United States Department of Labor
Employees' Compensation Appeals Board

M.H., Appellant	)	
and	)	**Docket No. 17-0667**
	)	**Issued: September 5, 2017**
U.S. POSTAL SERVICE, POST OFFICE, Cincinnati, OH, 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
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 2, 2017 appellant filed a timely appeal from a December 30, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 met her burden of proof to establish an injury causally related to factors of her federal employment.

FACTUAL HISTORY

On February 15, 2016 appellant, then a 55-year-old maintenance support clerk, filed an occupational disease claim (Form CA-2) alleging that she developed osteoarthritis of both hands and fingers, bilateral wrist tendinitis, bilateral elbow strains, right lateral epicondylitis, and left

[1] 5 U.S.C. § 8101 *et seq.*

medial epicondylitis as a result of her daily work of data entry, filing contracts, completing employee work sheets and reports, and ordering supplies. She indicated that she first became aware of her condition on October 21, 2015 and realized it resulted from her federal employment on September 15, 2015. Appellant stopped work on January 20, 2016.

In a February 15, 2016 progress note, Dr. Isaac Corney, a Board-certified family practitioner, noted appellant's history of right tennis elbow, right forearm tendinitis, right elbow strain, left golfer's elbow, left hand osteoarthritis, pain in her left index finger, and chronic right pain from old trauma made worse by job duties. He indicated that appellant had been off work for three weeks. Dr. Corney related that x-ray scans of appellant's elbows and right forearm were all normal. Upon physical examination of appellant's elbows, he observed lateral epicondyle tenderness of the right elbow and medial epicondyle tenderness of the left elbow. Dr. Corney reported tenderness and swelling of appellant's right forearm and tenderness of appellant's hands. He diagnosed right lateral epicondylitis, forearm tendinitis, left medial epicondylitis, elbow strain, tendinitis of the finger, and right thumb pain. Dr. Corney opined that appellant could work light duties with restrictions of no keyboarding, no lifting more than 10 pounds, and no repetitive use of the extremities.

The employing establishment controverted appellant's claim in a letter dated February 25, 2016. It claimed that appellant had not submitted sufficient medical evidence to support her claim, that appellant had failed to establish fact of injury, and that her claim should be denied.

Appellant was offered a modified clerk position as a maintenance operations support (MOS) clerk. The duties of the modified assignment included answering telephones and all MOS duties, except for keying and lifting up to 10 pounds, for four hours, lifting up to 20 pounds for two hours, and keyboarding for one hour. The physical requirements of the job required sitting, standing, and reaching above the shoulder for four hours and pushing, pulling, and no lifting over 20 pounds for two hours.

In a March 28, 2016 progress note, Dr. Corney noted that appellant was working part-time limited duty at the employing establishment and still experienced left inner elbow pain. Upon examination of appellant's left elbow, he observed tenderness in the medial epicondyle. Examination of appellant's right hand revealed tenderness in the forearm and decreased range of motion of the hand. Dr. Corney diagnosed hypertension, forearm tendinitis, lateral epicondylitis of the right elbow, tendinitis of the finger, and medial epicondylitis of the left elbow. Dr. Corney recommended that appellant continue light duty and provided a duty status report (Form CA-17) with restrictions.

In a letter dated April 7, 2016, appellant noted that her modified assignment job offer was to work four hours, but she had been released to work a full eight-hour shift. She also related that her doctor restricted her to one hour of keyboarding, but she contended that the modified duty assignment required keyboarding for four hours.

By letter dated April 15, 2016, OWCP advised appellant of the deficiencies of her occupational disease claim. It requested that she respond to an attached questionnaire to establish the factual element of her claim and provide additional medical evidence to establish a

diagnosed medical condition causally related to her employment. Appellant was afforded 30 days to submit the additional information.

In an April 27, 2016 statement, appellant related that she currently held a modified job position as a MOS clerk. She generally described her duties as data entry, entering contracts and employee worksheets, providing technical assistance and guidance to the employing establishment's vendor contracts, and replenishing the stockroom. Appellant further noted that there were presently only two maintenance support clerks who performed the duties of all three tours. She reported that she had no activities outside of her federal employment, except for crocheting, which she can do on her days off for 30 minutes intermittently. Appellant provided a position description for a maintenance support clerk.

Appellant also submitted various documents regarding her previous claims. She provided a November 16, 1987 OWCP decision under OWCP File No. xxxxxx000, which had been accepted for sprain of the right metacarpal phalangeal joint with pain radiating up the arm. Appellant also submitted a January 6, 2000 second opinion examination report from OWCP File No. xxxxxxx575.

