

FACTUAL HISTORY

This case has previously been on appeal before the Board.² In a June 10, 2013 decision, the Board affirmed the October 4, 2012 decision of OWCP, finding that appellant failed to meet his burden of proof to establish that his claimed right thumb and left ring finger conditions were caused by factors of his federal employment. The facts and history contained in the prior appeal are incorporated herein by reference. Relevant facts include that appellant was a gastrointestinal physician who filed an occupational disease claim, alleging that his repeated use of an endoscope contributed to injuries to his right thumb and left ring finger. OWCP informed him of the deficiencies in the medical evidence and what was needed to establish his claim in a letter dated August 10, 2012.

Appellant submitted a March 29, 2013 report from Dr. Stephen Ferraro, a Board-certified orthopedic surgeon, who advised that appellant presented with left and right hand pain. Dr. Ferraro diagnosed pain in right limb. On April 10, 2013 he stated that appellant was being evaluated for a follow up on the right thumb and a new problem on the right elbow. Dr. Ferraro advised that appellant's right trigger thumb was ok, his carpometacarpal (CMC) joint was better with an injection. Appellant also had tennis elbow and shoulder pain. Dr. Ferraro diagnosed right shoulder pain, right lateral epicondylitis, and right hand pain.

In a June 10, 2013 statement, appellant indicated that the pain in his left hand began in 2010 and he sought treatment from an orthopedic surgeon. He noted that, at that time, he began using thick bicycle gloves and wrist and elbow supports to reduce his injury. Appellant explained that he performed endoscopies for the whole day, three days a week, averaging 60-per month. He explained that, when he held the scope with the left hand, the shaft required a firm grip and that caused a lot of squeezing and continued pressure on his hand. Appellant noted that the equipment required that he use his left hand, fingers, and thumb to manipulate wheels and knobs on the scope to do multiple functions. He had to use his right hand to twist the scope to position, and advance the scope, as well as write notes in electronic medical records and use a mouse all day to go to different parts of the electronic chart. Appellant denied having any hobbies and also noted that he had tennis elbow pain in the past when he worked for a private employer, Kaiser.

In a letter dated June 26, 2013, counsel requested reconsideration of the last OWCP merit decision dated June 10, 2013 and submitted new evidence. He referenced reports from Dr. Ferraro dated April 10 and June 17, 2013.³ Counsel argued that Dr. Ferraro opined that appellant's condition stemmed from overuse due to the thumb and wrist motion needed to use an endoscope. He argued that Dr. Ferraro provided a rationalized opinion on causal relationship or, in the alternative, was sufficient to require additional medical development.

In the June 17, 2013 report, Dr. Ferraro, noted that appellant returned for routine follow up. He indicated that appellant's previous work restrictions of 4.5 days of endoscopy procedures

² Docket No. 13-555 (issued June 10, 2013).

³ Counsel also referred to a separate traumatic injury claim under File No. xxxxxx824, which was denied by OWCP on May 31, 2013. File No. xxxxxx824 is not presently before the Board.

every 9 workdays, just started within the past few days, and he continued with bilateral thumb pain. Dr. Ferraro indicated that the left ring trigger finger was not much of an issue, and appellant had more pain on the right palmer thumb near the metacarpal phalangeal (MCP) joint. He advised that the right thumb flexor tendon sheath steroid injection did seem to help, although appellant still had wrist pain. Dr. Ferraro related that appellant was still performing endoscopies with a wrist brace on, and still had pain doing it, especially with a large volume of cases. He examined appellant and noted no right wrist swelling or other abnormality. Palpation found mild tenderness at the radial side of the wrist, volar wrist joint, and ulnar side of the wrist. Range of motion of the wrist was normal. Regarding the right fingers and thumb, Dr. Ferraro found that, the cascade of the fingers was normal, there was no tenderness on palpation and range of motion of all the fingers was normal. He diagnosed pain in limb (bilateral wrists, thumb CMC, and right thumb MCP) and trigger finger (acquired) (left ring). Dr. Ferraro opined that appellant had ongoing work-related thumb and wrist problems, including flexor tendinitis, and thumb CMC joint irritability. He explained that appellant's occupation as an endoscopist placed him at increased risk for right hand problems, and was well documented in the medical literature. Dr. Ferraro referred to a study in the publication *Endoscopy* which contained a survey revealing 19 percent thumb pain, 32 percent carpal tunnel, and/or hand pain. He opined that it appeared to "a clear case of overuse due to the particular thumb and wrist motion required in the use of an endoscope." Dr. Ferraro explained that, with rest and proper activity modification, the condition could be controlled. He noted that injections into the thumb provided relief. Dr. Ferraro advised that appellant's condition improved significantly when he was not performing endoscopies. He recommended continued work restrictions. On July 17, 2013 Dr. Ferraro saw appellant for follow up and repeated his diagnoses.

