



## **FACTUAL HISTORY**

On May 23, 2015 appellant, then a 37-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that he developed a left hand and elbow injury due to repetitive employment duties from pinching and grabbing mail. Appellant's supervisor noted on the claim form that appellant had stopped work on May 30, 2015. An official rural carrier position description was submitted with his claim.

In a May 29, 2015 work status report, Dr. Peterson Tsai, an osteopath, restricted appellant from using his left arm and placed him on modified duty from May 29 through June 11, 2015. He noted that appellant could return to full duty on June 12, 2015. In another May 29, 2015 report, Dr. Tsai related that appellant complained of left elbow pain and diagnosed left upper arm muscle strain and sequela.

By letter dated June 18, 2015, OWCP informed appellant that the evidence of record was insufficient to support his claim. Appellant was advised of the medical and factual evidence needed and afforded 30 days to respond.

Appellant submitted medical reports dated June 11 and 30, 2015 from Dr. Paul K. Won, Board-certified in family medicine, who noted that appellant complained of a left elbow injury with a May 22, 2015 date of injury. He noted that appellant worked for the employing establishment for the past nine years as a letter carrier and was right-hand dominant. Appellant reported no specific incident of injury, but felt that his left elbow pain was from repetitively lifting mail and packages while delivering mail. He first noticed elbow pain in April 2015, which had gradually worsened. On April 15, 2015 appellant's primary care physician diagnosed left lateral epicondylitis and was also diagnosed with left upper arm muscle strain on May 29, 2015 *via* urgent care. Dr. Won noted a history of right lateral epicondylitis from five years prior which was work related. He provided findings on physical examination, diagnosed left lateral epicondylitis, and provided work restrictions. In occupational health work status reports, Dr. Won responded "yes" when asked if the diagnosis was a result of industrial exposure.

OWCP also received a series of occupational therapy reports dated from June 15, 2015 pertaining to therapy for left lateral epicondylitis. These reports were signed by occupational therapist Jean Takaesu.

By letter dated July 2, 2015, the employing establishment controverted the claim stating that appellant's injury had not slowed down his route delivery time as most days he was able to complete his entire route (case and carry) within six to seven hours total. It further noted that he owned and operated a car shop and, therefore, his injury might not be solely caused by his rural carrier duties.

In a decision dated July 23, 2015, OWCP denied appellant's claim finding that the evidence of record failed to establish that the occupational exposure occurred as alleged.

On July 28, 2015 appellant requested reconsideration of the July 23, 2015 OWCP decision. He provided a narrative statement which described his repetitive employment duties for the past nine years as a mail carrier. Appellant stated that his workday began by sorting the

mail he needed to deliver and loading the mail into his delivery truck including small letter envelopes as well as larger parcels weighing up to 70 pounds. He noted that the steering wheel of his delivery truck was on the right hand side of the vehicle and as such, most of the motion to reach for the mail was done with his left arm which he had to fully extend to pinch and grasp the individual items. Appellant noted that the deliveries averaged seven to nine hours per day which was causing him to overuse his lateral epicondyle. He explained that in mid-April 2015 he began to experience pain when grasping mail with his left hand and was diagnosed with elbow tendinopathy due to the repetitive motion of retrieving mail.

In an August 25, 2015 diagnostic report, Dr. Belinda C. Holland, a treating physician, reported that an x-ray of the left elbow revealed normal findings.

In a September 8, 2015 diagnostic report, Dr. Michael Siegel, a Board-certified diagnostic radiologist, reported that a magnetic resonance imaging scan of the left elbow revealed some fluid about the insertion of the common extensor tendon, compatible with lateral epicondylitis.

On September 28, 2015 OWCP received reports dated July 14 to September 15, 2015, from Dr. Won. Dr. Won reviewed diagnostic testing, provided physical examination findings, and diagnosed left lateral epicondylitis. He noted that the date of injury was April 20, 2015 and responded “yes” when asked if the diagnosis was a result of industrial exposure.

By decision dated October 1, 2015, OWCP affirmed the July 23, 2015 decision, as modified, finding that although appellant had provided sufficient evidence to prove the fact of his injury the medical evidence failed to establish that his diagnosed condition was causally related to his accepted federal employment duties.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish 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.<sup>3</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or occupational disease.<sup>4</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>5</sup> The second

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<sup>3</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

<sup>4</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>5</sup> *Elaine Pendleton*, *supra* note 3.

component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

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.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup>

### ANALYSIS

OWCP accepted that appellant engaged in repetitive activities in his employment duties as a mail carrier. It denied his claim, however, as the evidence failed to establish a causal relationship between those activities and his left elbow injury. The Board finds that the medical evidence of record is insufficient to establish that appellant developed left lateral epicondylitis causally related to factors of his federal employment as a mail carrier.

