

ISSUE

The issue is whether appellant met her burden of proof to establish an injury causally related to factors of her federal employment.

FACTUAL HISTORY

On June 16, 2015 appellant, then a 65-year-old revenue agent, filed an occupational disease claim (Form CA-2) for left hand/wrist tendinitis. She explained that she used her hands all the time at work and that she was frequently on the computer performing repetitive hand movements.³ Appellant first became aware of her claimed condition on May 6, 2015. She realized the condition was employment related on June 3, 2015. Appellant did not stop work around the time she filed her claim. She subsequently retired in January 2016.

In a June 30, 2015 letter, OWCP requested that appellant submit additional factual and medical evidence in support of her claim, including a medical report with a physician's opinion supported by a medical explanation as to how her work activities caused, contributed to, or aggravated her claimed medical condition.

In an undated statement that OWCP received on July 1, 2015, appellant further discussed her activities at work, including typing on a computer and handling work files, which she believed caused her left hand/wrist condition. She described the medical treatment she received for her left upper extremity condition. Appellant also submitted a position description for her job as a revenue agent.

In a report dated June 17, 2015, Dr. Matthew Eichenbaum, an attending Board-certified orthopedic surgeon, indicated that appellant presented on June 3, 2015 with moderate swelling in her left radial wrist and a chief complaint of left wrist pain. Appellant reported that her symptoms began four months ago without a specific injury and that the symptoms were aggravated by lifting and twisting. Dr. Eichenbaum provided a discussion of his review of appellant's systems and noted that the findings of April 2, 2015 x-rays of appellant's left hand and wrist showed moderate osteoarthritis, mainly at the thumb and the fingers, with no fracture or other significant radiographic abnormality of the left hand or left wrist. He diagnosed left hand pain, left synovitis/tenosynovitis, and left de Quervain's tenosynovitis. Dr. Eichenbaum described his injection of the tendon sheath of the left wrist with Marcaine and Celestone.⁴

In a July 27, 2015 duty status report (Form CA-17), Dr. Eichenbaum listed the date of injury as May 6, 2015 and the reported manner in which the injury occurred as "[l]eft hand/wrist utilized in grabbing paper, light lifting [and] typing and data entry into computer." He described the clinical findings as wrist pain and swelling with symptoms relieved by injection on

³ Appellant also noted that she was previously diagnosed with right carpal tunnel syndrome, and had undergone surgery in December 2014. She has a separate occupational disease claim for right carpal tunnel syndrome with a January 17, 2014 date of injury (File No. xxxxxx595). Appellant's right upper extremity condition is not the subject of the present appeal.

⁴ Appellant also submitted an April 27, 2015 report in which Dr. Leo W. Rasis, an attending Board-certified orthopedic surgeon, discussed his treatment of her right upper extremity.

June 3, 2015. Dr. Eichenbaum indicated that he advised appellant on June 3, 2015 that she could resume her regular work on a full-time basis.

By decision dated September 24, 2015, OWCP denied appellant's claim for a left hand/wrist injury. It accepted that she engaged in work activities requiring repetitive hand and wrist motion, but found that she had not submitted rationalized medical evidence establishing a causal relationship between her claimed condition and the accepted work exposure.

By letter dated October 19, 2015, appellant, through counsel, requested a telephone hearing with an OWCP hearing representative.

Appellant submitted a January 11, 2016 report in which she had reported to Dr. Eichenbaum that her left wrist symptoms had worsened since her last visit, particularly after "working on her computer." She advised that she had retired from the employing establishment. Dr. Eichenbaum diagnosed left wrist pain and left radial styloid tenosynovitis (de Quervain's tenosynovitis).

In March 14 and May 2, 2016 reports, Dr. Eichenbaum described his continued treatment of the diagnosed conditions of left wrist pain and left radial styloid tenosynovitis (de Quervain's tenosynovitis). In the May 2, 2016 report, he noted that appellant would proceed with de Quervain's release surgery.

Appellant also submitted copies of reports in which her physical therapist detailed the findings of physical therapy sessions.

During the hearing held on June 6, 2016, appellant described the activities at work which she believed caused her left hand/wrist condition. She testified that she had been required to type for approximately 6.5 hours per day, five days per week, from 1988 through January 2016, and that she periodically had to lift and handle case files.

