

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

J.J., Appellant)	
)	
and)	Docket No. 15-1621
)	Issued: January 8, 2016
DEPARTMENT OF VETERANS AFFAIRS,)	
VETERANS HEALTH ADMINISTRATION,)	
Orlando, FL, Employer)	
)	

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 July 21, 2015 appellant filed a timely appeal of a February 9, 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 has met her burden of proof to establish an injury causally related to factors of her federal employment.

FACTUAL HISTORY

On December 17, 2014 appellant, then a 31-year-old administrative support assistant, filed an occupational disease claim (Form CA-2) alleging that her carpal tunnel condition was due to her employment. She noted that, in her position, she used the computer for extended periods of time typing and responding to e-mails. Appellant alleged that her claimed conditions began on June 16, 2014. She did not stop work.

¹ 5 U.S.C. § 8101 *et seq.*

By letter dated December 29, 2014, OWCP advised appellant that additional evidence was needed to establish her claim. Appellant was requested to provide a physician's opinion supported by a medical explanation as to how the work factors caused the claimed conditions.

In a January 5, 2015 e-mail, Michael Ostrow, a chief logistics officer, confirmed that appellant was engaged in an administrative position and that she was required to spend the majority of her time on the computer typing almost "exclusively each day." He noted that appellant spent between two and six hours typing daily. OWCP also received a January 5, 2015 ergonomic assessment worksheet, a position description, and a report.

In a January 7, 2015 statement, appellant explained that during an eight-hour day she spent six to seven hours on the computer responding to e-mails and other data entry. She noted that she had a 30-minute lunch and two 15-minute breaks. Appellant had worked in the position since October 14, 2008 and contended that she did not engage in any physical activities or hobbies outside her federal duties.

In a January 7, 2015 report, Dr. Lawrence S. Halperin, a Board-certified orthopedic hand surgeon, noted appellant's history of injury and treatment. He explained that appellant had significant dorsal right wrist pain, which had been present for years and was slowly worsening, with minimal symptoms on the left. Dr. Halperin related that appellant denied trauma, constitutional symptoms, or a history of rheumatoid arthritis. He also related that appellant believed she had carpal tunnel syndrome and questioned whether it was work related, as her position involved heavy typing. Dr. Halperin examined appellant and determined that radiographs of both wrists, including carpal tunnel views, were unremarkable. He diagnosed bilateral wrist pain, worse on the right than the left. Dr. Halperin advised that appellant had wrist pain for years that was slowly worsening and was central on the carpus. He requested a magnetic resonance imaging (MRI) scan of the right wrist to rule out Kienbock's disease.

Appellant also provided a January 8, 2015 MRI scan of the right wrist without contrast, read by Dr. James Y. Wu, a Board-certified diagnostic radiologist. Dr. Wu reported findings to include multiloculated ganglion-like cystic change along the palmar margin of the distal radial metaphysics.

By decision dated February 9, 2015, OWCP denied appellant's claim. It found that the medical evidence of record failed to establish that the diagnosed medical conditions were related to the claimed work factors or events.

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.² 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.³

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.⁴

ANALYSIS

The evidence supports that appellant engaged in repetitive activities at work such as typing on the computer. However, appellant submitted insufficient medical evidence to establish that she has a wrist or hand condition caused or aggravated by these activities or any other specific factors of her federal employment.

Appellant submitted a January 7, 2015 report from Dr. Halperin, who determined that she had significant dorsal right wrist pain, which was present for years and slowly worsening, with minimal symptoms on the left. Dr. Halperin related that appellant believed she had carpal tunnel and questioned if it was work related as her position involved heavy typing. Upon examination and review of x-rays of both wrists, including carpal tunnel views, he diagnosed only bilateral wrist pain, worse on the right than the left. Although appellant suggested her wrist condition was work related, Dr. Halperin did not diagnose a physical condition. He merely noted appellant's suggestion of carpal tunnel syndrome but diagnosed only bilateral wrist pain. The Board has held that pain is a symptom not a compensable diagnosis.⁵

Similarly, reports of diagnostic testing are insufficient to establish the claim as these reports do not address how employment factors contributed to a diagnosed medical condition.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

⁵ *Robert Broome*, 55 ECAB 339, 342 (2004).

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.⁶ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁷ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no reasoned medical evidence explaining how appellant's employment duties caused or aggravated a diagnosed medical condition, appellant has not met her burden of proof to establish a medical condition causally related to factors of her employment.

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 did not meet her burden of proof to establish an injury causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the February 9, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 8, 2016
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

⁶ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁷ *Id.*