

FACTUAL HISTORY

On August 23, 2016 appellant, then a 50-year-old claims representative, filed an occupational disease claim (Form CA-2) alleging that he sustained carpal tunnel syndrome in his right hand to his elbow and shoulder caused or aggravated by typing 90 to 99 percent of the work day since he was first hired to work at the employing establishment. He first became aware of his condition on August 9, 2016 and realized its relationship to his federal employment on October 10, 2016. The employing establishment did not indicate whether appellant stopped work.

OWCP received a diagnostic report dated September 12, 2016 from Dr. Albert E. Amorteguy, a neurologist, who evaluated the results of a nerve conduction velocity study. Dr. Amorteguy provided an impression of delayed right distal median latency indicating evidence of moderate carpal tunnel compression. He also provided an impression of ulnar conduction velocities within normal limits.

OWCP, by development letter dated September 27, 2016, advised appellant of the deficiencies of his claim and afforded him 30 days to submit medical evidence in support of his claim.

OWCP received an unsigned appointment itinerary which noted appellant's occupational therapy appointments from October 17 to November 9, 2016.

OWCP also received encounter reports dated August 29 and September 19, 2016 from Dr. Victor Dominguez, Board-certified in family practice, noted appellant's right wrist, forearm, and fingers complaints, examined him, and assessed numbness of the right hand. In an October 24, 2016 encounter note, he advised that appellant's right wrist carpal tunnel was likely exacerbated by repetitive right wrist motion, including typing. Dr. Dominguez recommended that appellant undergo a work ergonomic evaluation and be given voice recognition technology to avoid repetitive typing.

Dr. Amorteguy, in a diagnostic report dated September 12, 2016, reviewed the results of an electromyogram of the bilateral upper extremities and noted that they were normal with minimal movement artifact.

In an October 6, 2016 report, Jacqueline Razo noted that appellant had right wrist carpal tunnel syndrome that was managed by Dr. Dominguez.

By decision dated November 28, 2016, OWCP denied appellant's claim, finding that the medical evidence of record failed to establish a diagnosed condition causally related to his established employment factors. It found that Dr. Dominguez's opinion on causal relationship was ambiguous and not rationalized.

On an appeal request form and letter dated December 13, 2016 and received by OWCP on December 21, 2016, appellant requested an oral hearing before an OWCP hearing representative.² In his letter, appellant again attributed his right carpal tunnel condition to his

² A hearing was held on May 19, 2017.

long-term employment in the Federal Government, which involved repetitive typing 99 percent of the time in his job at the employing establishment.

Appellant submitted a December 8, 2016 note from Dr. Dominguez who opined that appellant's right wrist carpal tunnel condition was caused and exacerbated by repetitive right wrist motion including, typing. Dr. Dominguez reiterated his prior recommendations that appellant undergo a work ergonomic evaluation and be given voice recognition technology to avoid repetitive typing. In a May 22, 2017 letter, he indicated that he had reviewed appellant's December 13, 2016 letter and noted that his workers' compensation claim had been denied. Dr. Dominguez advised that appellant's clerical work contributed to his right carpal tunnel condition which caused pain over his hand, fingers, and arm. Appellant also submitted unsigned orders for his physical and occupational therapy from November 23 to December 23, 2016.

By decision dated June 29, 2017, an OWCP hearing representative affirmed the November 28, 2016 decision. He found that Dr. Dominguez's May 22, 2017 report was insufficiently rationalized to establish causal relationship between appellant's right wrist condition and his established employment factor. Additionally, the hearing representative noted that Dr. Dominguez's field of expertise was in family medicine, rather than in a specialty focused on treatment of upper extremity conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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.⁴ 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.⁵

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.⁶

³ *Supra* note 1.

⁴ C.S., Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *Id.*

The medical evidence 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 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

It is undisputed that appellant performed activities of repetitive typing as a claims representative. The Board finds, however, that the medical evidence of record is insufficient to establish right carpal tunnel syndrome caused or aggravated by the accepted work factor.

Dr. Dominguez, in his December 8, 2016 note and May 22, 2017 report, opined that appellant's right wrist carpal tunnel condition was caused, exacerbated, and contributed to by typing and clerical duties at work which involved repetitive motions of the wrist. Although Dr. Dominguez provided an opinion on causal relationship, the Board finds that he did not provide any medical rationale to support his opinion. The Board has found that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.⁸ Dr. Dominguez did not adequately explain how the established repetitive work duty caused or aggravated appellant's right wrist condition. The Board finds that the lack of medical rationale significantly diminishes the probative value of his opinion.⁹ In his October 24, 2016 encounter note, Dr. Dominguez opined that appellant's right wrist carpal tunnel condition was "likely" exacerbated by typing which involved repetitive motion of the wrist. This opinion is speculative in nature and therefore is of limited probative value to show causal relationship to the established employment factor. The Board has held that an opinion which is speculative in nature is of limited probative value regarding the issue of causal relationship.¹⁰ Other reports from Dr. Dominguez likewise did not offer any medical opinion addressing whether appellant's right hand condition was caused or aggravated by the established employment factor. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value.¹¹

Similarly, Dr. Amorteguy's diagnostic test results are of diminished probative value. He failed to offer an opinion on whether appellant's diagnosed right wrist condition was caused or aggravated by the established employment factor.¹²

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 5.

⁸ *T.M.*, Docket No. 08-075 (issued February 6, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

⁹ *Deborah L. Beatty*, 54 ECAB 340 (2003) (where the Board found that in the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, appellant did not meet her burden of proof).

¹⁰ *See Kathy A. Kelley*, 55 ECAB 206 (2004).

¹¹ *See C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

¹² *Id.*

Appellant also submitted a report from Ms. Razo and an unsigned appointment itinerary and order for physical and occupational therapy. However, such evidence has no probative medical value on the issue of causal relationship as these reports were not signed by a physician.¹³

The Board finds that appellant has failed to submit any rationalized, probative medical evidence sufficient to establish right carpal tunnel syndrome causally related to the established employment factor. Appellant, therefore, has not met his burden of proof.

On appeal appellant contends that the medical opinion of Dr. Dominguez establishes that his right-sided carpal tunnel syndrome was caused by his federal employment. However, for the reasons noted above, Dr. Dominguez failed to explain with medical rationale how the established employment factor caused or aggravated appellant's right wrist condition.¹⁴ Thus, Dr. Dominguez's opinion is insufficient to establish that appellant's condition was caused by the established work factor.

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 failed to meet his burden of proof to establish right carpal tunnel syndrome causally related to the accepted factors of his federal employment.

¹³ See 5 U.S.C. § 8101(2); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁴ *Deborah L. Beatty*, *supra* note 9.

ORDER

IT IS HEREBY ORDERED THAT the June 29, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 16, 2018
Washington, DC

Patricia H. Fitzgerald, Deputy 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