United States Department of Labor
Employees' Compensation Appeals Board

C.M., Appellant	)	
and	)	**Docket No. 19-0264**
	)	**Issued: December 19, 2019**
U.S. POSTAL SERVICE, POST OFFICE, Erie, CO, 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
JANICE B. ASKIN, Judge

JURISDICTION

On November 16, 2018 appellant filed a timely appeal from a November 1, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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 December 8, 2016 appellant, then a 49-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging a left upper extremity condition which she attributed to factors of her federal employment, including handling letters, trays of mail, and magazines. She also

[1] 5 U.S.C. § 8101 *et seq.*

attributed her injury to pulling down mail with her right arm and holding it with her left arm. Appellant explained that she was compensating for her right-side surgeries. She identified January 1, 2008 as the date she first became aware of her condition and its relation to her federal employment. OWCP assigned the above-noted claim OWCP File No. xxxxxx979.[2]

In a December 28, 2016 development letter, OWCP informed appellant that the evidence of record was insufficient to establish her left-upper extremity claim. It advised her of the type of factual information and medical evidence necessary and provided a questionnaire for her completion. By separate letter of even date, OWCP requested that the employing establishment comment on the accuracy of appellant's statements and provide additional information regarding her employment duties. It afforded both parties 30 days to respond.

Appellant responded to OWCP's development letter in a completed questionnaire dated December 28, 2016. She explained that she had worked for the employing establishment for 11½ years. Appellant related that she cased letter mail and flats for approximately 4 to 6 hours per day, sorted packages for approximately 1 to 1½ hours per day, and delivered mail on her route for 3 to 3½ hours per day. She reported that she recently had surgery on her right hand and shoulder and had been compensating with her left side.

In a December 27, 2016 state workers' compensation injury form, Dr. James Rafferty, Board-certified in occupational medicine, described a January 8, 2016 work injury and reported diagnoses of status post right shoulder surgery, right elbow medial epicondylitis, and left hand probable carpal tunnel syndrome. He also suspected basal joint osteoarthritis and mild de Quervain's tenosynovitis.

By decision dated February 2, 2017, OWCP denied appellant's occupational disease claim finding the medical evidence submitted was insufficient to establish a causal relationship between her condition(s) and the accepted factors of her federal employment.[3]

On February 13, 2017 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

In a February 9, 2017 duty status report (Form CA-17), an unknown provider with an illegible signature indicated that appellant's history included overuse of left hand and noted diagnoses of right elbow tendinosis and probable left carpal tunnel syndrome.

[2] Under OWCP File No. xxxxxx680, appellant has an accepted occupational disease claim for right carpal tunnel syndrome, which arose on or about January 8, 2008. Under OWCP File No. xxxxxx052, she has an accepted traumatic injury claim for right shoulder impingement syndrome and right biceps tendon strain, which arose on January 8, 2016. Appellant underwent OWCP-authorized right upper extremity surgical procedures on April 12 and June 17, 2016. Following her latest surgery, she returned to work in a full-time and limited-duty capacity on November 21, 2016. OWCP also granted appellant schedule awards totaling 22 percent permanent impairment of the right upper extremity. The three above-noted right and left upper extremity claims have been combined, with OWCP File No. xxxxxx052 designated as the master file.

[3] OWCP further explained that, if appellant was claiming a consequential injury related to her previously accepted right upper extremity conditions, then she should submit a written request under her prior claim(s) seeking to expand the accepted conditions.

In an April 18, 2017 narrative report, Dr. Rafferty recounted appellant's complaints of numbness/tingling of the left hand. He explained that in December 2016 she began to develop pain over the radial aspect of her left wrist, pain in her left basal joint, and numbness and tingling in her left hand. Dr. Rafferty related that appellant believed that her symptoms resulted from an "overuse of [appellant's] left upper extremity" when she was having the greatest difficulty with her right upper extremity. He assessed probable basal joint arthritis and carpal tunnel syndrome. Dr. Rafferty recommended electrodiagnostic studies in order to provide a definitive diagnosis and reported that he could not address causation without a definitive diagnosis.

