



## ISSUE

The issue is whether appellant has met her burden of proof to establish that her right hand/wrist and elbow conditions are causally related to the accepted factors of her federal employment.

## FACTUAL HISTORY

On October 29, 2014 appellant, a 58-year-old custodian, filed a notice of occupational disease (Form CA-2) alleging that she sustained carpal tunnel syndrome, which required surgery, as a result of repetitive arm motions while in the performance of duty. She indicated that she first became aware of her condition and attributed it to her federal employment on October 21, 2014. Appellant stopped work on September 24, 2014.

In a narrative statement received by OWCP on November 12, 2014, appellant stated that she had worked for the employing establishment for 30 years. She previously worked as a cashier, mail handler, and automation clerk, and currently worked as a custodian. Appellant indicated that she had tendinitis in her right arm and requested authorization for carpal tunnel surgery. She reported that she sustained a left shoulder injury in 2012 after being hit by a mobile unit.

Appellant submitted work restrictions from an unidentifiable healthcare provider dated August 5, 2008 when she was working as a mail processor clerk.

In a November 4, 2014 report, Dr. Eric Walsh, a Board-certified orthopedic surgeon, noted that appellant was seen for an evaluation and treatment of her right lateral elbow pain. He reported that appellant was a right-handed custodian and characterized her pain as stiffness, swelling, and weakness to the lateral aspect of her right elbow. Dr. Walsh noted that appellant had a history of work-related right elbow tendinitis dating back to February 10, 2006, for which was treated with injections, therapy, medication, and modified duty. He indicated that appellant's job duties had changed to that of a custodian and her symptoms had returned on September 20, 2014 as a result of using a vacuum. Dr. Walsh diagnosed "right lateral epicondylitis recurrent possible right carpal tunnel [syndrome]" and recommended rest, ice, and elevation of the effected extremity as needed. He took appellant off work and referred her for an electromyography and nerve conduction velocity (EMG/NCV) study for further evaluation of the right wrist and elbow.

In an October 3, 2014 duty status report (Form CA-17), Dr. Walsh diagnosed right tennis elbow and right carpal tunnel syndrome and took appellant off work.

On October 6, 2014 Dr. Mary Lussier, a Board-certified neurologist, reviewed an EMG/NCV study from that same day and diagnosed moderate right carpal tunnel syndrome. She found no sign of ulnar neuropathy, thoracic outlet syndrome, or peripheral polyneuropathy. Dr. Lussier asserted that appellant reported right elbow pain on September 20, 2014 after she had increased manual activity at her work in maintenance the week prior, which involved carrying a new backpack vacuum. Appellant further reported having arthritis and similar symptoms in 2006.

In an October 23, 2014 report, Dr. Walsh saw appellant for a follow-up evaluation and diagnosed right lateral epicondylitis and right carpal tunnel syndrome. He opined that appellant's

conditions were related to her federal duties, noting that based on her work description “carpal tunnel syndrome can develop [with] any type of activities over time.” Dr. Walsh noted that the carpal tunnel syndrome was more symptomatic and problematic at this point and discussed the possibility of surgical intervention. He advised that appellant would continue in her wrist splint and “cautioned her against evocative activities.”

In a duty status report (Form CA-17) dated October 21, 2014, Dr. Walsh diagnosed right carpal tunnel syndrome and took appellant off work.

In a November 20, 2014 statement, appellant’s supervisor indicated that on September 24, 2014 appellant was given an assignment to vacuum with a new backpack vacuum, but she refused on the basis of a medical condition.

In a December 5, 2014 letter, OWCP advised appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries.

Subsequently, appellant submitted two narrative statements dated December 30, 2014 indicating that her federal employment duties required her to wash floors in the bathrooms and cafeteria, wring out mops, pick up trash with a hand-held trash squeezer. She stated that these repetitive motions contributed to her medical conditions. Appellant indicated that, on September 20, 2014, she was trained on using a backpack vacuum which required a repetitive motion on the right arm, swinging back and forth with attachment and a 20-pound vacuum on her back. She stated that when she was “in training with the vac-pac and tugging on the vac sheet” she felt a pop and pull in her right arm and wrist. Appellant felt pain in her right arm and pins and needles of pain in her right hand, wrist, and arm.

By decision dated February 10, 2015, OWCP denied the claim, finding that the medical evidence submitted failed to establish causal relationship between appellant’s conditions and factors of her federal employment.

On February 18, 2015 counsel requested an oral hearing before OWCP’s Branch of Hearings and Review.

A telephonic hearing was held before an OWCP hearing representative on August 25, 2015. Appellant provided testimony and the hearing representative held the case record open for 30 days for the submission of additional evidence.

By decision dated November 2, 2015, the hearing representative affirmed OWCP’s February 10, 2015 decision, finding that appellant had not established that her right hand and elbow conditions were causally related to factors of her federal employment.

