

FACTUAL HISTORY

On March 26, 2015 appellant, then a 51-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that constant grasping and handling of mail caused severe pain to her wrists and arms. She also noted that she had sustained “other disorders” due to the repeated trauma. Appellant did not stop work. On the reverse side of the claim form, appellant’s supervisor indicated that appellant would continue her current duties until the work injury was approved. She noted that appellant was in constant pain, but was fulfilling her carrier duties so far.

In support of her claim, appellant submitted a February 13, 2015 progress note wherein Dr. Douglas Byers, a Board-certified family practitioner, noted that appellant complained of bilateral lower arm pain which started over a week ago. Dr. Byers noted that appellant worked as a mail carrier and that she may have a repetitive motion injury. He diagnosed lateral epicondylitis.

By letter dated March 30, 2015, OWCP informed appellant that further information was necessary to support her claim, and afforded her 30 days to submit this information. Specifically, it informed her that the factual component of fact of injury had not been established. OWCP informed appellant that her statement that the cause of the injury was constant grasping and handling of mail was merely a general description. It also advised her that she must provide a detailed description of the specific work factors that caused her injury, as she had not submitted sufficient medical evidence in support of her case. Appellant did not respond to this request for additional information.

By decision dated April 30, 2015, OWCP denied appellant’s claim. It found that the evidence of record was insufficient to establish that the employment factors occurred as described because grasping and handling mail was a general description of employment duties. OWCP further noted that to meet her burden of proof appellant would have to submit medical evidence establishing causal relationship between a medical diagnosis and the established employment factors.

On May 13, 2015 appellant requested reconsideration. In support of her claim, she submitted an April 29, 2015 progress note wherein Dr. Craig McKee, appellant’s treating Board-certified plastic surgeon specializing in hand surgery, diagnosed left-sided de Quervain’s disease. Dr. McKee noted that appellant worked as a mail carrier and that, as he understood the work of a postal delivery person, he believed that her complaint was causally related to her work. In an addendum, he indicated that he gave cortisone injections to appellant’s left 1st dorsal compartment. In a May 12, 2015 follow-up note, Dr. McKee indicated another area of tenderness which would be left 1st carpometacarpal joint arthritis. He opined that there was no doubt that appellant’s joint pain was related to her work duties.

By decision dated August 5, 2015, OWCP denied modification of the April 30, 2015 decision because appellant had not provided a detailed description of the work factors that she believed caused her current medical condition.

On July 26, 2016 appellant, through counsel, requested reconsideration. In support thereof, appellant submitted additional progress notes from Dr. McKee. In a June 24, 2016 note, Dr. McKee diagnosed left 1st dorsal compartment syndrome. He noted that appellant had continuing symptoms in the left radial wrist, and some swelling over the 1st dorsal compartment. Dr. McKee noted a markedly positive Finklestein's test. However, in a July 6, 2016 report, he noted a negative x-ray related to her left first dorsal compartment syndrome. Dr. McKee recommended surgery for release of the left first dorsal compartment. In an operative report dated July 7, 2016, he indicated that he performed a release of left first dorsal compartment. In a July 22, 2016 note, Dr. McKee noted that appellant was two weeks' post release of the left 1st dorsal compartment, and had noticed some improvement.

By decision dated March 24, 2017, OWCP denied modification of the August 5, 2015 decision. It found that appellant did not respond to the factual development questionnaire or submit a statement explaining the specific work factors or activities that she alleged caused or aggravated her arm condition.

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 filed within the applicable time limitation, 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.³ 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.⁴

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; (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 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. The medical evidence must include a physician's rationalized 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 of the claimant, 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.⁵

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999).

⁵ *Id.*

ANALYSIS

Appellant alleged that she had severe pain in her wrists and arms due to constant grasping and handling of mail, and “other disorders” due to repeated trauma. OWCP denied her claim in decisions dated April 30 and August 5, 2015, and March 24, 2017. It found that the evidence of record was insufficient to establish the specific employment factors which appellant believed caused her condition.

The Board finds that appellant has not established that she sustained an occupational disease in the performance of duty.

In a letter to appellant dated March 30, 2015, OWCP requested additional medical and factual evidence from appellant, including a description of the work duties which she believed caused or contributed to her diagnosed conditions. Appellant never responded to this letter. Furthermore, despite multiple decisions denying her claim for this reason, appellant never submitted a factual statement or other evidence detailing the specific duties of her job which she alleged caused her condition. As part of her burden of proof, appellant must provide a detailed description of the employment factors or conditions that she believes caused or adversely affected the condition or conditions for which compensation is claimed.⁶ It is important that appellant provide that factual statement identifying the factors alleged to have caused the diagnosed conditions so that the medical evidence can be evaluated to determine whether the employment factors identified by the claimant were the proximate cause of the alleged condition.⁷ As she failed to provide this information, appellant has failed to meet her burden of proof.⁸

On appeal counsel argues that appellant’s thoughts on what job duties caused her injury are irrelevant. Although the issue of causal relationship is a medical one and must be resolved by probative medical opinion from a physician,⁹ appellant must first establish the employment factors which she alleges caused or contributed to her claimed condition.¹⁰ As she has not established the employment factors alleged to have caused an injury, appellant failed to meet 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(a) and 20 C.F.R. §§ 10.605 through 10.607.

⁶ *C.C.*, Docket No. 14-0939 (issued July 6, 2015); *Penelope C. Owens*, 54 ECAB 684 (2003).

⁷ *Supra* note 4.

⁸ *See D.J.*, Docket No. 15-1484 (issued December 24, 2015).

⁹ *B.B.*, Docket No. 17-0919 (issued June 28, 2017).

¹⁰ *T.B.*, Docket No. 17-0444 (issued May 5, 2017).

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 24, 2017 is affirmed.

Issued: September 14, 2017
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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