

had filed since 2005. Appellant contended that the medical record was sufficient to establish her claim.

FACTUAL HISTORY

On March 29, 2013 appellant, then a 43-year-old medical technician, filed an occupational disease claim (Form CA-2) alleging that she sustained de Quervain's tendinitis of the right wrist on or before December 14, 2011 due to the repetitive motions in her duties as a phlebotomist. She did not stop work.

In an April 8, 2013 letter, OWCP advised appellant of the evidence needed to establish her claim, including her statement of how the right wrist condition developed and the work tasks alleged to have caused or contributed to it. It also requested a statement from an attending physician explaining the medical reasons why the repetitive motions while drawing blood would cause de Quervain's tendinitis. OWCP afforded appellant 30 days to submit such evidence.

In response, appellant submitted an April 26, 2013 statement asserting that she was first diagnosed with right wrist tendinitis in 2005. She filed a traumatic injury claim on October 18, 2007 for right shoulder, elbow and wrist injuries sustained when attacked by a patient and an August 23, 2012 occupational disease claim for tendinitis due to repetitive hand motions while drawing blood. Appellant sought treatment for her upper extremity conditions through 2012. She attributed her current right hand and wrist symptoms to continuous grasping and fine manipulation while drawing blood, as well as pushing and pulling laboratory carts.

In a December 14, 2011 report, Dr. Robert S. Adelaar, a Board-certified orthopedic and hand surgeon, related appellant's account of persistent right wrist symptoms. He diagnosed "de Quervain's or a more proximal scissoring of the tendon sheath" and administered an injection. Appellant presented on March 19, 2012 with pain in the base of the right thumb, a positive Finkelstein's tests and tenderness at the first dorsal compartment. Dr. Adelaar diagnosed de Quervain's tenosynovitis and recommended surgery. In an August 13, 2012 report, he opined that appellant had a "work-related problem from repetitive use as a blood phlebotomist, where she uses her wrist a great deal and that irritates her first dorsal compartment. This problem started in 2007." Dr. Adelaar noted on March 14, 2013 that appellant presented on December 14, 2011 with radial styloid tenosynovitis.²

By decision dated June 25, 2013, OWCP denied appellant's claim on the grounds that fact of injury was not established. It found that she provided conflicting histories of injury, asserting that she developed tendinitis in 2005 and 2011 without explaining the role of the 2007 traumatic injuries. OWCP noted that it denied a prior claim for tendinitis in 2008 under File No. xxxxxx490.

²Appellant also submitted an unsigned March 23, 2005 prescription for a wrist splint, October 2007 work restrictions and employing establishment health clinic notes that do not bear a legible signature. As these forms were not signed by a physician, they are not considered medical evidence. See *Merton J. Sills*, 39 ECAB 572 (1988).

In a September 24, 2013 letter, appellant requested reconsideration. She asserted that her right wrist symptoms commenced in 2005. Appellant submitted an August 28, 2013 report from Dr. Adelaar noting that she was in a “rear-end collision the last few months and then she had pain in the whole left side and it also aggravated her right wrist.” Dr. Adelaar planned an endoscopic carpal tunnel release and prescribed a wrist splint.³

By decision dated October 18, 2013, OWCP denied modification on the grounds that appellant submitted insufficient evidence to establish fact of injury. It found that Dr. Adelaar’s August 28, 2013 report noted that appellant sustained a right wrist injury in a motor vehicle accident, adding to the conflicting history of injury.

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 and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁵

An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift.⁶ 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) 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 generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medial certainty and must be supported

³ Appellant also submitted a September 12, 2013 letter from a nurse practitioner which was not signed by a physician. As this letter was not signed by a physician, it is not considered medical evidence. *See Merton J. Sills, id.*

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁶ 20 C.F.R. § 10.5(q).

by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

ANALYSIS

Appellant claimed that she sustained tendinitis of the right wrist due to work factors but offered divergent histories of injury. In her March 29, 2013 claim form, she stated that she sustained de Quervain's tendinitis on or before December 14, 2011 due to repetitive hand motion at work. Appellant explained that on April 26, 2013 her right wrist condition actually started in 2005 and that she sustained right arm injuries on October 18, 2007 when attacked by a patient. She noted that she previously claimed right wrist tendinitis in 2008. In a September 24, 2013 letter, appellant contended that her right wrist symptoms began in 2005 and continued unchanged to the present. These conflicting histories of injury do not provide a clear date or mechanism of onset.

The Board finds that appellant has not established her claim due to the conflicting evidence regarding the history of the claimed right wrist condition.⁸ OWCP advised appellant by April 8, 2013 letter of the evidence needed to establish fact of injury, including a history of how the right wrist condition developed. Appellant did not submit such evidence. Therefore, OWCP's June 25 and October 18, 2013 decisions were proper under the law and circumstances of this case.

As the threshold issue of fact of employment incidents or conditions giving rise to the injury is not established, it is premature to address the medical evidence.⁹ The Board notes, however, that Dr. Adelaar, an attending Board-certified orthopedic surgeon, did not provide a complete history of injury or a clear diagnosis due to work factors. Dr. Adelaar diagnosed right wrist tendinitis, de Quervain's tenosynovitis, radial styloid tenosynovitis and carpal tunnel syndrome. He attributed appellant's condition to repetitive wrist motions at work irritating the first dorsal compartment beginning in 2007. Dr. Adelaar also opined that a 2013 motor vehicle accident aggravated her right wrist condition. He did not mention the 2007 traumatic injuries.

On appeal, appellant asserts that she sustained right de Quervain's tendinitis in the performance of duty as early as 2005. As noted, the conflicting histories of injury create significant doubt as to the cause of the right wrist condition.

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.

⁷ *Solomon Polen*, 51 ECAB 341 (2000).

⁸ *A.D.*, Docket No. 09-1185 (issued January 27, 2010). *See also Caroline Thomas*, 51 ECAB 451 (2000).

⁹ *See Bonnie A. Contreras*, 57 ECAB 364 (2006) (where a claimant did not establish an employment incident alleged to have caused an injury, it was not necessary to consider any medical evidence).

CONCLUSION

The Board finds that appellant did not establish that she sustained right de Quervain's tendinitis in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated October 18 and June 25, 2013 are affirmed.

Issued: May 6, 2014
Washington, DC

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

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

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