

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

_____)	
T.S., Appellant)	
)	
and)	Docket No. 18-1518
)	Issued: April 17, 2019
U.S. POSTAL SERVICE, POST OFFICE,)	
Muskegon, MI, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On August 3, 2018 appellant filed a timely appeal from March 30 and July 30, 2018 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 July 30, 2018 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 additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met his burden of proof to establish that his right carpal tunnel syndrome and left ulnar nerve neuropathy were causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On June 20, 2017 appellant, then a 76-year-old retired city carrier, filed an occupational disease claim (Form CA-2) alleging that he developed latent carpal tunnel syndrome and ulnar nerve damage due to sorting and delivering mail for many years.³ He noted that his previous job duties required holding his left elbow at 90 degrees, sliding mail with his left thumb, and constantly moving all joints of his right upper extremity during the workday. OWCP assigned the claim File No. xxxxxx468.⁴

In support of this claim, appellant submitted a December 14, 2015 report from Dr. Kate McCausland, an osteopathic Board-certified physiatrist, who reviewed a December 14, 2015 electromyography and nerve conduction velocity (EMG/NCV) study of appellant's upper extremities. Dr. McCausland related that this study demonstrated right carpal tunnel syndrome, and left ulnar neuropathy at the elbow.

In a report dated December 22, 2015, Dr. Yousif Hamati, a Board-certified orthopedic surgeon, reviewed the EMG/NCV findings and opined that they were secondary to a March 18, 1991 injury. He also noted that appellant had been a mailman for 40 years and did significant amounts of mail sorting. Dr. Hamati concluded that any repetitive work for 40 years was definitely a major contributing factor to his symptoms and diagnoses.

In a development letter dated June 28, 2017, OWCP advised appellant that the factual and medical evidence submitted was insufficient to establish his claim. It informed him of the type evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted a statement in which he explained that he began work as a letter carrier on June 11, 1960 and retired November 2, 2002. He included a description of duties taken from a mail carrier handbook and described his daily work sorting and delivering mail. Appellant maintained that his 42 years of performing rigorous carrier duties of having a constant bent left elbow while firmly gripping a bundle of mail in the left hand, flexing and extending both thumbs, and continually manipulating fingers on the right hand for up to 11.5 hours a day of 750

³ Appellant retired from federal employment on November 2, 2002.

⁴ Appellant has several prior claims. In File No. xxxxxx784 OWCP accepted a June 6, 1978 traumatic injury claim for left knee meniscus derangement and left leg arthropathy. In OWCP File No. xxxxxx938 OWCP accepted that, on March 18, 1991, he sustained bilateral shoulder strains, fractured left numerus, lumbar strain, and C6-7 herniated disc. In File No. xxxxxx096 OWCP accepted a December 18, 2000 traumatic injury claim for aggravation of right shoulder osteoarthritis and lumbar sprain and displacement of cervical intervertebral disc without myelopathy. OWCP has administratively combined File Nos. xxxxxx468, xxxxxx784, xxxxxx938, and xxxxxx096, with File No. xxxxxx096 designated as the master file.

to 3000 pieces of mail had contributed to his left ulnar neuropathy and right carpal tunnel syndrome.

Appellant also submitted duplicate copies of Dr. McCausland's December 14, 2015 report and Dr. Hamati's December 22, 2015 treatment note.

In an April 14, 2016 report, Dr. Hamati noted that appellant was concerned that there was no finding of cervical radiculopathy with axon loss on the EMG/NCV study and was certain that he had significant nerve damage to his neck. He indicated that he discussed the EMG/NCV findings of right carpal tunnel syndrome and left ulnar nerve neuropathy and counseled appellant regarding the possibility of severe neck pain without severe axonal injuries. Dr. Hamati concluded that appellant became frustrated with this discussion and chose to end the conversation. In an August 18, 2016 treatment note, he indicated that appellant was very frustrated with all of his problems and was very particular about every word written in a report, for example whether he had mild or moderate carpal tunnel syndrome. Dr. Hamati reported that appellant continued to have difficulty with his neck and upper extremities, with tingling in both arms, noting that appellant felt that his neck injury was a major contributing factor to all his upper extremity symptoms, and that his job duties caused his carpal tunnel syndrome and ulnar neuropathy.

In a January 26, 2017 report, Dr. Hamati reported that appellant continued to have significant difficulty with his right hand. He noted the EMG/NCV findings of right carpal tunnel syndrome and left ulnar nerve neuropathy, and reported appellant's description of job duties. Dr. Hamati opined that literature documented that anyone who did repetitive work on a continuous basis for eight hours a day developed carpal tunnel syndrome and ulnar nerve neuropathy easily, due to the repetitive nature of the job. He reiterated that appellant had right hand carpal tunnel syndrome and left ulnar nerve neuropathy and "felt strongly" that the major contributing factor was appellant's repetitive work.

By decision dated September 20, 2017, OWCP denied appellant's claim for right carpal tunnel syndrome and left ulnar neuropathy, finding that the claim had been untimely filed.

On September 28, 2017 appellant requested reconsideration of the September 20, 2017 decision. He asserted this his claim was timely filed because the carpal tunnel and ulnar injuries were latent. Appellant noted that he first became aware of his wrist conditions at the time of the EMG/NCV testing on December 12, 2015 and that he filed the claim less than one month later.

By merit decision dated March 30, 2018, OWCP modified the September 20, 2018 decision to find that appellant's claim was timely filed. However, it denied the claim because the medical evidence submitted was insufficient to establish that the claimed right carpal tunnel syndrome and left ulnar neuropathy was causally related to his employment factors.

