

**United States Department of Labor  
Employees' Compensation Appeals Board**

M.M., Appellant	)	
	)	
and	)	<b>Docket No. 18-1096</b>
	)	<b>Issued: December 14, 2018</b>
<b>DEPARTMENT OF VETERANS AFFAIRS,</b>	)	
<b>RAYMOND G. MURPHY MEDICAL CENTER,</b>	)	
<b>Albuquerque, NM, Employer</b>	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On May 7, 2018 appellant filed a timely appeal from an April 16, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish left long trigger finger and bilateral wrist tendinitis causally related to the accepted factors of her federal employment.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On February 12, 2018 appellant, then a 55-year-old certified respiratory therapist, filed an occupational disease claim (Form CA-2) alleging that sometime before August 1, 2017, she first sustained pain, swelling, and stiffness of the long finger of her left hand, and numbness and weakness of her right hand due to repetitive gripping and fine manipulation at work. She stopped work on February 8, 2018. On or about February 23, 2018 appellant accepted a full-time, temporary light-duty assignment.

In support of her claim, appellant submitted reports dated February 8, 2018 from Dr. Harry Messec, an attending osteopathic physician Board-certified in family practice. Dr. Messec related her description of pain and paresthesias in the left long finger, left thumb, and right hand, worsened by typing, manipulating oxygen tanks, and operating flow regulators at work. On examination he diagnosed right carpal tunnel syndrome and arthritis of the third digit of the left hand. Dr. Messec provided work restrictions. In a duty status report (Form CA-17) dated February 8, 2018, he responded “yes” to the question which asked if the diagnosed conditions were due to injury.

In a report dated February 23, 2018, Dr. Sonal Bhatt, an attending Board-certified internist, diagnosed a left middle trigger finger, and an enesopathy of the right wrist. She related that appellant could return to full-duty work.

By development letter dated February 26, 2018, OWCP notified appellant of the type of additional factual and medical evidence needed to establish her occupational disease claim, including a detailed factual statement describing the mechanism of injury, and a narrative opinion from her attending physician explaining how and why the identified employment factors would cause the claimed left long finger and right wrist conditions. It afforded her 30 days to submit the necessary evidence.

In response appellant submitted a March 13, 2018 statement attributing her left hand and right wrist conditions to repetitive data entry, keyboarding, and mandatory quarterly cardiopulmonary resuscitation training at work. She also provided additional medical evidence.<sup>2</sup>

In reports dated February 23, 2018, Dr. Bhatt related that appellant experienced increased pain in her fingers while “doing computer work,” with paresthesias in the right hand. Appellant’s left middle finger often became stuck in a bent position. Dr. Bhatt diagnosed bilateral wrist tendinitis and a left trigger finger. She prescribed medication and physical therapy. Dr. Bhatt returned appellant to full duty. In progress notes dated from February 27 to March 13, 2018, she related that repetitive hand and wrist movement aggravated appellant’s symptoms.

Appellant also submitted a report dated March 23, 2018 from Steven Cardenas, a physician assistant.

By decision dated April 16, 2018, OWCP accepted that appellant’s assigned federal work duties required repetitive hand motions. However, it denied her occupational disease claim as the medical evidence of record was insufficient to establish causal relationship between the accepted

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<sup>2</sup> Appellant participated in physical therapy treatments from February 23 to March 9, 2018.

employment factors and the claimed left long finger and bilateral wrist conditions commencing on August 1, 2017.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</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 or specific condition for which compensation is claimed is causally related to the employment injury.<sup>4</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>5</sup>

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.<sup>6</sup>

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence establishing such causal relationship.<sup>7</sup> Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>8</sup> 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 employee.<sup>9</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup>

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *B.G.*, Docket No. 18-0784 (issued November 9, 2018); *see also Alvin V. Gadd*, 57 ECAB 172 (2005).

<sup>5</sup> *C.H.*, Docket No. 18-016 (issued June 15, 2018); *see also Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005).

<sup>6</sup> *J.I.*, Docket No. 18-0286 (issued September 17, 2018); *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

<sup>7</sup> *J.I.*, *id.*, *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

<sup>8</sup> *L.D.*, Docket No. 17-1581 (issued January 23, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *L.D.*, *id.*; *see also Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>10</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish left long trigger finger and bilateral wrist tendinitis causally related to accepted factors of her federal employment.

Dr. Messec diagnosed right carpal tunnel syndrome and arthritis of the third digit of the left hand on February 8, 2018. He responded “yes” in a duty status report (Form CA-17) dated February 8, 2018, indicating that the diagnosed conditions were work related. The Board has held that when a physician’s opinion on causal relationship consists only of responding “yes” to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.<sup>11</sup>

Dr. Bhatt diagnosed bilateral wrist tendinitis and a left long trigger finger. She noted in her reports from February 23 to March 13, 2018 that computer keyboarding and repetitive hand and wrist motion aggravated appellant’s subjective symptoms. The Board finds that Dr. Bhatt did not provide adequate medical rationale to establish causal relationship. Dr. Bhatt’s statement on causation failed to provide a sufficient explanation as to the mechanism of injury pertaining to this occupational disease claim as alleged by appellant, namely, discussing why the duties of a respiratory therapist as accepted by OWCP would cause or aggravate her left long trigger finger or bilateral wrist tendinitis.<sup>12</sup> Without explaining how, physiologically, the movements involved in any specific employment duties caused or contributed to appellant’s diagnosed conditions, Dr. Bhatt’s opinion on causal relationship is of limited probative value.<sup>13</sup> Thus, Dr. Bhatt’s reports are insufficient to meet appellant’s burden of proof.<sup>14</sup>

Appellant also submitted report dated March 23, 2018 by Mr. Cardenas, a physician assistant. The Board has held that medical reports signed solely by a physician assistant are of no probative value as physician assistants are not considered physicians as defined under FECA and therefore are not competent to provide a medical opinion.<sup>15</sup>

On appeal, appellant asserts that Dr. Bhatt had consistently supported causal relationship and did not “know what more to do” to provide the type of opinion requested by OWCP. As noted above, OWCP properly denied appellant’s claim as she submitted insufficient reasoned medical evidence to meet her burden of proof.

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<sup>11</sup> *M.E.*, Docket No. 18-0330 (issued September 14, 2018); *D.D.*, 57 ECAB 734, 738 (2006); *Deborah L. Beatty*, 54 ECAB 340 (2003).

<sup>12</sup> *J.I.*, *supra* note 6; *S.W.*, Docket No.08-2538 (issued May 21, 2009).

<sup>13</sup> *J.I.*, *supra* note 6. *See L.M.*, Docket No. 14-0973 (issued August 25, 2014).

<sup>14</sup> *Id.*

<sup>15</sup> *See David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law). *E.T.*, Docket No. 17-0265 (issued May 25, 2018) (physician assistants are not considered physicians under FECA).

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 left long trigger finger and bilateral wrist tendinitis causally related to accepted factors of her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 16, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 14, 2018  
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