



## **FACTUAL HISTORY**

On July 16, 2012 appellant, then a 56-year-old physician, filed an occupational disease claim, alleging that he had sustained injuries to his right thumb and left ring finger as a result of repeated use of the endoscope.

In an August 10, 2012 letter, OWCP advised appellant of the deficiencies in his claim. It requested that he submit a physician's opinion supported by a medical explanation addressing how the reported work activity caused his medical condition.

In response, appellant submitted an August 29, 2012 medical report signed by Dr. Stephen P. Ferraro, Jr., a Board-certified hand surgeon, who diagnosed appellant with tennis elbow, thumb trigger and noted complaints of shoulder and carpometacarpal pain. A September 5, 2012 physical therapy note, signed by Alex von Dachenhausen, a physical therapist, which provided the same diagnosis.

By decision dated October 4, 2012, OWCP accepted that the alleged employment factors occurred. It denied appellant's claim finding that he submitted insufficient medical evidence to establish that the claimed conditions were causally related to his employment.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of establishing that 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 of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>4</sup> 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.<sup>5</sup>

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 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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is usually rationalized medical

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

evidence. 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.<sup>6</sup>

### ANALYSIS

OWCP accepted that appellant performed the alleged employment activities requiring repeated use of his hand. The Board finds that he has not submitted sufficient medical evidence to establish that his diagnosed conditions were caused by his work activities.

Section 8101(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. A physical therapist is not a “physician” as defined under FECA and any opinion regarding causal relationship is of no probative medical value.<sup>7</sup> As such the September 5, 2012 note signed by Alex von Dachenhausen is of no probative value, as he is a physical therapist, not a physician within the meaning of FECA.

Dr. Ferraro’s medical note provided several diagnoses of appellant’s condition, but it is of limited probative value. To be of probative value, a physician must relate a complete factual and medical history of injury, and explain how the implicated employment factors caused the diagnosed condition. Dr. Ferraro’s report did not provide a factual or medical history, did not recite appellant’s employment activities or provide any medical rationale explaining how his employment caused or contributed to the diagnosed conditions. The Board has held that medical reports lacking a rationale on causal relationship have diminished probative value.<sup>8</sup> As such, this report is of limited probative value.

Appellant did not submit sufficient medical evidence from a physician addressing how diagnosed conditions were causally related to the claimed employment activities. He has not met his burden of proof.

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 failed to meet his burden of proof to establish that his claimed conditions were sustained in the performance of duty.

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<sup>6</sup> *Id.*

<sup>7</sup> *See Roy L. Humphrey*, 57 ECAB 238 (2005).

<sup>8</sup> *See Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 4, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 10, 2013  
Washington, DC

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

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

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