Dr. Corney continued to treat appellant. In a May 9, 2016 report, he indicated that appellant had been under his care for five years. Dr. Corney noted that appellant had a federal workers' compensation injury to her right thumb, which resulted in surgical fixation with screws and plates from 25 to 30 years ago. He related that appellant's job duties required her to frequently use her hands and that her symptoms of pain in both hands and right wrist had worsened over the years. Dr. Corney reported that appellant had been diagnosed with left elbow medial epicondylitis, left finger tendinitis, post-traumatic arthritis of the right thumb, and right elbow lateral epicondylitis and tendinitis. He indicated that four months ago appellant presented with new pain in both of her elbows, worsening pain in her left second finger, and pain in her right forearm. Appellant was advised to stop working. Dr. Corney noted that, when appellant stopped work for three weeks, her pain improved, but she had to return to work for financial reasons. He indicated that appellant was currently on light duty and had recently started physical therapy.

OWCP denied appellant's claim in a decision dated May 25, 2016. It accepted appellant's alleged employment duties and various diagnosed medical conditions, but found that the medical evidence of record was insufficient to establish a causal relationship between appellant's employment and the diagnosed upper extremity conditions.

In a May 25, 2016 e-mail, OWCP received a copy of the modified job offer, which appellant refused on April 18, 2016. It noted that a medical report from appellant's doctor related that appellant could return to work with no restrictions on May 20, 2016. An April 22, 2016 e-mail from a maintenance operations manager, explained that appellant refused to accept the modified assignment.

OWCP received an April 19, 2016 work status note by Dr. Corney. Dr. Corney related that, after reviewing appellant's job duties and the April 18, 2016 offer of modified assignment, appellant could return to work on April 21, 2016 with restrictions of no repetitive work with left

or right hands, including no working in manual flats and no working in manual primary letters and bundle operations until May 20, 2016.

The employing establishment also provided the April 18, 2016 modified assignment offer for a modified clerk position, which appellant did not accept.

On May 31, 2016 appellant filed a wage-loss compensation claim (Form CA-7) for the period April 30 to May 13, 2016. She resubmitted Dr. Corney's March 28, 2016 duty status report and April 19, 2016 return to work note.

Appellant indicated in a June 13, 2016 letter that she was submitting an updated Form CA-17. She explained that her treating physician used an old Form CA-17 dated March 28, 2016 to update a Form CA-17 dated June 2, 2016.

In a June 2, 2016 Form CA-17, Dr. Corney advised that appellant could return to full-time limited duty with restrictions of twisting for one hour, simple grasping, fine manipulation, reaching above the shoulder, driving and operating a motor vehicle, bending, kneeling, and stooping for two hours, pushing and pulling for four hours, and sitting for five hours.

On October 4, 2016 appellant requested reconsideration of the May 25, 2016 decision. In a September 28, 2016 statement, she related that after her surgery in 2003 OWCP returned her to her maintenance support position with reasonable accommodation. Appellant indicated that she had worked with a staff of seven coworkers, until 2011, when staff was reduced to four maintenance support clerks. She related that maintenance support reduced its staff again to three clerks in 2013. Appellant explained that, during this time, the workload never changed and required more repetitious keying, grasping, and fine manipulation. She described her employment duties. Appellant related that, because of the surgical fixations of her right hand, wrist, and forearm, her right thumb and wrist were deformed. She indicated that her condition took a turn for the worse and she started to have severe pain in both hands and severe muscle spasm and pain in her forearms. Appellant reported that her doctor took her off work for three weeks and when she returned to work, OWCP had archived her file. She alleged that this action made her a target for discrimination and a stressful workplace. Appellant noted that at the present time she was on limited duty with restrictions.

Appellant provided a July 25, 2016 progress note by Dr. Corney, who related appellant's complaints of pain in both wrists and forearms. Dr. Corney reported that appellant's chronic right thumb pain was a "continuation of [an] original injury that is an approved federal workers' comp[ensation] injury with chronic right thumb pain from 1986." He reviewed the medical treatment appellant had received for her 1986 employment injury and related that her pain had never ceased. Dr. Corney noted that appellant worked through the pain with pain medication, but earlier 2016 her symptoms worsened and it became difficult for her to perform her job duties. He indicated that when she was removed from work, her symptoms improved, but she had to return to work due to financial reasons. Dr. Cotrney reported that appellant still had pain despite being on limited duties. He related that a right wrist magnetic resonance imaging (MRI) scan showed moderate subchondral cystic change, mild edema in the distal portion of the scaphoid, and mild first CMC osteoarthritis, manifested by subchondral cyst formation. Dr. Corney provided physical examination findings and diagnosed post-traumatic osteoarthritis of the right