In medical reports dated June 11 through September 15, 2015, Dr. Won reported that appellant complained of left elbow pain beginning in April 2015 as a result of his repetitive federal employment duties at the employing establishment. Appellant's duties included repetitively lifting mail and packages with his left hand, which he would deliver using the right hand to place in mailboxes. Dr. Won provided findings on physical examination, diagnosed left lateral epicondylitis, and provided work restrictions. In his occupational health work status report, he answered "yes" when asked if the diagnosis was a result of industrial exposure.

The Board finds that the opinion of Dr. Won is not rationalized. While Dr. Won provided a firm medical diagnosis of left lateral epicondylitis, he failed to provide an adequate explanation regarding the cause of appellant's condition. Though he answered "yes" when asked if the diagnosis was a result of industrial exposure, the Board has held that a report that addresses causal relationship with a single word answer, without medical rationale explaining how the

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<sup>6</sup> See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>7</sup> See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>8</sup> *James Mack*, 43 ECAB 321 (1991).

work condition caused the alleged injury, is of diminished probative value and is insufficient to establish causal relationship.<sup>9</sup> Dr. Won's statement on causation fails to provide a sufficient explanation as to the mechanism of injury pertaining to this occupational disease claim, namely, how repetitive pinching, lifting, and grasping mail would cause or aggravate appellant's left lateral epicondylitis.<sup>10</sup> Without explaining how physiologically the movements involved in appellant's employment duties caused or contributed to the diagnosed condition, his opinion on causal relationship is equivocal in nature and of limited probative value.<sup>11</sup> Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.<sup>12</sup> 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.<sup>13</sup> As Dr. Won failed to provide any definitive opinion that appellant's left lateral epicondylitis was caused or aggravated by his occupational employment duties, his medical reports fail to establish that his injuries are a result of a work-related occupational exposure.<sup>14</sup>

The remaining medical evidence of record is also insufficient to establish causal relationship between appellant's left elbow injury and his federal employment duties. Dr. Tsai's May 29, 2015 medical report provided a diagnosis of left upper arm muscle strain with no opinion regarding the cause of appellant's injury. He did not profess sufficient knowledge as to appellant's specific job duties or provide a rationalized explanation as to the cause of his injury. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value.<sup>15</sup>

Dr. Holland's August 25, 2015 diagnostic report provided normal findings regarding the left elbow x-ray. As such, her report provides support for no injury and is insufficient to establish a work-related injury.<sup>16</sup> Dr. Siegel's September 3, 2015 report interpreted diagnostic imaging studies and provided no opinion on the cause of appellant's injury.<sup>17</sup> While Dr. Siegel noted findings of left lateral epicondylitis, without any mention of appellant's repetitive

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<sup>9</sup> See *Calvin E. King, Jr.*, 51 ECAB 394 (2000); see also *Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

<sup>10</sup> *S.W.*, Docket No. 08-2538 (issued May 21, 2009).

<sup>11</sup> 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).

<sup>12</sup> *Id.*

<sup>13</sup> See *Lee R. Haywood*, 48 ECAB 145 (1996).

<sup>14</sup> *S.R.*, Docket No. 12-1098 (issued September 19, 2012).

<sup>15</sup> *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>16</sup> *J.P.*, Docket No. 14-87 (issued March 14, 2014).

<sup>17</sup> *D.H.*, Docket No. 11-1739 (issued April 18, 2012).

employment duties, any findings made could not be related to his claim to establish causal relationship.<sup>18</sup>

The occupational therapy reports submitted are insufficient to establish appellant's claim as they were not signed by a physician. Registered nurses, physical therapists, occupational therapists, and physician assistants, are not considered physicians as defined under FECA, therefore, their opinions are of no probative value.<sup>19</sup> Thus, the medical evidence of record fails to support that appellant developed left lateral epicondylitis as a result of his federal employment duties.<sup>20</sup>

Appellant has alleged that his accepted duties as a mail carrier caused his injury. His 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.<sup>21</sup> In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between appellant's federal employment duties as a mail carrier and his diagnosed left lateral epicondylitis.<sup>22</sup> Thus, appellant has failed to meet his 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.

### **CONCLUSION**

The Board finds that appellant did not meet his burden of proof to establish left lateral epicondylitis causally related to factors of his federal employment.

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<sup>18</sup> *S.Y.*, Docket No. 11-1816 (issued March 16, 2012).

<sup>19</sup> 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. In *J.J.*, Docket No. 15-0727 (issued July 16, 2015) that Board explained that the reports from appellant's occupational therapist have no probative medical value. An occupational therapist is not a physician as defined under FECA.

<sup>20</sup> *R.M.*, Docket No. 11-1921 (issued April 10, 2012).

<sup>21</sup> *D.D.*, 57 ECAB 734 (2006).

<sup>22</sup> Evidence submitted by appellant after the final decision cannot be considered by the Board. As previously noted, the Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its decision. *Supra* note 2.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decisions dated October 1, 2015 is affirmed.

Issued: April 11, 2016  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board