

ISSUE

The issue is whether appellant met her burden of proof to establish a right arm, bilateral wrist, neck, or low back condition caused or aggravated by factors of her federal employment.

FACTUAL HISTORY

On December 6, 2013 appellant, then a 63-year-old tax specialist, filed an occupational disease claim (Form CA-2) alleging that she sustained right arm pain from prolonged sitting in a twisted position, date stamping, and using a mouse. She also maintained that she experienced nausea and migraines because she had to use her left arm frequently and that her work duties aggravated preexisting carpal tunnel syndrome. Appellant became aware of her condition and its relationship to her employment on September 1, 2011. She did not stop work.

In a report dated June 8, 2011, Dr. Craig H. Bennett, a Board-certified orthopedic surgeon, evaluated appellant for right shoulder pain subsequent to a fall down stairs in April 2011. He found that she had multiple orthopedic conditions, “including bilateral carpal tunnel syndrome, ankle discomfort, knee discomfort, and left shoulder discomfort.” Dr. Bennett noted that appellant experienced difficulty opening doors at work. He related, “Regarding the right shoulder, specifically she fell down stairs in April [2011] and exacerbated and significantly worsened some previous shoulder discomfort. [Appellant] now has inability to fully range the right shoulder and pain with basically any activity.” Dr. Bennett diagnosed right shoulder degenerative disease of the acromioclavicular (AC) joint, a rotator cuff tear, impingement, and right shoulder stiffness.

A September 13, 2011 electromyogram (EMG) revealed bilateral median wrist neuropathy. A March 28, 2013 left shoulder magnetic resonance imaging (MRI) scan study showed advanced diffuse supraspinatus tendinopathy, narrowing of the supraspinatus outlet due to AC joint osteoarthritis, and mild glenohumeral osteoarthritis. An April 6, 2013 cervical MRI scan study showed mild degenerative disc changes.⁴

In a statement dated December 5, 2013, appellant related that her office relocated to a suite with heavy fire doors that had to be opened to get to the printer and copy machine. After a February 2010 motor vehicle accident, she experienced increased difficulty opening the doors. On April 15, 2011 appellant worked 12 hours keying payments. She stated, “When I left that day my right shoulder and right leg were in pain, my leg would collapse on me when I got up to walk. That Sunday I was going down the steps, next thing I knew I was falling down the steps.” A physician diagnosed a rotator cuff tear. In September 2011 appellant began working at the front desk for two weeks at a time. She stated, “I cannot hold my arm in a typing position without pain; I have to straighten it out. Also using the date stamp to stamp customer’s documents increases the pain.” Appellant began to experience problems with her left as well as right arm.

In a December 31, 2013 duty status report, a physician specializing in family practice diagnosed carpal tunnel syndrome and rotator disease and checked “yes” that the history

⁴ The record contains a nearly illegible report from a March 28, 2013 MRI scan study of the lumbar spine revealing a disc extrusion at L5-S1 among other findings.

obtained corresponded to that on the form of appellant experiencing a hand, arm, neck, and shoulder condition from opening office doors.⁵ The physician indicated that the diagnosed conditions resulted from “repetitive activities” and listed work restrictions.

In a January 22, 2014 duty status report, Dr. Kenneth M. Kudelko, a Board-certified neurologist, diagnosed right shoulder arthropathy, occupational cervical spondylosis, and low back degenerative disease. He provided work restrictions. In a certification of health care provider form for the Family and Medical Leave Act (FMLA), Dr. Kudelko diagnosed a right shoulder tear, cervical muscle spasm, and lumbar pain due to degenerative disease. He found that appellant could not work the front desk.

In a form report dated February 3, 2014, Dr. Kudelko diagnosed right shoulder arthropathy, cervical spondylosis with spasm, and lumbar degenerative disc disease. He checked “yes” that the condition was caused or aggravated by employment and found that appellant was partially disabled from December 31, 2013 to March 30, 2014.⁶

On February 7, 2014 the employing establishment controverted appellant’s claim as she had “preexisting injuries due to an automobile accident and falling down a flight of stairs.” It advised that it had provided her with ergonomic equipment.

By decision dated March 5, 2014, OWCP denied appellant’s claim as the medical evidence was insufficient to show that she sustained a condition caused or aggravated by the accepted work factors.

A December 31, 2013 EMG study, received by OWCP on April 4, 2014, revealed bilateral medial wrist neuropathy greater on the right and possible radiculopathy at C8 to T1.

Appellant continued to submit evidence. In a reasonable accommodation request form dated February 3, 2014, Dr. Kudelko diagnosed right shoulder arthropathy, a right rotator tear, cervical spondylosis and spasm, lumbar degenerative joint disease, and headaches and nausea from a cervicogenic component. He found that appellant could not stamp, reach, or pull. In a form report dated February 3, 2014, Dr. Kudelko diagnosed right shoulder arthropathy, cervical spondylosis, and lumbar degenerative disc disease. He checked “yes” that the condition was caused or aggravated by employment.

In a report dated March 24, 2014, Dr. Kudelko discussed his treatment of appellant “for complaints of right arm, neck, low back, and bilateral wrist pains, all of which have been exacerbated by [a] poor ergonomic setup at her work and repetitive stamping and twisting in a chair while working at her front desk duty.” He related:

“Although [appellant] has a history of arthropathy/rotator cuff injury in her right shoulder from a fall in 2011 and some degenerative disc disease in her cervical and lumbar spine, her history of [a] poor ergonomic setup and repeated twisting and stamping has exacerbated all her problems. Her carpal tunnel symptoms have

⁵ The name of the physician is not legible.

