



## **FACTUAL HISTORY**

On January 6, 2016 appellant, then a 54-year-old hotline analyst, filed an occupational disease claim (Form CA-2) alleging that on December 10, 2015 she first realized that her carpal tunnel condition was employment related. He did not stop working.

In an undated statement, appellant described the various positions she held at the employing establishment along with a brief description of the duties of the positions. She alleged that her duties in her position as hotline analyst required repetitive typing eight hours per day, five days per week. Appellant reported that her prior positions of investigative technician and word processing operator also required repetitive typing for eight hours per day, five days per week. The audit technician position required three hours of typing per day, five days per week. Appellant's work as a technician required repetitive movement of the wrists, hand, and fingers sorting and opening mail eight hours per day, five days per week.

In a February 3, 2016 letter, OWCP informed appellant that the evidence of record was insufficient to establish her claim as a medical report with a diagnosis and opinion regarding causal relationship had not been submitted. Appellant was advised of the medical and factual evidence needed and she was afforded 30 days to submit such evidence, including a well-rationalized opinion from her physician regarding the cause of her condition. OWCP also requested that the employing establishment provide treatment notes if appellant had been treated at an employing establishment medical facility.

In response to OWCP's request for additional evidence, appellant submitted a January 21, 2016 physical therapy report, a December 28, 2015 electromyograph (EMG) test, and the following medical reports.

In a December 28, 2015 consultation report, Dr. Subhash K. Shah, an examining physician, diagnosed neuropathy, left carpal tunnel syndrome, and left cubital syndrome. He provided physical examination findings and reviewed an EMG.

A November 30, 2015 treatment note by Dr. Jean Lee, a treating physician, indicated that appellant had been seen in the emergency room for right index finger cut sustained last Thursday. Appellant reported numbness in her left hand except for the thumb due to increased use. Dr. Lee reported a negative Tinel's sign and a positive left Phalen's sign. She noted that appellant's work involved a lot of typing and opined that appellant most likely had carpal tunnel syndrome.

In a December 10, 2015 prescription note, Dr. Lee diagnosed carpal tunnel syndrome, provided work restrictions, and prescribed a wrist splint. She opined that appellant's carpal tunnel condition could be aggravated by typing.

In a treatment note dated January 5, 2016 and electronically signed on January 7, 2016, Dr. Lee reported cubital and carpal tunnel syndrome based on EMG results. Diagnoses included left ulnar nerve lesion, left carpal tunnel syndrome, low back pain, lumbar spinal stenosis, skin anesthesia, hypertrichosis, lumbar spine scoliosis, and postprocedural hypothyroidism. In a

February 8, 2016 addendum, Dr. Lee provided work restrictions for appellant. She referred appellant for physical therapy and to Dr. William Heller, a Board-certified orthopedic surgeon.

A January 19, 2016 office visit report diagnosed probable mild bilateral cubital tunnel syndrome, provided physical examination findings, and noted results from recent EMG tests. Dr. Heller is listed as the provider, but the report indicates that it was electronically signed by L.A.M., a transcriptionist.<sup>3</sup>

In February 8, 2016 treatment notes, Dr. Lee discussed appellant's complaints and her request to have the physician attribute her carpal tunnel syndrome to typing at work.

By decision dated March 11, 2016, OWCP denied appellant's claim as it found the medical evidence insufficient to establish a causal relationship between the diagnosed carpal tunnel condition and the accepted work factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> 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 and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>5</sup> 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.<sup>6</sup>

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>7</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>8</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on

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<sup>3</sup> There is no evidence that Dr. Heller signed the report.

<sup>4</sup> 5 U.S.C. § 8101 *et seq.*

<sup>5</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>6</sup> *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> *D.U.*, Docket No. 10-144 (issued July 27, 2010); *R.H.*, 59 ECAB 382 (2008); *Roy L. Humphrey*, 57 ECAB 238 (2005); *Donald W. Wenzel*, 56 ECAB 390 (2005).

