

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

J.G., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Fontana, CA, Employer**

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**Docket No. 14-812
Issued: September 12, 2014**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 28, 2014 appellant filed a timely appeal of the December 17, 2013 decision of the Office of Workers' Compensation Programs (OWCP), which denied 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 has met her burden of proof in establishing that she sustained an occupational disease in the performance of duty.

FACTUAL HISTORY

On September 27, 2013 appellant, then a 60-year-old letter carrier filed a Form CA-2, occupational disease, alleging that she developed carpal tunnel syndrome as a result of casing and carrying mail 8 to 10 hours a day for 45 hours per week while in the performance of duty.

¹ 5 U.S.C. §§ 8101-8193.

She first became aware of her condition on June 26, 2013 and realized that it was causally related to her employment on September 9, 2013. The employing establishment did not indicate that appellant stopped work.

In a June 25, 2013 report, Dr. Eckardt W. Campos, a Board-certified physiatrist, conducted an electromyogram (EMG), which revealed possible right sided mild grade of focal ulnar neuropathy at the elbow consistent with cubital tunnel syndrome, clinically suspicious for forearm tendinitis. Appellant was treated by Dr. Krishnama Raju, a Board-certified orthopedist, on September 9, 2013, for carpal tunnel syndrome and trigger finger of the left middle finger. Dr. Raju recommended wrist braces at night and when lifting with her hands.

In an undated statement appellant indicated that she experienced pain in both hands, which awakened her at night. Her physician recommended splints, which helped her symptoms at night; however, after performing her work duties including casing and carrying mail 8 to 10 hours a day for 46 to 48 hours per week both her hands became numb. Appellant indicated that her left middle finger locked in place for hours and her physician diagnosed bilateral carpal tunnel syndrome and trigger finger of the left middle finger.

On October 9, 2013 OWCP advised appellant of the type of evidence needed to establish her claim. It particularly requested that she submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific work factors.

Appellant submitted a physical therapy referral dated October 23, 2013 from Dr. Rupina Mann, a Board-certified physiatrist. In reports dated November 8 and December 11, 2013, Dr. Mann noted that appellant presented with complaints of bilateral hand numbness and tingling. Appellant reported that on June 26, 2013 she sustained an injury at work while repetitively using her hands to case and deliver mail which contributed to a gradual increase in hand pain and numbness. She felt that repetitive job duties contributed to her gradually increasing symptoms. Appellant reported her job duties as a letter carrier included lifting, carrying, walking, standing, bending, squatting, pushing, pulling and driving. Dr. Mann noted examination of the hands and wrists revealed no deformity at the wrist, no swelling, redness, atrophy or wrist tenderness. No trigger fingers were noted, there was a positive grind test while carpal tunnel compression test, Tinel's at the wrist over the carpal tunnel and Phalen's. Motor strength was normal and sensation was intact. Appellant had normal wrist range of motion, full range of motion of the fingers and thumbs. Dr. Mann noted an essentially normal nerve conduction study with minimally detected conduction block in the ulnar nerve of the right elbow with no electrophysiological evidence of median, ulnar or radial nerve neuropathy. She diagnosed carpal tunnel syndrome, trigger finger of the left middle finger, repetitive strain injury and osteoarthritis. Dr. Mann returned appellant to modified duty and recommended a hand splint and physical therapy. On December 11, 2013 she noted findings of negative carpal tunnel compression test, Phalen's, Tinel's and Finkelstein's test and returned appellant to regular duty without restrictions. Appellant submitted physical therapy reports dated November 4 to 27, 2013.

On December 17, 2013 OWCP denied the claim on the grounds that the evidence was insufficient to establish that the injury or events occurred as alleged.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. Appellant must also establish that such event, incident or exposure caused an injury.²

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 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.³

ANALYSIS

OWCP denied appellant's claim on the grounds that she failed to establish that the claimed events occurred as alleged. It is not disputed that her duties as a letter carrier included casing and carrying mail 8 to 10 hours a day for up to 45 hours per week. On the CA-2 form and in a narrative statement appellant described her duties, as noted. The employing establishment did not dispute the accuracy of her description. The Board finds that the evidence establishes that appellant was performing her work duties as a letter carrier, which included performing some repetitive activities including casing and carrying mail for prolonged periods per day.

The Board finds, however, that the medical evidence is insufficient to establish that appellant developed carpal tunnel syndrome, trigger finger of the left middle finger, repetitive strain injury and osteoarthritis causally related to her employment duties. On October 9, 2013 OWCP advised her of the type of medical evidence needed to establish her claim. However,

² See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989). See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury).

³ *Solomon Polen*, 51 ECAB 341 (2000).

appellant has not submitted sufficient medical evidence to establish that any of these conditions are causally related to specific employment factors or conditions.

Appellant submitted reports from Dr. Mann dated November 8 and December 11, 2013, who treated her for bilateral hand numbness and tingling. She reported that on June 26, 2013 she sustained an injury at work while repetitively using her hands to case and deliver mail which caused pain and numbness in her hands. Appellant reported that her job duties included lifting, carrying, walking, standing, bending, squatting, pushing, pulling and driving as a letter carrier. Dr. Mann noted positive findings on examination and an essentially normal nerve conduction study with minimally detected conduction block in the ulnar nerve of the right elbow and no electrophysiological evidence of median, ulnar or radial nerve neuropathy. She diagnosed carpal tunnel syndrome, trigger finger of the left middle finger, repetitive strain injury and osteoarthritis. Dr. Mann returned appellant to modified duty. On December 11, 2013 she noted findings of negative carpal tunnel compression test, Phalen's, Tinel's and Finkelstein's test and returned appellant to regular duty without restrictions. However, Dr. Mann appears to merely be repeating the history of injury as reported by appellant without providing her own opinion regarding whether appellant's condition was work related.⁴ To the extent that she is providing her own opinion, she failed to provide a rationalized opinion explaining the causal relationship between appellant's diagnosed conditions and employment factors believed to have caused or contributed to such condition.⁵ Therefore, these reports are insufficient to meet appellant's burden of proof.

Appellant submitted a September 9, 2013 report from Dr. Raju who treated her for carpal tunnel syndrome and trigger finger of the left middle finger. Dr. Raju recommended wrist braces at night and when lifting with her hands. However, this report is insufficient to meet appellant's burden of proof as he does not relate a history of the claimed work injury or offer any specific opinion regarding whether work factors caused or contributed to a diagnosed medical condition.⁶ Likewise, other medical evidence, such as the June 25, 2013 EMG, does not provide an opinion as to the causal relationship between her job duties and her diagnosed conditions. For this reason, this evidence is not sufficient to meet appellant's burden of proof.

Appellant also submitted physical therapy reports. The Board has held that treatment notes signed by a physical therapist are not considered medical evidence as these providers are not a physician under FECA.⁷

⁴ See *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

⁵ *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

⁶ See *J.F.*, Docket No. 09-1061 (issued November 17, 2009) (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).

⁷ See *David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a "physician" as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

On appeal, appellant disagrees with OWCP's decision denying her claim for compensation and noted that she submitted sufficient evidence to establish her claim. As noted above, the medical evidence does not establish that her diagnosed conditions were causally related to her employment. Reports from appellant's physician's failed to provide medical rationale explaining the reasons why appellant's diagnosed medical conditions were caused or aggravated by particular employment duties.

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 did not meet her burden of proof to establish that her claimed conditions were causally related to her employment.

ORDER

IT IS HEREBY ORDERED THAT the December 17, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 12, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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