

ISSUE

The issue is whether appellant met his burden of proof to establish an injury in the performance of duty.

On appeal appellant contends that he strongly believes that his carpal tunnel syndrome was a direct result of the duties of his federal employment.

FACTUAL HISTORY

On July 18, 2016 appellant, then a 53-year-old food inspector, filed an occupational disease claim (Form CA-2) alleging that his work as a meat inspector resulted in numbness and pain in his hands. He listed the nature of the disease as carpal tunnel syndrome. In an accompanying statement, appellant indicated that he started working for the employing establishment in December 1989, worked approximately 50 hours a week, and inspected poultry and hogs. He described his work duties which included holding a knife and hook to check, flip, and rotate hogs. Appellant noted that the pain in his hands started in November 2015 and had worsened. He also related that he used arm and elbow braces at night. Appellant submitted a position description for a food inspector.

In a June 2, 2016 report, Dr. James E. McKiernan, a Board-certified neurologist, interpreted an electromyogram (EMG) of appellant's wrists as evincing bilateral median neuropathies. He noted that the abnormalities were mild in degree and localized best at or near the carpal tunnel. Dr. McKiernan noted that the abnormalities were slightly worse on the right than the left. He indicated that appellant's ulnar nerve studies were normal.

By letter dated July 19, 2016, OWCP informed appellant that further information was necessary to support his claim, and afforded him 30 days to submit the information.

In a witness statement dated August 9, 2016, Cristino R. Colon, a Doctor of Veterinarian Medicine for the employing establishment, related that he reviewed all of appellant's statements and found them to be accurate.

By letter dated August 9, 2016, appellant related that the employment factors he claimed caused his conditions were the repetitive movement of his wrists during work activities as a meat inspector. He noted that his symptoms began in November 2015.

Appellant submitted reports from Dr. Sunil Thirkannad, a Board-certified orthopedic surgeon specializing in hand surgery, dated April 21, June 9, and July 21, 2016. Dr. Thirkannad conducted an EMG and nerve conduction velocity tests and diagnosed bilateral carpal tunnel syndrome and bilateral lesions of the ulnar nerve syndrome. He managed appellant's condition with bilateral wristlets, elbow pads, and carpal tunnel injections. Dr. Thirkannad noted that he wanted to schedule surgery.

By decision dated August 31, 2016, OWCP denied appellant's claim as it determined that appellant had not established that the "events" occurred as alleged and appellant had not submitted a physician's opinion that provided that appellant's condition was causally related to

his work duties as a food inspector. It therefore concluded that appellant had not established fact of injury.

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 timely filed within the applicable time limitation period, that an injury was sustained in the performance of duty as alleged, and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.³ 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.⁴

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁵ To establish fact of injury in an occupational disease claim, 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.⁶

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's 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, 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.⁷

ANALYSIS

The Board finds that the evidence of record supports that appellant was exposed to the employment factors alleged. An employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁸ Appellant described his work inspecting poultry and hogs and contended

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *See S.P.*, 59 ECAB 184, 188 (2007).

⁶ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *see also P.W.*, Docket No. 10-2402 (issued August 5, 2011).

⁷ *I.J.*, 59 ECAB 408 (2008); *supra* note 4.

⁸ *C.V.*, Docket No. 15-0615 (issued September 13, 2016).

that it involved repetitive motion with his hands. His statement with regard to his duties is uncontradicted by any other evidence in the record. In fact, appellant's statement was supported by the statement of Dr. Colon, a veterinarian at the employing establishment, who related that he had reviewed appellant's statements and found them to be accurate. Consequently, it is found that appellant has established the existence of the alleged employment factors.

Furthermore, the evidence of record establishes and the Board finds that appellant has been diagnosed with bilateral carpal syndrome and bilateral ulnar nerve syndrome.

The Board finds, however, that appellant's claim must be denied as he failed to establish a causal relationship between the accepted employment factors and his accepted medical diagnosed conditions. None of the physicians provided a rationalized opinion establishing a causal relationship between the accepted factors of appellant's federal employment and his medical diagnoses. Dr. Thirkannad noted that he treated appellant for bilateral carpal tunnel syndrome bilateral ulnar nerve syndrome, but did not provide an opinion addressing the cause of these conditions. Similarly, Dr. McKiernan merely interpreted an EMG test but provided no opinion on causation. The Board has long 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.⁹ As neither Dr. Thirkannad nor Dr. McKiernan provided an opinion addressing the cause of appellant's medical diagnoses, these opinions are insufficient to establish causal relationship.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.¹⁰ An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there was a causal relationship between his or her condition and his or her employment.¹¹ Causal relationship must be based on rationalized medical opinion evidence.¹² A physician must accurately describe appellant's work duties and medically explain the pathophysiological process by which these duties would have caused or aggravated his condition.¹³ As appellant did not submit a rationalized medical opinion supporting that his diagnosed conditions were causally related to the accepted employment factors, he did not meet his 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(a) and 20 C.F.R. §§ 10.605 through 10.607.

⁹ *G.M.*, Docket No. 14-2057 (issued May 12, 2015); *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Willie M. Miller*, 53 ECAB 697 (2002).

¹⁰ *L.D.*, Docket No. 09-1503 (issued April 15, 2010); *D.I.*, 59 ECAB 158 (2007); *Daniel O. Vasquez*, 57 ECAB 559 (2006).

¹¹ *Patricia J. Glenn*, 53 ECAB 159, 160 (2001).

¹² *M.E.*, Docket No. 14-1064 (issued September 29, 2014).

¹³ *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician). *See also G.G.*, Docket No 15-234 (issued April 9, 2015).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 31, 2016 is affirmed, as modified.

Issued: April 11, 2017
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