United States Department of Labor
Employees' Compensation Appeals Board

S.J., Appellant	)	
and	)	**Docket No. 17-2000**
	)	**Issued: December 19, 2018**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS HEALTH ADMINISTRATION, El Paso, TX, 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
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 25, 2017 appellant filed a timely appeal from an August 22, 2017 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.[2]

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that following the August 22, 2017 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On May 23, 2017 appellant, then a 55-year-old nurse, filed an occupational disease claim (Form CA-2) alleging that she developed right arm tingling, numbness to the dorsal and ventral aspect of the right arm, and fingertips with burning sensation due to factors of her federal employment. She indicated that she first became aware of her condition and first realized it was caused or aggravated by her federal employment on December 16, 2016. Appellant did not stop work.

In a June 2, 2017 development letter, OWCP advised appellant of the deficiencies of her claim and provided her with a questionnaire requesting further information regarding the factual aspect of her claim. On the same day a development letter was sent to the employing establishment with a series of questions regarding the allegations of appellant. It afforded appellant and the employing establishment 30 days to submit additional evidence and respond to its inquiries.

In response, appellant submitted a narrative statement dated June 15, 2017 indicating that she had no hand or wrist issues in the past and her federal duties required constant typing to enter information regarding all aspects of patient care into a computer system called "CPRS."

On January 19, 2017 Dr. Silvia M. Sierra, an internist, referred appellant to physical therapy for the diagnoses of carpal tunnel syndrome (CTS) right greater than left and possible ulnar nerve entrapment.

On January 30, 2017 Dr. Sierra referred appellant to occupational therapy for the diagnoses of carpal tunnel and cubital tunnel syndrome.

By decision dated August 22, 2017, OWCP denied appellant's claim because she failed to submit evidence containing a medical diagnosis supported by evidence of objective findings in connection with the injury or events.[3] It advised appellant that "[m]edical evidence is required that only contains a diagnosis but also establishes that a diagnosed medical condition is causally related to the work injury or event."

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

[3] Following appellant's September 25, 2017 appeal to the Board appellant filed a request for reconsideration with OWCP on October 23, 2017. In support of her request she resubmitted a copy of her June 15, 2017 narrative statement. By letter dated January 9, 2018, OWCP notified appellant that because she had filed an appeal with the Board, and because she could only choose one form of appeal at a time, no action would be taken on her request for reconsideration at the time.

United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury[4] was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[5]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether "fact of injury" has been established. A fact of injury determination is based on two elements. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury. An employee may establish that the employment incident occurred as alleged, but fail to show that his or her condition relates to the employment incident.[6]

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.[7]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed condition causally related to the accepted factors of her federal employment.

Although Dr. Sierra diagnosed CTS, right greater than left, cubital tunnel syndrome, and possible ulnar nerve entrapment, he failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as constant typing, caused or aggravated the diagnosed conditions. 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.[8] The mere fact that appellant's symptoms arose during a period of employment or produced symptoms revelatory of an underlying condition does not establish a causal relationship between her conditions and her employment factors.[9] Dr. Sierra did not explain the reasons why

[4] OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

[5] *See T.H.*, 59 ECAB 388 (2008).

[6] *Id.*

[7] *Id.*

[8] *See C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[9] *See Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

the lack of diagnostic testing and examination findings led her to conclude that appellant's constant typing at work caused or contributed to the diagnosed conditions. Moreover, the Board finds that Dr. Sierra's diagnosis of possible ulnar nerve entrapment is speculative and equivocal in nature.[10] Consequently, the evidence from Dr. Sierra is of limited probative value and insufficient to establish that appellant sustained an employment-related injury causally related to factors of her federal employment.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained a diagnosed condition causally related to factors of her federal employment, she has failed to meet her burden of proof to establish a claim for compensation.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a diagnosed condition causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the August 22, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 19, 2018
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

[10] Medical opinions that are speculative or equivocal in character are of little probative value. *See Kathy A. Kelley*, 55 ECAB 206 (2004).