hand, swelling of the right wrist joint, right elbow lateral epicondylitis, left elbow medial epicondylitis, unspecified synovitis and tenosynovitis, and chronic left wrist pain. Dr. Corney reported that appellant's condition was a result of a previous workers' compensation approved injury with treatment resulting in repeat surgeries. He indicated that appellant had continued pain over the years, which she continued to work through. Dr. Corney opined that appellant's condition was aggravated by years of repetitive overuse and lifting. He concluded that appellant's arthritis was a result of an old work injury, which resulted in multiple surgeries and continued overuse in performance of her job duties." Dr. Corney recommended that appellant continue light duty.

By decision dated December 30, 2016, OWCP denied modification of the May 25, 2016 decision. It found that the medical evidence of record failed to establish that appellant's diagnosed conditions resulted from her repetitive employment duties.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence[2] including that he or she sustained an injury in the performance of duty and that any specific condition or disability for work for which compensation is claimed is causally related to that employment injury.[3] In an occupational disease claim, appellant's burden requires submission of the following: (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.[4]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[5] 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.[6]

ANALYSIS

The record reveals that appellant had previously accepted claims for injuries to her right thumb and for arthritis. In her present claim, appellant has alleged that she sustained

[2] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

[3] *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[4] *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

[5] *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

[6] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

osteoarthritis of her hands and fingers, bilateral wrist tendinitis, bilateral elbow strains, right lateral epicondylitis, and left medial epicondylitis as a result of her duties as a maintenance support clerk. OWCP accepted appellant's employment duties and her diagnosed upper extremity conditions, but it denied her claim finding that the medical evidence of record failed to establish that her bilateral upper extremity conditions were causally related to her federal employment.

In support of her claim, appellant provided various progress notes and duty status reports from Dr. Corney dated February 15 to July 25, 2016. In a February 15, 2016 report, Dr. Corney related appellant's history of right tennis elbow, right forearm tendinitis, right elbow strain, left golfer's elbow, left hand osteoarthritis, pain in her left index finger, and chronic right pain from old trauma. He provided examination findings of tenderness on both of appellant's elbows and tenderness and swelling of appellant's right forearm and both her hands. Dr. Corney diagnosed hypertension, right lateral epicondylitis, forearm tendinitis, left medial epicondylitis, elbow strain, tendinitis of the finger, and right thumb pain. Appellant was released to limited duty. In his May 9, 2016 report, Dr. Corney indicated that appellant's employment duties required frequent keyboarding, sorting, and lifting up to 20 pounds and involved frequent use of her hands. In the July 25, 2016 progress note, he related that appellant's condition was aggravated by years of repetitive overuse and lifting. Dr. Corney concluded that appellant's arthritis was a result of an old work injury, which resulted in multiple surgeries and continued overuse in performance of her job duties."

The Board notes that Dr. Corney accurately described appellant's employment duties and provided medical diagnoses based on his findings on examination. Although he provided affirmative statements of causation, Dr. Corney did not explain, based on medical rationale, how any of appellant's employment duties would have physiologically caused or contributed to her various upper extremity conditions.[7] The Board notes that the need for rationalized medical evidence is particularly important in this case as Dr. Corney attributed appellant's condition to both her previous injuries and the performance of her job duties. The Board has found that rationalized medical opinion evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician.[8] Because Dr. Corney's reports did not contain an explanation of how appellant's repetitive employment duties caused or contributed to her medical condition, they are insufficient to establish her claim.[9]

The mere fact that work activities may produce symptoms revelatory of an underlying condition does not raise an inference of an employment relation.[10] Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.[11] Because appellant has not submitted such rationalized medical evidence in this case,

[7] *See M.M.*, Docket No. 15-0607 (issued May 15, 2015); *M.W.*, Docket No. 14-1664 (issued December 5, 2014).

[8] *L.F.*, Docket No. 10-2287 (issued July 6, 2011); *Solomon Polen*, 51 ECAB 341 (2000).

[9] *Supra* note 4.

[10] *See D.R.*, Docket No. 16-0528 (issued August 24, 2016).

[11] *Patricia J. Bolleter*, 40 ECAB 373 (1988).

the Board finds that she has not met her burden of proof to establish her occupational disease claim.

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 December 30, 2016 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 5, 2017
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