By decision dated July 26, 2016, OWCP's hearing representative affirmed OWCP's decision denying appellant's occupational disease claim. He accepted that appellant had been required to type for approximately 6.5 hours per day, five days per week, from 1988 through January 2016, and that she periodically had to lift and handle case files. However, the hearing representative found that she had failed to submit medical evidence in which a physician had provided an accurate history of injury, definitive diagnosis, and unequivocal medical opinion addressing causal relationship between the accepted employment factors and a definitive diagnosis, supported by medical rationale.

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 of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that the 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.⁵ To establish fact of injury, an employee must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged.⁶ An employee must also establish that such event, incident, or exposure caused an injury.⁷ 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.⁸

OWCP regulations define the term “[o]ccupational disease or illness” as a condition produced by the work environment over a period longer than a single workday or shift.⁹ To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee 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 diagnosed condition is causally related to the employment factors identified by the employee.¹⁰

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence.¹¹ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 established employment factors.¹²

Certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered “physician[s]” as defined under FECA.¹³ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁴

⁵ 5 U.S.C. § 8101(1); *B.B.*, 59 ECAB 234 (2007); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *J.C.*, Docket No. 16-0057 (issued February 10, 2016); *E.A.*, 58 ECAB 677 (2007).

⁷ *Id.*

⁸ *R.H.*, 59 ECAB 382 (2008); *Ellen L. Noble*, 55 ECAB 530 (2004).

⁹ 20 C.F.R. § 10.5(q); *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.2b (June 2011).

¹⁰ *D.H.*, Docket No. 15-1876 (issued January 29, 2016); *D.I.*, 59 ECAB 158 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹¹ *F.S.*, Docket No. 15-1052 (issued July 17, 2015); *Tomas Martinez*, 54 ECAB 623 (2003).

¹² *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *John W. Montoya*, 54 ECAB 306 (2003).

¹³ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

¹⁴ *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

ANALYSIS

On June 16, 2015 appellant filed a Form CA-2 claiming that she sustained injury to her left hand and wrist by performing work tasks over time which required repetitive motion of her left hand and wrist. OWCP accepted that she had been required to type for approximately 6.5 hours per day, five days per week, from 1988 through January 2016, and that she periodically had to lift and handle case files. In September 24, 2015 and July 26, 2016 decisions, it denied appellant's occupational disease claim because she had not submitted rationalized medical evidence establishing a causal relationship between her diagnosed left hand/wrist condition and the accepted work factors.

The Board finds that appellant did not meet her burden of proof to establish an occupational disease in the performance of duty.

Appellant submitted a June 17, 2015 report in which Dr. Eichenbaum diagnosed left hand pain, left synovitis/tenosynovitis, and left de Quervain's tenosynovitis. Dr. Eichenbaum, however, did not provide any opinion on the cause of the diagnosed left wrist conditions. The Board has held that medical evidence which does not offer a clear opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁵

In a July 27, 2015 Form CA-17, Dr. Eichenbaum listed the date of injury as May 6, 2015 and the reported manner in which the injury occurred as "[l]eft hand/wrist utilized in grabbing paper, light lifting [and] typing and data entry into computer." He described the clinical findings as wrist pain and swelling and indicated that appellant could resume her regular work on a full-time basis as of June 3, 2015. Although Dr. Eichenbaum listed some of the work duties reported by appellant, he did not provide a clear opinion that appellant's diagnosed left wrist conditions were related to these duties. He did not provide a rationalized medical opinion relating these conditions to the accepted work factors.

Appellant also submitted a January 11, 2016 report in which Dr. Eichenbaum indicated that appellant had reported that her left wrist symptoms had worsened since her last visit, particularly after "working on her computer."¹⁶ Dr. Eichenbaum diagnosed left wrist pain and left radial styloid tenosynovitis (de Quervain's tenosynovitis), but he did not provide a clear opinion on the cause of these conditions.

In a March 2, 2016 report, Dr. Eichenbaum noted that appellant would proceed with de Quervain's release surgery. However, he did not provide any opinion that this proposed surgery was necessitated by a work-related condition.

Appellant submitted copies of reports in which her physical therapist detailed the findings of physical therapy sessions. However, the Board has held that physical therapists are not

¹⁵ See *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

¹⁶ Appellant advised that she was retired from the employing establishment.

physicians under FECA, and therefore, their opinions do not constitute medical opinion evidence and have no weight or probative value on medical matters.¹⁷

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(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 July 26, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 21, 2016
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

¹⁷ *C.E.*, Docket No. 14-710 (issued August 11, 2014); *Jane A. White*, 34 ECAB 515 (1983).