

FACTUAL HISTORY

On October 2, 2014 appellant, then a 60-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed right hand carpal tunnel syndrome and bone spurs due to repetitively casing and delivering mail and packages.

In a September 17, 2014 report, Dr. Karlene Hart, Board-certified in family medicine, reviewed x-rays of the right hand which revealed degenerative changes of the first carpometacarpal joint. She diagnosed right hand carpal tunnel syndrome.

Appellant submitted an official position description for a city carrier in support of her claim.

By letter dated November 13, 2014, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was directed to submit it within 30 days.

In a December 1, 2014 narrative statement, appellant responded to OWCP stating that she used her right hand to case mail and to place mail in mailboxes repetitively for eight hours a day, five days a week. She stated that she had been performing these duties for the last six years.

In reports dated October 7 and November 20, 2014, Amanda Scherger, a physician assistant (PA), reported that appellant complained of pain in the right thumb and wrist when working as a postal carrier. She diagnosed right thumb osteoarthritis of the carpometacarpal joint and bilateral carpal tunnel syndrome.

By decision dated January 21, 2015, OWCP denied appellant's claim finding that the medical evidence failed to establish that her carpal tunnel syndrome and degenerative joint disease of the right thumb was causally related to her accepted federal employment duties.

On February 25, 2015 appellant requested reconsideration of OWCP's decision. She explained that she would repetitively use her right hand to case mail and to open/close mail boxes and separate mail with her right thumb for over seven hours a day. Appellant's duties also entailed lifting heavy trays of mail and pushing full hampers. No other evidence was submitted.

By decision dated March 9, 2015, OWCP denied appellant's request for reconsideration finding that she neither raised substantive legal questions nor included new and relevant evidence.

LEGAL PRECEDENT -- ISSUE 1

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 or specific condition for which compensation is claimed is causally related to the

employment injury.² These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.³

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.⁴

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁵ The opinion of the physician 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁶

ANALYSIS -- ISSUE 1

OWCP accepted that appellant engaged in repetitive activities in her employment duties as a letter carrier. It denied her claim, however, finding that the evidence failed to establish a causal relationship between those activities and her right hand injuries. The Board finds that the medical evidence of record is insufficient to establish that appellant developed right hand carpal tunnel syndrome and right thumb degenerative osteoarthritis causally related to factors of her federal employment as a letter carrier.

In a September 17, 2014 report, Dr. Hart reviewed x-rays of the right hand which revealed degenerative changes of the first carpometacarpal joint and she also diagnosed right hand carpal tunnel syndrome. While Dr. Hart provided a firm medical diagnosis of right hand carpal tunnel syndrome and degenerative joint disease of the right thumb, she failed to provide any opinion on the cause of appellant's conditions.⁷ She did not provide a detailed medical history or description of how appellant's federal employment duties as a city carrier may have caused her injury, nor did she explain how the movements involved in appellant's employment

² *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

³ *Michael E. Smith*, 50 ECAB 313 (1999).

⁴ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁵ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁶ *James Mack*, 43 ECAB 321 (1991).

⁷ *D.H.*, Docket No. 11-1739 (issued April 18, 2012).

duties caused or contributed to the diagnosed conditions.⁸ Medical reports without rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.⁹ The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record, and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.¹⁰ As Dr. Hart failed to provide any opinion as to the cause of appellant's right hand carpal tunnel syndrome and degenerative joint disease of the right thumb, her medical report fails to establish that appellant's injuries are a result of a work-related occupational exposure.¹¹

The remaining medical evidence of record is also insufficient to establish causal relationship between appellant's right hand injury and her federal employment duties. The reports of the physician assistant are insufficient to establish appellant's claim. Registered nurses, physical therapists and physician assistants, are not physicians as defined under FECA, and therefore their opinions are of no probative value.¹²

Appellant has alleged that her accepted duties as a letter carrier caused her injury. Her statements however, do not constitute the medical evidence necessary to establish causal relationship. An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.¹³ In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between appellant's federal employment duties as a letter carrier and her diagnosed right hand carpal tunnel syndrome and right thumb degenerative osteoarthritis. Thus, appellant has failed to meet her burden of proof.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

LEGAL PRECEDENT -- ISSUE 2

To require OWCP to reopen a case for merit review under 5 U.S.C. § 8128(a), OWCP regulations provide that the evidence or argument submitted by a claimant must: (1) show that the OWCP erroneously applied or interpreted a specific point of law; (2) advance a relevant legal

⁸ See *L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

⁹ *Id.*

¹⁰ See *Lee R. Haywood*, 48 ECAB 145 (1996).

¹¹ *S.R.*, Docket No. 12-1098 (issued September 19, 2012).

¹² 5 U.S.C. § 8102(2) of FECA provides as follows: (2) 'physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 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.

¹³ *D.D.*, 57 ECAB 734 (2006).

argument not previously considered by OWCP; or (3) constitute relevant and pertinent new evidence not previously considered by OWCP.¹⁴ Section 10.608(b) of OWCP regulations provide that when an application for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b)(3), OWCP will deny the application for reconsideration without reopening the case for a review on the merits.¹⁵

ANALYSIS -- ISSUE 2

The Board finds that the refusal of OWCP to reopen appellant's case for further consideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a), did not constitute an abuse of discretion.

The issue presented on appeal is whether appellant met any of the requirements of 20 C.F.R. § 10.606(b)(3), requiring OWCP to reopen the case for review of the merits of the claim. In her February 25, 2015 application for reconsideration, appellant did not show that OWCP erroneously applied or interpreted a specific point of law. She did not advance a new and relevant legal argument. Appellant argued that her injury was employment related and described her repetitive employment duties.¹⁶ The underlying issue in this case was whether appellant developed right hand carpal tunnel syndrome and right thumb degenerative osteoarthritis causally related to her federal employment duties as a letter carrier. That is a medical issue which must be addressed by relevant medical evidence.¹⁷

Appellant's brief statement in support of her reconsideration request is not relevant to the issue of causal relationship.¹⁸ She failed to provide detailed medical rationale from a physician to explain and support the medical opinion that her right hand injury was caused or aggravated by her federal employment duties.¹⁹ A claimant may obtain a merit review of an OWCP decision by submitting new and relevant evidence. In this case, appellant failed to submit any new and relevant evidence addressing causal relationship in support of her claim.²⁰

The Board accordingly finds that appellant did not meet any of the requirements of 20 C.F.R. § 10.606(b)(3). Appellant did not show that OWCP erroneously applied or interpreted a specific point of law, advance a relevant legal argument not previously considered by OWCP, or

¹⁴ *D.K.*, 59 ECAB 141 (2007).

¹⁵ *K.H.*, 59 ECAB 495 (2008).

¹⁶ *Sherry A. Hunt*, 49 ECAB 467 (1998).

¹⁷ *See Bobbie F. Cowart*, 55 ECAB 746 (2004).

¹⁸ The Board has held that the submission of evidence which does not address the particular issue involved does not constitute a basis for reopening a case. *Jimmy O. Gilmore*, 37 ECAB 257 (1985); *Edward Matthew Diekemper*, 31 ECAB 224 (1979).

¹⁹ Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case. *Eugene F. Butler*, 36 ECAB 393 (1984).

²⁰ *M.H.*, Docket No. 13-2051 (issued February 21, 2014).

constitute relevant and pertinent evidence not previously considered. Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her right hand carpal tunnel syndrome and right thumb degenerative osteoarthritis were causally related to factors of her federal employment as a letter carrier. OWCP properly denied appellant's request for reconsideration without a merit review.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decisions dated March 9 and January 21, 2015 are affirmed.

Issued: July 29, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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