By decision dated September 23, 2013, OWCP denied modification of its prior decision.

On August 22, 2014 appellant, through counsel, requested reconsideration and submitted new evidence. In a report dated December 2, 2013, Dr. Michael Mikulecky, a Board-certified orthopedic surgeon, noted that appellant had a history of ankle pain, pain in the left hand at the base of the ring finger, and pain in the right thumb. He advised that Dr. Ferraro was treating appellant for triggering of the left ring finger and right thumb for CMC joint pain, which appeared secondary to his line of work. Dr. Mikulecky related that appellant was a gastrointestinal (GI) physician and performed thousands of GI scopes. He related that appellant explained that every time the employing establishment bought new equipment, it was very hard to break in. Appellant related that he had to use more force with his fingers and thumbs to manipulate the GI device and he had difficulty working because of the pain. Dr. Mikulecky explained that he recently performed surgery on another GI physician, who had a distal radius fracture after a fall and the muscles of his forearm and hand were quite hypertrophied, especially the flexor pollicis longus because of the multiple GI scopes he performed over the years. He opined that his pollicis longus was double the size of that which he would see in a patient who did not have this type of occupation. Dr. Mikulecky diagnosed tripper finger and unspecified arthropathy of the hand. He did not recommend surgery; and advised that appellant use a brace as needed and try to limit his activity level at work.

By decision dated November 12, 2014, OWCP denied modification of its prior decision.

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 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.⁴ 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.⁵

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 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.⁶

ANALYSIS

As a gastroenterologist, appellant performed employment activities requiring use of his hands. His duties allegedly included performing endoscopies three days a week and averaging 60 a month. Appellant described how the endoscopies were performed and explained how he used both hands in manipulating the equipment and writing notes. The Board finds that the first component of fact of injury regarding the alleged employment factors is established. However, the record contains insufficient medical evidence to establish that the claimed conditions were causally related to work factors. The medical evidence submitted by appellant is insufficiently rationalized to establish that his bilateral hand conditions were caused or aggravated by endoscopic activities at work.

In a June 17, 2013 report, Dr. Ferraro provided findings which were essentially normal and diagnosed pain in the wrists and thumbs as well as acquired left ring trigger finger. He

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

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Id.*

opined that appellant had ongoing work-related thumb and wrist problems, including flexor tendinitis, and thumb CMC joint irritability. Dr. Ferraro explained that appellant's occupation as an endoscopist placed him at increased risk for right hand problems, and such risk was documented in medical literature. He referred to a study in the publication *Endoscopy*. Dr. Ferraro opined that it appeared to "a clear case of overuse due to the particular thumb and wrist motion required in the use of an endoscope." However, the Board has held that newspaper clippings, medical texts, and excerpts from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and an employee's federal employment. Such materials are of general application and are not determinative as to whether the specific condition claimed is related to the particular employment factors alleged by the employee.⁷ Dr. Ferraro did not specifically explain how the study applied to appellant's particular situation. Appellant submitted March 29 and April 10, 2013 reports from Dr. Ferraro who treated appellant and offered diagnoses. However, the Board notes that these reports do not address whether any factors of his employment caused a diagnosed condition.⁸ Consequently, the Board finds the reports from Dr. Ferraro are insufficient to establish appellant's claim.

In a report dated December 2, 2013, Dr. Mikulecky noted that appellant had a history of pain in the left hand at the base of the ring finger, and pain in the right thumb. He advised that Dr. Ferraro was treating appellant for triggering of the left ring finger and right thumb for CMC joint pain, which appeared secondary to his line of work. Dr. Mikulecky explained that appellant performed thousands of GI scopes in his job. Appellant related that when the employing establishment bought new equipment, it was very hard to break in. Dr. Mikulecky noted that appellant indicated that he had to use more force with his fingers and thumbs to manipulate the GI device and he had difficulty working because of the pain. While he diagnosed trigger finger and unspecified arthropathy of the hand and recommended a limit on his activity at work, he did not provide a rationalized opinion on causal relationship. Dr. Mikulecky did not explain how appellant's specific work activities caused or contributed to his diagnosed condition. Noting operative findings with regard to another patient does not explain how the specific findings apply to appellant's particular situation.

Appellant presented no other current medical evidence discussing how work factors caused or contributed to a diagnosed medical condition.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁹ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

⁷ *William C. Bush*, 40 ECAB 1064, 1075 (1989).

⁸ *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

⁹ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

As there is no rationalized medical evidence explaining how appellant's claimed hand conditions were caused or aggravated by employment factors, appellant has not met his burden of proof in establishing his claim.

Appellant may submit evidence or argument with a written request for reconsideration 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 has not met his burden of proof to establish that his right thumb or left ring finger conditions were caused by factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the November 12, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 10, 2015
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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