diagnosed condition. Therefore, they are of limited probative value.¹⁰

Appellant submitted an October 21, 2011 report from Stewart Chiropractic, bearing an illegible signature. As the authors of this report cannot be identified as a physician as defined by FECA, it lacks probative value.¹¹ Additionally, the term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the Secretary. As appellant has not claimed injury to her spine in this case, a chiropractor's report would not constitute probative medical evidence.¹²

The remaining medical evidence of record, including surgical consent forms, progress notes and hospital records that do not contain an opinion on the cause of appellant's claimed condition, are insufficient to establish appellant's claim.

Appellant expressed her belief that her alleged condition resulted from her employment duties. The Board has held, however, that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the

⁸ *Dennis M. Mascarenas, supra* note 4.

⁹ *Willa M. Frazier, 55 ECAB 379 (2004)*. See *Calvin E. King, Jr., 51 ECAB 394 (2000)*; see also *Frederick E. Howard, Jr., 41 ECAB 843 (1990)*.

¹⁰ See *supra* note 4.

¹¹ A medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as "physician" as defined in 5 U.S.C. § 8101(2). Section 8101(2) of FECA provides as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law." See *Merton J. Sills, 39 ECAB 572, 575 (1988)*.

¹² See *Merton J. Sills, id.*

two.¹³ Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.¹⁴ Causal relationship must be substantiated by reasoned medical opinion evidence, which it is appellant's responsibility to submit. Therefore, appellant's belief that her condition was caused by the alleged work activities is not determinative.

OWCP advised appellant that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of her condition. Appellant failed to do so. As there is no probative, rationalized medical evidence addressing how appellant's claimed condition was caused or aggravated by her employment, she has not met her burden of proof to establish that she sustained an occupational disease in the performance of duty causally related to factors of employment.¹⁵

On appeal, appellant contends that her duties as a rural carrier caused her right finger condition. For reasons stated, the Board finds that she has failed to establish that she sustained an injury in the performance of duty.

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 has not met her burden of proof to establish that she sustained an injury in the performance of duty.

¹³ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹⁴ *Id.*

¹⁵ The Board notes that appellant submitted additional evidence after OWCP rendered its October 21, 2011 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 501.2(c); *Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952).

ORDER

IT IS HEREBY ORDERED THAT the January 10, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 5, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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