Dr. Rafferty completed additional state workers' compensation forms dated April 18 and May 9, 2017. He noted a date of injury of December 8, 2016 and reported that appellant believed that her medical condition resulted from her usual job duties. Dr. Rafferty diagnosed presumptive carpal tunnel syndrome of the left wrist/hand.

By decision dated May 30, 2017, an OWCP hearing representative affirmed the February 2, 2017 decision. She determined that Dr. Rafferty's medical reports were insufficiently rationalized to explain how appellant's work activities had caused or contributed to a new left hand/wrist occupational disease.[4]

On September 7, 2017 appellant requested reconsideration.

Appellant submitted a narrative statement dated July 27, 2017. She related that, after her three surgeries for her right upper extremity, she returned to modified-duty work on May 16, 2017 using just her left side.[5] Appellant described her various duties following her May 16, 2017 return to work.

OWCP underwent a July 24, 2017 electromyography and nerve conduction velocity (EMG/NCV) study by Dr. Lynsee Hudson-Lang, a Board-certified neurologist, who reported findings of moderate-to-severe left sensorimotor median neuropathy at the wrist and normal left ulnar nerve. She noted a diagnosis of left carpal tunnel syndrome.

In a September 18, 2017 progress note, Dr. Patricia Hsu, a Board-certified orthopedic surgeon, noted diagnoses of left medial epicondylitis and left carpal tunnel syndrome. She recounted that appellant had worked for the employing establishment for the last 14 years. Dr. Hsu indicated that this past year appellant had multiple surgeries to her right upper extremity for work-related injuries and that she resumed light duty in May 2017. She reported that appellant thinks that, in the process of trying to start working again, she overused her left side. Dr. Hsu related that appellant currently complained of numbness and tingling in her left hand and pain in the elbow. Upon examination of appellant's left arm, she observed mild tenderness over the medial epicondyle. Phalen's maneuver demonstrated tingling in the index and middle fingers. Tinel's testing revealed tingling just to the volar central aspect of the wrist. Dr. Hsu diagnosed left carpal

[4] OWCP's hearing representative similarly advised appellant that, if she was claiming a left arm consequential injury due to her accepted right upper extremity condition(s), she may file a claim for consequential injury under her previously accepted claim(s).

[5] Appellant had recently undergone an April 20, 2017 OWCP-approved right elbow surgical procedure under OWCP File No. xxxxxx052.

tunnel syndrome and left medial epicondylitis. She completed a work restriction note, which released appellant to modified duty.

By decision dated December 6, 2017, OWCP denied modification of the May 30, 2017 decision.

On September 14, 2018 appellant requested reconsideration.

In a September 4, 2018 letter, Dr. Rafferty indicated that appellant was under his care for right-sided carpal tunnel syndrome from January 19 to June 23, 2016. He explained that on January 19, 2016 she reported that she had experienced numbness and tingling in her bilateral hands for many years, but she believed that her right-sided symptoms worsened after the January 8, 2016 work-related injury. Dr. Rafferty also noted that appellant reported having undergone a left carpal tunnel release on April 16, 2018. He opined that it was "medically probable" that she developed carpal tunnel syndrome many years ago, possibly dating back to her hire date at the employing establishment. Dr. Rafferty reported: "If this is true, and if [appellant's] job at that time involved repetitive motions and forceful exertions of her bilateral hands, then it is more likely true than not that her carpal tunnel syndrome is work related."

By decision dated November 1, 2018, OWCP denied modification of the December 6, 2017 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[6] has the burden of proof to establish the essential elements of his or her claim, including 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,[7] that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[8] 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.[9]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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

[6] *Supra* note 1.

[7] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[8] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[9] *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.[10]

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.[11] 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 specific employment factors identified by the employee.[12]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[13]

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.

