United States Department of Labor
Employees' Compensation Appeals Board

L.C., Appellant	)	
and	)	**Docket No. 12-1962**
	)	**Issued: March 12, 2013**
DEPARTMENT OF THE NAVY, NAVAL HEALTH CLINIC, Goose Creek, SC, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

JURISDICTION

On September 25, 2012 appellant filed a timely appeal from a September 5, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUE

The issue is whether appellant met her burden of proof to establish that she developed a left wrist condition as a result of her federal employment.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that appellant submitted additional evidence following the September 5, 2012 decision. Since the Board's jurisdiction is limited to evidence that was before OWCP at the time it issued its final decision, the Board may not consider this evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c); *Sandra D. Pruitt*, 57 ECAB 126 (2005). Appellant may submit that evidence to OWCP along with a request for reconsideration.

FACTUAL HISTORY

On April 9, 2012 appellant, then a 60-year-old medical support assistant, filed an occupational disease claim alleging increased numbness and pain in her hands and wrists over the last several months as a result of an ergonomically incorrect workstation. She stated that her duties included working at the front intake desk, greeting patients, answering telephones, filing and handwriting documents and working on the computer. Appellant first became aware of her condition on January 1, 2012 and realized that it resulted from her employment on April 2, 2012. She did not stop work.[3]

On April 19, 2012 OWCP advised appellant that no evidence had been submitted to establish her claim. It requested that she submit a detailed description of the employment activities that she believed caused her condition and respond to specific questions. OWCP also requested that appellant submit a comprehensive medical report, including a diagnosis, results of examination and tests and a physician's opinion with medical rationale explaining the cause of her condition.

Appellant submitted a position description for a medical clerk.

In October 9 and 14, 2009 health records, Sonya Fortner, an occupational therapist, related appellant's complaints of pain in both hands due to carpal tunnel and cubital tunnel syndrome. She noted that an electromyography of both hands confirmed median nerve involvement at the carpal tunnel and positive compression test at the elbow. The occupational therapist diagnosed carpal tunnel syndrome.

In a March 27, 2012 health record, Dr. James Combs, Board-certified in occupational medicine, stated that appellant had prior carpal tunnel release in 2004 and noted her complaints of increased symptoms since 2005. Appellant attributed her symptoms to ergonomic issues in her workplace and denied any specific trauma to her wrists. Dr. Combs stated that she was left handed and performed typing primarily with her left hand. Upon examination, he observed wrist pain throughout range of motion and tenderness of the left wrist on palpation of the radial styloid process. Phalen's test maneuver did not show numbness and tingling and Tinel's sign of the median nerve at the wrist was negative. Dr. Combs diagnosed left wrist synovitis.

In an April 11, 2012 medical record, Dr. Combs noted appellant's complaints of left forearm pain which radiated down to her wrist and hands. He opined that her symptoms were consistent with lateral epicondylitis and extensor tenosynovitis bilaterally, left greater than right. Dr. Combs reported that appellant was a desk clerk with a three-year history of left wrist, forearm and hand pain. He also observed that she had past medical history positive for carpal tunnel. Dr. Combs conducted an examination and noted complaints of pain on the left with pronation and supination, flexion and extension and ulnar deviation. He also observed complaints of pain on the right with pronation and supination, wrist flexion and extension and ulnar and radial deviation. Dr. Combs diagnosed lateral epicondylitis (tennis elbow), joint pain and stiffness to the wrist and synovitis of the hand and left wrist.

[3] The record reflects that OWCP previously accepted a claim for carpal tunnel syndrome (File No. xxxxxx545).

In an April 17, 2012 health record, Dr. Combs related appellant's complaints of persistent wrist pain and noted that she wore a splint on her left hand. Examination of the wrists revealed abnormalities. Dr. Combs observed tenderness on palpation of the ulnar aspect of the wrist and pain throughout range of motion. No swelling was noted along the extensor and abductor of both wrists. Dr. Combs also found swelling on the ulnar aspect of the right wrist. He observed pain with motion and tenderness on palpation of the volar aspect of appellant's left wrist. Phalen's test maneuver demonstrated numbness/tingling in the median nerve distribution and Tinel's sign was positive. Dr. Combs diagnosed joint pain, localized in the wrist.