On October 28, 2016 counsel requested reconsideration and appellant submitted reports dated February 3 through May 28, 2015 from Dr. Walsh who reiterated his diagnosis of right carpal tunnel syndrome and indicated that he performed a right carpal tunnel release on March 4, 2015. In an April 30, 2015 report, Dr. Walsh released appellant to full-time, full-duty work effective May 11, 2015.

In an October 24, 2015 report, Dr. Walsh asserted that appellant's right carpal tunnel release surgery was successful and her tennis elbow symptoms also appeared to have improved significantly, requiring no further treatment. He also reiterated his opinion that appellant's work duties as a custodian were causally related to her right carpal tunnel syndrome and right lateral epicondylitis conditions. Dr. Walsh advised that appellant had no impairment, was not disabled for work, and had no limitations with regard to the use of her right hand.

By decision dated November 8, 2016, OWCP denied modification of its prior decision.

### **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 timely filed within the applicable time limitation period of FECA, and that an injury<sup>4</sup> was sustained in the performance of duty. These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit 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>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical 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.<sup>7</sup>

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<sup>3</sup> *Supra* note 2.

<sup>4</sup> OWCP regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

<sup>5</sup> *See O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>6</sup> *See D.R.*, Docket No. 09-1723 (issued May 20, 2010). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>7</sup> *See O.W.*, *supra* note 5.

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that the accepted factors of her federal employment caused or aggravated her right hand and elbow conditions.

Appellant identified the factors of employment that she believed caused her condition, including repetitive motions required to wash floors, wring out mops, pick up trash with a hand-held trash squeezer, and use a backpack vacuum in training at work, which OWCP accepted as factual. However, in order to establish a claim that she sustained an employment-related injury, she must also submit rationalized medical evidence which explains how her medical condition was caused or aggravated by the implicated employment factors.<sup>8</sup>

In his reports, Dr. Walsh diagnosed right lateral epicondylitis and right carpal tunnel syndrome. He performed a right carpal tunnel release on March 4, 2015. Dr. Walsh reported that appellant was a right-handed custodian and had a history of work-related right elbow tendinitis that was dating back to February 10, 2006, which was treated with injections, therapy, medication, and modified duty. He indicated that appellant's symptoms had returned on September 20, 2014 as a result of using a vacuum at work. Dr. Walsh opined that appellant's work duties were causally related to her right carpal tunnel syndrome and right lateral epicondylitis conditions. He failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as using a backpack vacuum at work, caused or aggravated her right hand and elbow conditions. Dr. Walsh noted that appellant's conditions occurred while she was at work, but such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how her physical activity at work actually caused or aggravated the diagnosed conditions.<sup>9</sup> The Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between appellant's condition and her employment factors.<sup>10</sup> Dr. Walsh failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as washing floors, wringing out mops, picking up trash with a hand-held trash squeezer, or using a backpack vacuum in training at work, caused or aggravated her right lateral epicondylitis and right carpal tunnel syndrome. The need for rationale is particularly important as the evidence indicates that appellant had a preexisting right elbow condition.<sup>11</sup> Thus, the Board finds that Dr. Walsh's reports are insufficiently rationalized to establish that appellant's condition was caused or aggravated by factors of her federal employment.

On October 6, 2014 Dr. Lussier diagnosed moderate right carpal tunnel syndrome. She asserted that appellant reported right elbow pain on September 20, 2014 after she had carried a new backpack vacuum at work. Appellant also reported having arthritis and similar symptoms in 2006. The Board finds that Dr. Lussier did not provide sufficient medical rationale explaining how appellant's right carpal tunnel syndrome was caused or aggravated by carrying a new

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<sup>8</sup> See *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

<sup>9</sup> See *K.W.*, Docket No. 10-0098 (issued September 10, 2010).

<sup>10</sup> See *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>11</sup> *J.M.*, 58 ECAB 478 (2007).

backpack vacuum at work. The need for rationale is particularly important as the evidence indicates that appellant had a preexisting condition.<sup>12</sup> Therefore, the Board finds that the report from Dr. Lussier is insufficient to establish causal relationship.

Appellant submitted work restrictions dated August 5, 2008 when she was working as a mail processor clerk. This report, however, is from a healthcare provider whose identity cannot be discerned from the record. Because it cannot be determined whether this evidence is from a physician as defined in 5 U.S.C. § 8101(2), it does not constitute competent medical evidence.<sup>13</sup>

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to the accepted employment factors, she has not met her burden of proof to establish a 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 has not met her burden of proof to establish that her right hand/wrist and elbow conditions are causally related to the accepted factors of her federal employment.

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<sup>12</sup> *Id.*

<sup>13</sup> *R.M.*, 59 ECAB 690, 693 (2008). *See C.B.*, Docket No. 09-2027 (issued May 12, 2010) (a medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8101(2) and reports lacking proper identification do not constitute probative medical evidence).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 8, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 11, 2018  
Washington, DC

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

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

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board