<sup>8</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.<sup>9</sup> 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 specific employment factors identified by the employee.<sup>10</sup>

### ANALYSIS

Appellant alleged, and it is undisputed, that her work duties involved significant amounts of typing and repetitive hand movements five days per week. OWCP denied her claim, finding there was insufficient medical evidence to establish that her diagnosed carpal tunnel condition had been caused or aggravated by her work duties. The Board finds that appellant failed to meet her burden of proof to establish that her left carpal tunnel syndrome is causally related to factors of her federal employment.

In a December 28, 2015 consultation report, Dr. Shah, an examining physician, provided diagnoses, physical examination findings, and findings from an EMG. However, he offered no opinion on the causal relation of appellant's condition to her federal employment. 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 on the issue of causal relationship.<sup>11</sup> Thus, this report is insufficient to support appellant's claim.

In a November 30, 2015 treatment note, Dr. Lee diagnosed left hand numbness and indicated that it was most likely carpal tunnel. She noted that appellant's work involved a lot of typing, but offered no medical explanation regarding causal relationship. In a December 10, 2015 prescription note, Dr. Lee diagnosed carpal tunnel syndrome, which she opined could be aggravated by appellant's typing. The Board has held that medical opinions which are speculative or equivocal are of diminished probative value.<sup>12</sup> Furthermore, a mere conclusion without the necessary rationale explaining how and why the physician believes that appellant's work activities could result in the diagnosed condition is insufficient to meet appellant's burden of proof.<sup>13</sup> Dr. Lee, in a treatment note dated January 5, 2016 and electronically signed on January 7, 2016, diagnosed left carpal tunnel syndrome and left ulnar lesion among other conditions. In her February 8, 2016 treatment note, she discussed appellant's complaints and appellant's request to provide an opinion that attributed her carpal tunnel syndrome to her typing at work. Dr. Lee offered no opinion regarding the cause of appellant's left carpal tunnel

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<sup>9</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>10</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>11</sup> *See C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

<sup>12</sup> *See S.E.*, Docket No. 08-2214 (issued May 6, 2009) (finding that opinions such as the condition is probably related, most likely related, or could be related are speculative and diminish the probative value of the medical opinion); *Cecilia M. Corley*, 56 ECAB 662, 669 (2005) (finding that medical opinions which are speculative or equivocal are of diminished probative value).

<sup>13</sup> *See Beverly A. Spencer*, 55 ECAB 501 (2004).

syndrome and left ulnar lesion or appellant's complaints in either report. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>14</sup> Dr. Lee's reports are insufficient to discharge appellant's burden of proof as they do not present a rationalized medical opinion regarding causal relationship.

The remaining evidence submitted by appellant is insufficient to establish causal relationship. The diagnostic test fails to provide an opinion addressing the causal relationship of appellant's condition.<sup>15</sup>

The unsigned January 19, 2016 office visit report is also of no probative value as there is no indication of who prepared those reports. The Board has held that incomplete medical reports not containing a signature do not constitute probative medical evidence.<sup>16</sup> Similarly, the January 21, 2016 physical therapy report is of no probative value, as the Board has held that physical therapists are not considered physicians as defined under FECA.<sup>17</sup> Thus, this evidence is therefore of no probative medical value.

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 has not met her burden of proof to establish carpal tunnel syndrome causally related to factors of her federal employment.

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<sup>14</sup> See *supra* note 11.

<sup>15</sup> See *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *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 limited probative value on the issue of causal relationship).

<sup>16</sup> See *R.M.*, 59 ECAB 690, 693 (2008); *Merton J. Sills*, 39 ECAB 571, 575 (1988).

<sup>17</sup> See 5 U.S.C. § 8101(2). See *Jennifer L. Sharp*, 48 ECAB 209 (1996) (physical therapists). See also *Gloria J. McPherson*, 51 ECAB 441 (2000) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 11, 2016 is affirmed.

Issued: October 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