⁶ On December 31, 2013 a nurse practitioner submitted a reasonable accommodation request to the employing establishment.

progressed during that time and improved when she is not repeatedly stamping. Nerve conduction EMG studies documented some progression/worsening of [appellant's] symptoms between September 2011 which is right prior to when she started front desk duty and her December 2013 study.”

On April 3, 2014 appellant requested a review of the written record by an OWCP hearing representative.

By decision dated October 24, 2014, an OWCP hearing representative affirmed the March 5, 2014 decision.

On appeal appellant attributes her injuries to her employment. She asserts that opening heavy doors at work aggravated her back.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁷ 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.⁸ 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.⁹

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;¹⁰ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;¹¹ and (3) medical evidence establishing 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.¹²

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,¹³ must be one of reasonable medical certainty¹⁴ explaining

⁷ 5 U.S.C. § 8101 *et seq.*

⁸ *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁹ *See Ellen L. Noble*, 55 ECAB 530 (2004).

¹⁰ *Michael R. Shaffer*, 55 ECAB 386 (2004).

¹¹ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

¹² *Beverly A. Spencer*, 55 ECAB 501 (2004).

¹³ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

¹⁴ *John W. Montoya*, 54 ECAB 306 (2003).

the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁵

ANALYSIS

Appellant attributed her condition to sitting in a twisted position and repetitively using a mouse and date stamper. OWCP accepted the occurrence of the claimed employment factors. The issue, therefore, is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified work factors.

On June 8, 2011 Dr. Bennett discussed appellant's complaints of right shoulder pain after she fell down stairs in April 2011. He further indicated that she had a history of bilateral carpal tunnel syndrome and pain in her ankle, knee, and left shoulder. Dr. Bennett noted that appellant experienced difficulty opening the doors at work. He diagnosed right shoulder degenerative disc disease of the AC joint, a rotator cuff tear, impingement, and right shoulder stiffness. While Dr. Bennett obtained a history of appellant having trouble opening doors at work, he did not specifically attribute any diagnosed condition to this activity; consequently, his opinion is of little probative value.¹⁶

In a form report dated December 31, 2013, a physician diagnosed carpal tunnel syndrome and rotator disease and checked "yes" that the history provided by appellant corresponded to the history provided on the form of a hand, arm, neck, and shoulder condition from opening office doors. The physician attributed the diagnosed conditions to "repetitive activities" and listed work restrictions. Although the specialty of the physician was listed as family practice, the author's identity is unknown as the signature is illegible. As the Board is unable to identify that the person completing the report is a physician as defined in 5 U.S.C. § 8101(2), it does not constitute probative evidence.¹⁷

On January 22, 2014 Dr. Kudelko diagnosed right shoulder arthropathy, occupational cervical spondylosis, and low back degenerative disease. He provided work restrictions. In a certification of FMLA health care provider form, Dr. Kudelko diagnosed a right shoulder tear, cervical muscle spasm, and lumbar pain due to degenerative disease. He found that appellant could not work the front desk. In a reasonable accommodation request form dated February 3, 2014, Dr. Kudelko diagnosed right shoulder arthropathy, a rotator tear, cervical spondylosis and spasm, lumbar degenerative joint disease, and headaches and nausea from a cervicogenic component. He opined that appellant could not stamp, reach, or pull. Dr. Kudelko did not address causation in these form reports. 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.¹⁸

¹⁵ *Judy C. Rogers*, 54 ECAB 693 (2003).

¹⁶ *D.S.*, Docket No. 15-0821 (issued July 2, 2015); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹⁷ *See Merton J. Sills*, 37 ECAB 572, 575 (1988).

¹⁸ *See supra* note 15.

In a form report dated February 3, 2014, Dr. Kudelko diagnosed right shoulder arthropathy, cervical spondylosis with spasm, and lumbar degenerative disc disease. He checked “yes” that the condition was caused or aggravated by employment and found that appellant was partially disabled from December 31, 2013 to March 30, 2014. As discussed, however, a physician’s opinion on causal relationship which consists only of checking “yes” to a form question, without explanation or rationale, has little probative value and is insufficient to establish a claim.¹⁹

On March 24, 2014 Dr. Kudelko related that appellant aggravated the pain in her wrists, right arm, low back, and neck by repetitively stamping and twisting at work and not using an ergonomic workstation. He noted that she injured her rotator cuff due to a fall in 2011 and also had a history of cervical and lumbar degenerative disc disease, all of which he found aggravated by repetitive employment duties. Dr. Kudelko advised that appellant’s carpal tunnel syndrome worsened when she had to stamp repeatedly and improved when she stopped stamping, as confirmed by the results of EMG testing. The Board has held, however, that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment.²⁰ Dr. Kudelko did not explain how or why stamping repeatedly aggravated appellant’s bilateral carpal tunnel syndrome or aggravated her degenerative cervical and lumbar condition. Such rationale is particularly necessary given appellant’s history of nonwork-related injuries. Consequently, Dr. Kudelko’s report is of limited probative value and insufficient to meet her burden of proof.

On appeal appellant attributed the aggravation of her condition to opening heavy doors at work and reaching at her workstation. As discussed, however, she has the burden to submit rationalized medical opinion evidence explaining the nature of the relationship between the identified work factors and a diagnosed condition.²¹ Appellant failed to provide such evidence and thus has not met her burden of proof.

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained a right arm, bilateral wrist, neck, or low back condition caused or aggravated by factors of her federal employment.

¹⁹ *Cecelia M. Corley*, 56 ECAB 662 (2005).

²⁰ *D.E.*, 58 ECAB 448 (2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

²¹ *See D.I.*, 59 ECAB 158 (2007).

ORDER

IT IS HEREBY ORDERED THAT the October 24, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 2, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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