

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

J.I., Appellant

and

**U.S. POSTAL SERVICE, ARLINGTON
STATION, Baltimore, MD, Employer**

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**Docket No. 18-0286
Issued: September 17, 2018**

Appearances:

Alan J. Shapiro, Esq., for the appellant¹

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 November 27, 2017 appellant, through counsel, filed a timely appeal from a September 14, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish left carpal tunnel syndrome causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On July 20, 2015 appellant, then a 50-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed left carpal tunnel syndrome as the result of her repetitive employment duties. She noted that she first became aware of this condition and its relationship to her federal employment on January 6, 2010. Appellant did not stop working.

In an April 16, 2015 report, Dr. Braeme Glaun, a Board-certified neurologist and clinical neurophysician, examined appellant and diagnosed possible cervical radiculopathy with neck pain and left-hand weakness, severe left carpal tunnel syndrome, and right ulnar neuropathy. Appellant complained of left-hand weakness, which interfered with performance of her mail carrier duties.

A May 5, 2015 electromyography (EMG) reported an abnormal study and diagnoses of right wrist median neuropathy consistent with carpal tunnel syndrome.

By development letter dated September 25, 2015, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her regarding the medical and factual evidence necessary to establish her claim and provided a questionnaire for appellant to complete. OWCP afforded appellant 30 days to provide the requested information. No further evidence was received during the allotted time period.

By decision dated December 3, 2015, OWCP denied appellant's claim. It found that appellant failed to establish fact of injury as the evidence of record was insufficient to establish that the injury occurred, as alleged.

On December 21, 2015 OWCP received appellant's completed questionnaire. Appellant related that her left-hand problems worsened due to her employment duties, which included holding bundles of mail with her left hand for five and one-half hours and pulling mail out. She noted that she had performed these duties for 16 years.

On December 31, 2015 OWCP received appellant's request for an oral hearing before an OWCP hearing representative. A telephonic hearing was held on May 23, 2016 where appellant was represented by counsel.

By decision dated July 16, 2016, an OWCP hearing representative affirmed the denial of appellant's claim. She found the record established that appellant performed the duties of a letter carrier. However, the hearing representative found the record was devoid of any rationalized medical evidence explaining how appellant's left carpal tunnel syndrome had been caused or aggravated by her letter carrier duties.

Counsel requested reconsideration on July 19, 2017.

In a June 7, 2017 report, Dr. Janet Conway, an examining Board-certified orthopedic surgeon, noted that appellant was seen on June 6, 2017 for complaints of pain and recent numbness. She reported that appellant underwent left carpal tunnel release in August 2015. Based on her findings and examination, Dr. Conway opined that appellant's left carpal tunnel syndrome was secondary to and aggravated by her mail carrier duties. She explained that the constant gripping and pressure on the left wrist and palm was a cause of medial nerve entrapment and compression found in carpal tunnel as the result of chronic tendon inflammation and muscle hypertrophy. Dr. Conway also observed that these issues "could result in neuropathy."

By decision dated September 14, 2017, OWCP denied modification. It found that Dr. Conway's opinion moved appellant's claim "further along in the direction of showing causal relationship," but provided insufficient rationale regarding causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence,⁴ including that he or she sustained an injury in the performance of duty, and that any specific condition or disability for work for which compensation is claimed is causally related to that employment injury.⁵ 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.⁶

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 supporting such causal relationship.⁷ 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁸

³ *Supra* note 2.

⁴ *J.P.*, 59 ECAB 178 (2007), *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *M.M.*, Docket No. 08-1510 (issued November 25, 2010); *G.T.*, 59 ECAB 447 (2008); *Elaine Pendleton*, *id.*

⁶ *R.H.*, 59 ECAB 382 (2008); *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

⁸ *James Mack*, 43 ECAB 321 (1991).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish left carpal tunnel syndrome causally related to the accepted factors of her federal employment.

OWCP accepted that appellant intermittently engaged in repetitive employment activities as a letter carrier. Appellant alleged that she developed left carpal tunnel syndrome due to 16 years of work as a letter carrier. However, OWCP denied appellant's claim because it determined that she had not submitted a rationalized medical report sufficient to establish a causal relationship between her diagnosed left carpal tunnel syndrome and her federal employment duties.

Dr. Conway, in a June 7, 2017 report, detailed appellant's employment duties and noted that she had undergone left carpal tunnel surgery. She generally attributed appellant's left carpal tunnel syndrome to her work activities. In support of this conclusion, Dr. Conway explained that the constant gripping and pressure on the left wrist and palm was a causal medial nerve entrapment and compression found in carpal tunnel as the result of chronic tendon inflammation and muscle hypertrophy and observed that these issues "could result in neuropathy." The Board finds that Dr. Conway did not provide adequate medical rationale to establish causal relationship. Dr. Conway'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 what letter carrier duties would cause or aggravate her bilateral carpal tunnel syndrome.⁹ Without explaining how physiologically the movements involved in any specific employment duties caused or contributed to appellant's diagnosed condition and because she couched her opinion with the qualification that the duties "could have caused" neuropathy, Dr. Conway's opinion on causal relationship is equivocal in nature and of limited probative value.¹⁰ Thus, Dr. Conway's June 7, 2017 report is insufficient to meet appellant's burden of proof.

In an April 16, 2015 report, Dr. Glaun diagnosed right ulnar neuropathy, severe left carpal tunnel syndrome, and possible cervical radiculopathy. However, he offered no opinion as to the cause of the 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.¹¹ For the reasons set forth above, Dr. Glaun's report is insufficient to meet appellant's 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.

⁹ S.W., Docket No. 08-2538 (issued May 21, 2009).

¹⁰ See L.M., Docket No. 14-0973 (issued August 25, 2014); R.G., Docket No. 14-0113 (issued April 25, 2014); K.M., Docket No. 13-1459 (issued December 5, 2013); A.J., Docket No. 12-0548 (issued November 16, 2012).

¹¹ C.B., Docket No. 09-2027 (issued May 12, 2010); S.E., Docket No. 08-2214 (issued May 6, 2009).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish left carpal tunnel syndrome causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 14, 2017 is affirmed.

Issued: September 17, 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