In an April 17, 2012 limited-duty recommendation note, Dr. Combs stated that appellant could perform light duty and restricted her to limited use of both wrists. He advised her to use a splint as needed.

In an April 25, 2012 medical record, Dr. Combs related appellant's complaints of proximal left forearm pain which radiated down to her wrist and hand. Finkelstein's test was positive. Dr. Combs stated that appellant's symptoms were consistent with lateral epicondylitis and extensor tenosynovitis bilaterally. He diagnosed lateral epicondylitis and tenosynovitis.

On May 9, 2012 appellant responded to the specific questions in OWCP's development letter. She believed the employment-related activities that contributed to her condition were repetitive motions such as typing, pen and ink documentation, reaching for records and telephones, and constantly retrieving forms from file cabinets. Appellant performed these activities six to seven hours a day, five days a week with a 60-minute break each day. She stated that the pain in her wrists increased gradually over the last two years and that pain, tingling, numbness and stiffness began to occur two months ago. Appellant reported that her previous injuries included carpal tunnel syndrome in 2004.

In a May 8, 2012 report, Dr. Gerald J. Shealy, a Board-certified orthopedic surgeon, related appellant's complaints of numbness and tingling in both hands. He stated that she had these symptoms for at least two years and described symptoms which were typical for a history of carpal tunnel syndrome. Appellant reported that her symptoms were aggravated with repetitive or elevated activities. She denied any history of a specific injury. Dr. Shealy reviewed appellant's history and conducted an examination. He observed decreased stability in a median and ulnar nerve distribution. Range of motion of the wrist and fingers were normal. Dr. Shealy also noted significant intrinsic atrophy and weakness of the abductor pollicis brevis bilaterally. Tinel's test over the ulnar nerve in the cubital tunnel bilaterally was positive. Dr. Shealy diagnosed bilateral median and possible bilateral ulnar neuropathy. He recommended that appellant undergo electrodiagnostic studies.

In a May 30, 2012 report, Dr. Emily A. Darr, who specializes in physical medicine and rehabilitation, noted appellant's complaints of progressively worsening bilateral arm and hand pain for the past year. She reported that appellant had carpal tunnel release with persistent numbness and pain. Manual muscle testing revealed 5/5 bilaterally and muscle stretch reflexes revealed 2+ in bilateral biceps/triceps. Provocative testing revealed Tinel's test and Phalen's sign. Sensation testing was intact. Dr. Darr reported that there was electrophysiologic evidence of sensorimotor median demyelination with associated axonal loss bilaterally at the wrist, which

was typical for severe left carpal tunnel syndrome and moderate right carpal tunnel syndrome. She found no evidence of focal ulnar or generalized peripheral neuropathy.

In a June 27, 2012 report, Dr. Shealy stated that appellant was examined for possible bilateral median and ulnar neuropathy. He reported that she underwent electrodiagnostic studies which indicated that she had severe left median neuropathy consistent with carpal tunnel syndrome. Examination revealed decreased sensibility in the median nerve distribution with abductor pollicis brevis weakness. Range of motion of the wrist was normal. Dr. Shealy diagnosed carpal tunnel syndrome and ulnar neuropathy.

Appellant submitted a July 23, 2012 ergonomic evaluation of her workstation.

In an August 22, 2012 note, Dr. Shealy indicated that appellant was seen in his office on August 22, 2012. He authorized her to return to work with restrictions of no writing and light typing as tolerated.

In a decision dated September 5, 2012, OWCP denied appellant's occupational disease claim finding insufficient medical evidence to establish that her bilateral wrist conditions were causally related to her employment duties.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence[4] including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which he or she claims compensation is causally related to that employment injury.[5] In an occupational disease claim, appellant's burden requires submission of the following: (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.[6]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[7] The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the

[4] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan,* 20 ECAB 55, 58 (1968).