In support of her claim, appellant submitted a series of reports and workers' compensation injury forms by Dr. Rafferty dated December 27, 2016 to September 4, 2018. Dr. Rafferty noted that she previously accepted injuries to her right upper extremity. In a September 4, 2018 letter, he indicated that appellant first complained of numbness and tingling in her bilateral upper extremities in January 2016. Dr. Rafferty further opined that it was "medically probable" that she developed carpal tunnel syndrome many years ago. He explained that, if appellant's job, at that time, involved repetitive motions and forceful exertions of her bilateral hands, then it is more likely true than not that her carpal tunnel syndrome was work related. The Board finds that Dr. Rafferty's opinion that it was "medically probable" and "more likely than not" that appellant's left carpal tunnel syndrome was related to her employment is speculative in nature, and therefore of diminished probative value on the issue of causal relationship.[14] Dr. Rafferty did not definitively opine that her left carpal tunnel syndrome resulted from her work duties, but merely noted that "if" appellant's job involved repetitive motion, then it was likely that her medical condition was work related. An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is a causal relationship between her claimed condition and her

[10] *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

[11] *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[12] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[13] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

[14] *J.B.*, Docket No. 18-1751 (issued May 6, 2019); *C.C.*, Docket No. 14-1667 (issued December 3, 2014); *L.D.*, Docket No. 09-1503 (issued April 15, 2010); *D.D.*, 57 ECAB 734, 738 (2006); *Kathy A. Kelley*, 55 ECAB 206 (2004).

employment.[15] Dr. Rafferty's reports, therefore, failed to establish that she sustained left carpal tunnel syndrome due to factors of her employment.

In a September 18, 2017 progress note, Dr. Hsu provided examination findings and diagnosed left medial epicondylitis and left carpal tunnel syndrome. She discussed appellant's previous right upper extremity injuries and reported that appellant believed that she overused the left side when she returned to work following her surgeries. Dr. Hsu, however, did not provide an opinion on whether appellant's left upper extremity conditions were work related, but merely communicated appellant's belief that her condition resulted from her employment.[16] Therefore, Dr. Hsu's opinion is insufficient to establish appellant's occupational disease claim.

The July 24, 2017 EMG/NCV study is also insufficient to establish causal relationship as diagnostic tests do not provide an opinion on the cause of the diagnosed conditions and, therefore, lack probative value to establish causal relationship.[17]

Appellant submitted a February 9, 2017 Form CA-17 by an unknown provider with an illegible signature. The Board has previously held that unsigned reports or reports that bear illegible signatures cannot be considered as probative medical evidence because they lack proper identification.[18] This report, therefore, is insufficient to establish appellant's claim.

On appeal appellant alleges that Dr. Rafferty submitted sufficient evidence to establish that her left carpal tunnel syndrome was causally related to her repetitive employment factors. As discussed, the medical evidence of record is insufficient to establish that her rural carrier employment duties caused or contributed to her left carpal tunnel syndrome. Because appellant has not submitted rationalized medical evidence to establish causal relationship, the Board finds that she has not met her burden of proof to establish her occupational disease claim.[19]

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 carpal tunnel syndrome causally related to the accepted factors of her federal employment.

[15] *B.M.*, Docket No. 17-1079 (issued June 4, 2018); *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glenn*, 53 ECAB 159 (2000).

[16] *M.G.*, Docket No. 19-0918 (issued September 20, 2019); *K.W.*, Docket No. 10-0098 (issued September 10, 2010).

[17] *See A.B.*, Docket No. 17-0301 (issued May 19, 2017).

[18] *G.N.*, Docket No. 19-0184 (issued May 29, 2019); *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

[19] *See M.C.*, Docket No. 19-0673 (issued September 6, 2019).

ORDER

IT IS HEREBY ORDERED THAT the November 1, 2018 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 19, 2019
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board