

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

M.D., Appellant

and

**U.S. POSTAL SERVICE, PROCESSING &
DISTRIBUTION CENTER, Hartford, CT,
Employer**

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**Docket No. 15-1317
Issued: December 8, 2015**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On May 26, 2015 appellant filed a timely appeal of an April 21, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 established an injury arising out of her federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On December 14, 2014 appellant, then a 52-year-old mail processing clerk, filed an occupational disease claim (Form CA-2) alleging right carpal tunnel condition, right trigger hand and finger, and right elbow condition due to her employment duties.

In a December 11, 2014 work excuse note and summary sheet, Karen Bigge, a certified physician's assistant, noted that appellant had been seen and treated in the St. Francis Hospital emergency room that day for carpal tunnel condition and trouble sleeping. Appellant was released to return to work on December 15, 2014 with no restrictions.

OWCP informed appellant that the evidence of record was insufficient to establish her claim. She was advised as to the medical and factual evidence required to establish her occupational disease claim and afforded 30 days from January 20, 2015 to provide this information. OWCP informed appellant that under a prior claim (OWCP File No. xxxxxx872), it had previously accepted the conditions of right carpal tunnel syndrome and right trigger finger. It advised her that she needed to submit sufficient medical evidence to allow OWCP to make a determination as to whether this was a new injury or a recurrence under the prior claim. No response or evidence was submitted.

By decision dated April 21, 2015, OWCP denied appellant's claim as she had failed to establish fact of injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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.³ 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.⁴

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (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.⁵

² 5 U.S.C. § 8101 *et seq.*

³ C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁴ *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *D.U.*, Docket No. 10-144 (issued July 27, 2010); *R.H.*, 59 ECAB 382 (2008); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Donald W. Wenzel*, 56 ECAB 390 (2005).

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁶ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.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 nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.⁸

ANALYSIS

Appellant alleged that her right carpal tunnel condition, right trigger hand and finger, and right elbow were due to her employment duties. OWCP denied her claim because she failed to establish the factual basis of her claim and because she failed to submit any medical evidence supporting her claim. The issue on appeal is whether appellant submitted sufficient evidence to support her claim.

The Board has carefully reviewed the record and finds that there is insufficient factual or medical evidence of record to support fact of injury as alleged.

OWCP informed appellant in a January 20, 2015 letter that the record was devoid of any medical or factual evidence to satisfy her burden of proof. Appellant was advised that she had the burden of proof to establish that she was injured as a result of her work-related duties. OWCP informed her that she needed to submit factual evidence regarding employment duties giving rise to the claimed injury and reasoned medical evidence explaining how employment duties caused her claimed injury. Appellant was advised to provide a detailed medical report from her treating physician, which discussed the nature of her injury and how it was causally related to her work duties.

The only medical evidence submitted by appellant was a work excuse note and a St. Francis Hospital visit summary sheet dated December 11, 2014 from Ms. Bigge, a certified physician assistant. Physician assistants are not physicians as defined under FECA, and thus their opinions are of no probative value.⁹

Because appellant failed to provide the requested factual information or a reasoned medical opinion as requested by OWCP to support her claim for compensation within the

⁶ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

⁷ *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ 5 U.S.C. § 8101(2) of FECA provides as follows: physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. See *B.B.*, Docket No. 09-1858 (issued April 16, 2010); *Roy L. Humphrey*, *supra* note 5.

allotted time frame, the Board finds that appellant has not met her burden of proof to establish her claim.

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 failed to meet her burden of proof to establish that she sustained an injury arising out of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 21, 2015 is affirmed.

Issued: December 8, 2015
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board