[5] *M.M.,* Docket No. 08-1510 (issued November 25, 2010); *G.T.,* 59 ECAB 447 (2008); *Elaine Pendleton,* 40 ECAB 1143, 1145 (1989).

[6] *R.H.,* 59 ECAB 382 (2008); *Ernest St. Pierre,* 51 ECAB 623 (2000).

[7] *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.[8]

ANALYSIS

Appellant alleged that she developed a left wrist condition as a result of her duties as a medical support assistant. OWCP accepted that her duties included repetitive motions such as typing, pen and ink documentation, reaching for records and phones and constantly retrieving forms from file cabinets and that she was diagnosed with left wrist conditions but it denied her claim finding insufficient medical evidence to establish that her wrist conditions were causally related to her employment duties. The Board finds that appellant did not meet her burden of proof to establish that she developed a left wrist condition as a result of her federal employment.

Appellant submitted various reports from Dr. Combs dated March 27 to May 8, 2012. Dr. Combs reviewed her history and noted that she underwent prior carpal tunnel release in 2004. Appellant complained of increased left forearm pain which radiated down to her wrist and hands since 2005 and attributed her symptoms to ergonomic issues in her workplace. Dr. Combs reported that she was a desk clerk who performed typing primarily with her left hand. Upon examination, he observed wrist pain throughout range of motion and tenderness of the left wrist on palpation. Phalen's sign maneuver demonstrated numbness and tingling and Tinel's test was positive. Dr. Combs diagnosed left wrist synovitis and lateral epicondylitis (tennis elbow). The Board notes that he provided a firm, medical diagnosis and that appellant worked as a desk clerk. Dr. Combs did not, however, offer any opinion as to whether appellant's left wrist condition was causally related to her federal employment duties. The Board has found 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.[9] Because Dr. Combs fails to provide any opinion, with medical rationale, explaining whether appellant's left wrist condition resulted from her duties as a desk clerk his reports are insufficient to establish her claim.

Likewise, Drs. Shealy and Darr also failed to provide any opinion on the cause of appellant's left wrist condition. Both physicians conducted an examination and provided a medical diagnosis. Neither physician, however, offered any opinion on the cause of appellant's condition. Because Drs. Combs, Shealy and Darr failed to explain how appellant's left wrist conditions were causally related to her employment duties, these reports are insufficient to establish her claim. Without rationalized medical opinion evidence demonstrating that appellant sustained left wrist synovitis and lateral epicondylitis as a result of her medical clerk duties, the Board finds that OWCP properly denied her claim.

Appellant also submitted various medical notes from Ms. Fortner, an occupational therapist. Nurses, physician's assistants or physical and occupational therapists, however, are

[8] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

[9] *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

not physicians as defined under FECA.[10] Their opinions regarding diagnosis and causal relationship are of no probative medical value.[11] Thus, the reports of appellant's occupational therapist are not entitled to any probative weight.

On appeal, appellant explained that her work duties involved 60 to 70 percent of keying, 50 percent of entering tel-cons, 50 to 60 percent of writing and 50 to 60 percent of answering the telephone. She related that she was in constant pain from repetitive use of her hands and that the repetitive use exacerbated her left carpal tunnel syndrome and has progressed her left elbow tendinitis. The Board notes that appellant submitted sufficient evidence demonstrating that her employment duties involved repetitive use of her hands and wrists and that she developed a left wrist condition. Appellant did not, however, submit sufficient medical evidence establishing a causal relationship between her left wrist conditions and her employment duties. Causal relationship is a medical question that must be established by reasoned medical opinion evidence.[12] Because appellant has not provided such rationalized medical opinion in this case, she has failed to meet her 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 not met her burden of proof to establish that her left wrist conditions were causally related to factors of her employment.

[10] 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; 5 U.S.C. § 8101(2).

[11] *Roy L. Humphrey*, 57 ECAB 238 (2005); *see also M.W.*, Docket No. 12-1500 (issued December 14, 2012).

[12] *W.W.*, Docket No. 09-1619 (issued June 2, 2010); *David Apgar*, 57 ECAB 137 (2005).

ORDER

IT IS HEREBY ORDERED THAT the September 5, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 12, 2013
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board