



performance of duty. He noted that he worked for 21 years with the employing establishment as a plate printer operator. Appellant alleged that his injury began on December 1, 2011 and that he first became aware of the injury and its relation to his work on that date. He did not stop work. The employing establishment noted that appellant had been working since 1990 and the duties included: setup; monitoring the operation of the printing press and making adjustments as needed; print quality; taking corrective action; preparing reports and using the hands and wrists intermittently to keep the presses running smoothly.

By letters dated December 22, 2011, OWCP advised appellant and the employing establishment that additional factual and medical evidence was needed.

A November 29, 2011 electromyography (EMG) scan read by Dr. Jiangping Liu, a Board-certified neurologist, revealed an abnormal EMG scan and nerve conduction study. He indicated that the study revealed bilateral upper extremity carpal tunnel syndrome to a mild degree. Also submitted was a December 19, 2011 employing establishment treatment record from a provider with an illegible signature.

In a December 12, 2011 statement, appellant related that he had worked as a plate printer for 21 years. He noted that the presses were continually printing for 24 hours a day, five to seven days a week. Appellant indicated that during that time he was making adjustments to impression and plate mechanisms as well as wiping and polishing ink fountains, feeders and delivery devices, etc. He explained that the work required frequent standing, walking, bending, crouching, stooping, reaching and lifting objects weighing up to 75 pounds. Additionally, appellant was required to have physical contact with grease, oil, solvents and printing ink and exposure to the possibility of scrapes, falls, strains, burns, electric shock, cut bruises, as well as danger from moving machinery. In a December 14, 2011 statement, Tim Moloney, the plate printing supervisor, indicated that appellant's daily job duties were consistent with appellant's statement.

In a December 21, 2011 statement, Anthony Maniaci, the supervisor of plate printing operations, controverted the claim. He noted that there was no medical evidence with objective rationale to support causal relationship.

In a December 23, 2011 report, Dr. Faye David, an internist, noted that appellant had bilateral carpal tunnel syndrome per Dr. Liu's testing on November 29, 2011.

On December 30, 2011 appellant advised OWCP that he had submitted the requested documentation. In an undated response received by OWCP on January 10, 2012 he again described his employment duties and activities. Appellant noted that he did not have any hobbies, physical fitness or other activities outside work that could have caused this condition. He indicated that he had also requested a report from his physician.

By decision dated January 31, 2012, OWCP denied appellant's claim. It found that the medical evidence did not contain a clear and definite explanation from his physician to connect the medical condition to the work activities.

In a letter dated June 6, 2012, appellant's attorney, contacted OWCP to note her representation and to advise that she would seek reconsideration. In a December 1, 2012 letter,

counsel noted that she had been retained to represent appellant in the “reconsideration” appeal. By letter dated January 14, 2013, appellant confirmed that he had retained counsel to represent him in his “reconsideration appeal.”

In letters dated January 14 and 27, 2013, appellant’s counsel provided additional information. She argued that appellant was employed for 21 years as a plate printer with the employing establishment. Counsel argued that he had presented sufficient evidence to meet the criteria to establish his claim for an injury in the course of his federal employment. OWCP received copies of previously submitted reports.

In a decision dated February 21, 2013, OWCP found that the reconsideration request was untimely filed and failed to present clear evidence of error. On August 12, 2013 the Board issued an order remanding case.<sup>2</sup> The Board found that the January 14, 2013 request was a timely request for reconsideration. The Board found that the February 21, 2013 decision should be set aside and the case remanded for an appropriate decision.

In an August 23, 2013 decision, OWCP denied modification of its prior decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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 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, generally, is 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

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<sup>2</sup> Docket No. 13-952 (issued August 12, 2013).

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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

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

The evidence establishes that appellant has bilateral carpal tunnel syndrome and was involved in repetitive and other activities at work. However, he submitted insufficient medical evidence to establish that his bilateral hand and wrist condition was caused or aggravated by these activities or any other specific factors of his federal employment.

The December 23, 2011 report from Dr. David did not offer any opinion on causal relationship. For example, he did not address whether appellant's work duties contributed to his diagnosed condition.<sup>7</sup> A November 29, 2011 EMG scan read by Dr. Liu revealed bilateral upper extremity carpal tunnel syndrome. However, this report merely reported findings and did not contain an opinion regarding the cause of the reported condition. The medical evidence is insufficient to establish that the diagnosed condition is due to particular factors of employment.

Also of record is a December 19, 2011 employing establishment treatment record from a provider with an illegible signature. The Board has held that a medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8101(2). Reports lacking proper identification do not constitute probative medical evidence.<sup>8</sup>

As there is no reasoned medical evidence explaining how appellant's employment duties caused or aggravated his bilateral carpal tunnel syndrome, he has not met his burden of proof to establish a medical condition causally related to factors of his employment.

On appeal, appellant's counsel argued that appellant's carpal tunnel syndrome was caused by his employment and the medical evidence contained the requisite rationale to support causal relationship. However, as found above, the medical evidence does not support causal relationship. Counsel also argued that appellant had not suffered any injury to his hands, wrists or forearms prior to his carpal tunnel diagnosis. The Board has found that because an employee is asymptomatic before an employment injury is insufficient without supporting medical rationale to establish causal relationship.<sup>9</sup> Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

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

<sup>7</sup> See *Michael E. Smith*, 50 ECAB 313 (1999) (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).

<sup>8</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010).

<sup>9</sup> See *Thomas Petrylak*, 39 ECAB 276 (1987).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof that he sustained an injury in the performance of duty causally related to factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 23, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 21, 2014  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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