Appellant requested reconsideration on May 7, 2018. He asserted that the medical evidence of record established that the claimed right carpal tunnel syndrome and left ulnar neuropathy were causally related to employment factors. Appellant submitted evidence previously of record including a statement dated September 2, 2011 and a February 6, 1992 EMG/NCV study of the upper extremities for a complaint of a numb left arm. The study was abnormal and demonstrated left C7 radiculopathy with no indication of carpal tunnel syndrome or brachial

plexopathy. Appellant further submitted a September 16, 2011 report in which Dr. March J. Moulton, a Board-certified orthopedic surgeon, noted a diagnosis of stenosis at C3-4 and C5-6 levels. He recommended a discectomy. In a November 3, 2011 report, Dr. John F. Keller, a Board-certified neurosurgeon, diagnosed cervical radiculopathy and recommended surgery.

In correspondence dated April 24 to June 4, 2018, appellant described his work duties and compensable injuries. He maintained that the repetitive duties of delivering mail for 30 years, plus his limited job from 1997 to 2002 caused carpal tunnel syndrome and ulnar nerve neuropathy.

By decision dated July 30, 2018, OWCP denied modification of its prior decision, finding that the evidence of record was of insufficient probative value to establish his claim.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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 of FECA, that an injury was sustained 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. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

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 diagnosed condition is causally related to the employment factors identified by the claimant.⁷

To establish causal relationship between the claimed 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.⁸ 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. The weight of medical evidence is determined by its reliability, its probative value,

⁵ *Supra* note 1.

⁶ *D.J.*, Docket No. 18-0620 (issued October 10, 2018).

⁷ *See C.M.*, Docket No. 17-1977 (issued January 29, 2019); *Roy L. Humphrey*, 57 ECAB 238 (2005).

⁸ *M.C.*, Docket No. 18-0951 (issued January 7, 2019).

its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his right carpal tunnel syndrome and left ulnar nerve neuropathy were causally related to his accepted employment factors.

Dr. Hamati submitted a series of reports beginning on December 22, 2015 in which he noted EMG/NCV findings and related that appellant's repetitive duties as a letter carrier for over 40 years were a major contributing factor to his symptoms and diagnoses. This opinion however is a mere conclusory opinion without the necessary rationale explaining how the employment factors were sufficient to result in the diagnosed medical conditions. The Board has found that such an opinion is insufficient to meet a claimant's burden of proof to establish a claim.¹⁰

In reports dated April 14, 2016 to April 24, 2018, Dr. Hamati noted that appellant continued to have difficulty with his neck and upper extremities. He opined that appellant's repetitive job duties were a major factor in the diagnosed right carpal tunnel syndrome and left ulnar neuropathy, he added without mention a source that literature was full of papers which document that anyone who performed repetitive work on a continuous basis for eight hours a day easily developed carpal tunnel syndrome and ulnar nerve neuropath. As to Dr. Hamati's reliance on medical publications, the Board has long held that excerpts from publications have little probative value in resolving medical questions unless a physician shows the applicability of the general medical principles discussed in the articles to the specific factual situation at issue in the case.¹¹ He merely referenced the publications to support an opinion that repetitive duties cause carpal tunnel syndrome and ulnar neuropathy. Moreover, Dr. Hamati did not acknowledge that appellant had performed restricted duty from 1991 until he retired in 2002 or explain why these conditions had not developed until 2015. The Board therefore finds that Dr. Hamati's statement on causation failed to provide a sufficient explanation as to the mechanism of injury pertaining to this occupational disease claim, namely, how appellant's actual employment duties, including his modified duties, would have caused or aggravated his subsequently diagnosed right carpal tunnel syndrome and left ulnar neuropathy conditions. Without explaining how, physiologically, the movements involved in appellant's employment duties caused or contributed to his diagnosed conditions, Dr. Hamati's opinion on causal relationship is equivocal in nature and his reports are of limited probative value.¹²

OWCP also received reports from Dr. Moulton and Dr. Keller. However, neither of these physicians discussed a cause of the diagnosed conditions. Medical evidence that does not offer an

⁹ *K.L.*, Docket No. 18-0937 (issued December 28, 2018).

¹⁰ *J.R.*, Docket No. 18-0051 (issued March 23, 2018); *J.D.*, Docket No. 14-2061 (issued February 27, 2015).

¹¹ *W.C. (R.C.)*, Docket No. 18-0531 (issued November 1, 2018); *Roger D. Payne*, 55 ECAB 535 (2004).

¹² *E.P.*, Docket No. 18-0194 (issued September 14, 2018); *see L.M.*, Docket No. 14-0973 (issued August 25, 2014).

opinion regarding the cause of an employee's diagnosed condition is of no probative value on the issue of causal relationship.¹³

Similarly, while the record also includes diagnostic studies, the Board has held that diagnostic study reports lack probative value as they do not provide an opinion on causal relationship between appellant's employment factors and a diagnosed condition.¹⁴

As the record is devoid of rationalized medical opinion evidence explaining how or why appellant's employment duties either caused or contributed to the claimed conditions, he has not met his 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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that his right carpal tunnel syndrome and left ulnar neuropathy conditions were causally related to his accepted employment factors.

¹³ *C.B.*, Docket No. 18-0663 (issued November 16, 2018).

¹⁴ *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *S.G.*, Docket No. 17-1054 (issued September 14, 2017).

ORDER

IT IS HEREBY ORDERED THAT the July 30 and March 30, 2018 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 17, 2019
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