

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

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T.R., Appellant )  
and ) Docket No. 18-1095  
U.S. POSTAL SERVICE, POST OFFICE, ) Issued: January 2, 2019  
Georgetown, KY, Employer )  
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)

*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 May 7, 2018 appellant filed a timely appeal from a December 11, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 bilateral wrist and left thumb conditions causally related to accepted factors of her federal employment.

**FACTUAL HISTORY**

On September 22, 2017 appellant, then a 46-year-old rural mail carrier, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome and left trigger thumb while in the performance of duty. She indicated that she first

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

became aware of the conditions and their relationship to her federal employment on July 25, 2017. Appellant asserted that working with her hands on a daily basis while sorting, casing, pulling, loading, and delivering mail approximately 8 hours a day, 5 days a week for approximately 15 years caused or aggravated her conditions.

In an accompanying letter dated September 20, 2017, appellant reiterated that her work duties involved casing, sorting, pulling, and delivering mail for the last 15 years. She believed that over time her hands and thumbs were overworked and resulted in numbness, tingling, and pain associated with carpal tunnel syndrome and trigger thumb. Appellant noted that she had an accepted claim for right trigger finger.

In support of her claim, appellant submitted an August 1, 2017 report from Dr. Margaret Napolitano, an attending Board-certified orthopedic hand surgeon. Dr. Napolitano noted appellant's complaints regarding bilateral hand carpal tunnel syndrome, right greater than the left. The results of Jamar tests and an electromyogram/nerve conduction velocity (EMG/NCV) study performed on various dates between April 11, 2016 and the date of appellant's examination were reviewed. Appellant was diagnosed with bilateral carpal tunnel syndrome.

Appellant also submitted a September 7, 2017 report signed by Wesley M. Lykins, a physician assistant, who noted appellant's chief complaint of left trigger thumb/pain. Mr. Lykins also noted a history of her medical and social background, reviewed the results of Jamar tests performed during the period April 11, 2016 through the date of appellant's examination, and discussed findings on physical examination.

By development letter dated October 17, 2017, OWCP advised appellant that additional factual and medical evidence was necessary to establish her claim. It also provided her with a questionnaire for completion. OWCP afforded appellant 30 days to provide the requested information. It also requested that the employing establishment respond to appellant's allegations and submit treatment notes indicating whether she was treated at an employing establishment medical facility.

OWCP received a November 17, 2017 attending physician's report (Form CA-20) from Dr. Napolitano. Dr. Napolitano indicated July 25, 2017 as the date of injury and noted that appellant complained about numbness, tingling, and pain. She reported examination findings and reiterated her prior diagnosis of bilateral carpal tunnel syndrome. Dr. Napolitano opined, by checking a box marked "yes," that the diagnosed condition was most likely aggravated by an employment activity. She advised that no permanent effects were expected as a result of appellant's injury and that she could return to work.

A July 17, 2017 EMG/NCV study of the right upper extremity performed by Dr. Melissa Smith, a Board-certified neurologist and clinical neurophysiologist, revealed moderate sensory median mononeuropathy across the wrist on the right, *i.e.*, carpal tunnel syndrome, and no evidence of ulnar neuropathy across the elbow or wrist, peripheral neuropathy, cervical radiculopathy, or myopathy.

By decision dated December 11, 2017, OWCP denied appellant's occupational disease claim finding that she failed to submit a rationalized medical opinion explaining how her diagnosed conditions were causally related to the accepted factors of her federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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.<sup>2</sup> 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.<sup>3</sup>

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.

The medical evidence must include a physician's rationalized opinion on the issue of whether there is causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.<sup>4</sup>

### **ANALYSIS**

The Board finds that appellant has not met her burden of proof to establish bilateral wrist and left thumb conditions causally related to the accepted factors of her federal employment.

Appellant submitted two reports from her physician, Dr. Napolitano. In a November 17, 2017 Form CA-20 report, Dr. Napolitano described examination findings and diagnosed bilateral carpal tunnel syndrome. She opined, by checking a box marked "yes" that the diagnosed condition was "most likely" aggravated by an employment activity. The Board finds, however, that Dr. Napolitano's opinion on causal relationship is speculative in nature. The Board has held that

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<sup>2</sup> C.S., Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> S.P., 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> I.J., 59 ECAB 408 (2008); *Victor J. Woodhams, id.*

medical opinions that are speculative or equivocal in character are of diminished probative value.<sup>5</sup> Moreover, the Board has held that an opinion consisting merely of a checkmark on a form report, without supporting rationale, is of limited probative value, and is insufficient to establish the claim.<sup>6</sup> Dr. Napolitano did not explain how and why performing repetitive work duties such as, sorting, casing, pulling, loading, and delivering mail would aggravate appellant's diagnosed condition. In an August 1, 2017 report, she examined appellant, reviewed diagnostic test results, and again diagnosed bilateral carpal tunnel syndrome. However, Dr. Napolitano failed to offer a specific opinion as to whether the diagnosed condition was caused or aggravated by the accepted employment factors. The Board has held that medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>7</sup> As such, the Board finds that Dr. Napolitano's reports are insufficient to meet appellant's burden of proof.

The remaining medical evidence is also insufficient to establish appellant's claim. Dr. Smith's July 17, 2017 EMG/NCV study report only interpreted imaging studies related to the right upper extremity and provided no opinion on the cause of appellant's claimed employment injury.<sup>8</sup> The Board has held that diagnostic testing reports lack probative value as they do not provide an opinion on causal relationship between appellant's employment duties and a diagnosed condition.<sup>9</sup>

The September 7, 2017 report by Mr. Lykins, a physician assistant, is also insufficient to establish appellant's claim. Reports from physician assistants do not constitute competent medical evidence because physician assistants are not considered physicians as defined under FECA.<sup>10</sup>

The Board finds that appellant has not submitted rationalized, probative medical evidence sufficient to establish that she sustained bilateral wrist and left thumb conditions causally related to the accepted employment factors. Appellant therefore has not met her burden of proof to establish her claim.

On appeal appellant contends that she sustained work-related conditions based on the medical opinions of her physicians. For the reasons set forth above, the Board finds that the weight of the medical evidence is insufficient to establish bilateral wrist and left thumb conditions causally related to the accepted employment factors.

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<sup>5</sup> *M.D.*, Docket No. 18-0195 (issued September 13, 2018); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

<sup>6</sup> *V.B.*, Docket No. 17-1847 (issued April 4, 2018); *L.B.*, Docket No. 17-1678 (issued February 1, 2018).

<sup>7</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>8</sup> *L.A.*, Docket No. 17-0842 (issued May 16, 2018); *D.H.*, Docket No. 11-1739 (issued April 18, 2012).

<sup>9</sup> See *K.V.*, Docket No. 18-0723 (issued November 9, 2018).

<sup>10</sup> 5 U.S.C. § 8101(2) provides that a physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. *V.C.*, Docket No. 16-0542 (issued April 19, 2016); *Allen C. Hundley*, 53 ECAB 551, 554 (2002) (physician assistant).

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 bilateral wrist and left thumb conditions causally related to the accepted factors of her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 11, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 2, 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