

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

A.J., Appellant)	
)	
and)	Docket No. 18-1116
)	Issued: January 23, 2019
U.S. POSTAL SERVICE, PROVIDENCE)	
PROCESSING & DISTRIBUTION CENTER,)	
Providence, RI, 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 May 10, 2018 appellant filed a timely appeal from an April 20, 2018 merit decision 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

ISSUE

The issue is whether appellant has met her burden of proof to establish that her diagnosed medical conditions were causally related to the accepted September 10, 2017 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the April 20, 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.*

FACTUAL HISTORY

On September 10, 2017 appellant, then a 62-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that she sustained an injury that day when she lifted a tray full of mail while in the performance of duty. She indicated that she felt pain in her left wrist which radiated up to her elbow when moving her thumb and index finger. Appellant stopped work after the incident and has not returned.³

On September 10, 2017 the employing establishment issued appellant a properly completed authorization for examination and/or treatment (Form CA-16) dated September 10, 2017, which indicated that she was authorized to seek medical treatment for a left wrist/hand injury.

September 10, 2017 emergency room reports from Dr. Achyut B. Kamat, a Board-certified emergency medical specialist, were received. In an attending physician's report attached to the Form CA-16, he reported that appellant sustained injury on September 10, 2017 while lifting boxes. Dr. Kamat diagnosed left wrist strain and possible scaphoid fracture. He checked a box marked "yes" indicating that the diagnosed condition was caused or aggravated by the employment activity described. In a September 10, 2017 duty status report (Form CA-17), Dr. Kamat diagnosed a left wrist strain. In September 10, 2017 report, he diagnosed osteoarthritis of the carpometacarpal (CMC) joint of left thumb and left wrist sprain. In all of his reports Dr. Kamat released appellant to modified work on September 12, 2017 with no lifting.

In a September 15, 2017 report, Dr. Eric F. Walsh, a Board-certified orthopedic surgeon, noted that appellant was last seen on August 10, 2017 status post right carpal tunnel release. He reported that on September 10, 2017 she was lifting a 50-pound container when she felt sharp, stabbing pain and burning over her left CMC region. Dr. Walsh noted that appellant sought care at the emergency room where x-rays were taken. He reported that x-rays showed stage IV CMC degenerative joint of the left thumb. Dr. Walsh provided an assessment of left thumb degenerative joint which he opined was billable under workers' compensation insurance as the injury had occurred during the course of appellant's employment. He discussed treatment options and kept her off work. In a September 15, 2017 duty status report (Form CA-17), Dr. Walsh diagnosed degenerative joint of the left thumb.

By development letter dated September 26, 2017, OWCP advised appellant that the evidence received to date was insufficient to support her claim. It informed her of the type of factual and medical evidence needed to establish her claim. OWCP afforded appellant 30 days to submit further evidence. It subsequently received her statements dated October 6, May 9, and October 27, 2017, which described her employment duties and the September 10, 2017 incident, authorization requests for left thumb surgery, and September 10, 2017 emergency department

³ Appellant has a previous occupational disease claim (Form CA-2) filed on April 13, 2017, alleging bilateral carpal tunnel syndrome and left basilar thumb. That claim was assigned OWCP File No. xxxxxx864. Appellant's occupational disease claim under OWCP File No. xxxxxx864 was before the Board in Docket No. 18-0905 (issued December 10, 2018).

records. OWCP also received a September 12, 2016 nerve conduction velocity and electromyogram testing study, which was reported as abnormal.

Medical reports from Dr. Walsh, which predated the September 10, 2017 work injury, were also received. The reports discussed appellant's left basilar thumb arthritis and bilateral carpal tunnel conditions. In two separate May 5, 2017 reports, Dr. Walsh noted that appellant had worked for the employing establishment for over 20 years and, during the last 4 to 5 years, she had worked with magazines. He noted that she had reported no injuries outside of work pertaining to her symptoms of carpal tunnel and basal thumb arthritis. Dr. Walsh opined that, based on appellant's work description of the many years of working with her hands, that her bilateral carpal tunnel and left basal thumb arthritis were directly related to her work activities. He opined that surgical treatment was the best opinion for both of the conditions.

In September 15, 26, and 29, 2017 duty status reports (Form CA-17), Dr. Walsh noted the history of the September 10, 2017 employment injury and diagnosed left thumb degenerative joint disease. He continued to hold appellant off work.

In an October 18, 2017 report, Dr. Walsh noted the history of injury and diagnosed left thumb degenerative joint. He opined that appellant's 22 plus years of working caused severe degenerative joint disease of her left thumb. Dr. Walsh recommended surgical treatment.

In an October 31, 2017 duty status report (Form CA-17), Dr. Walsh noted on September 10, 2017 that appellant had lifted a very heavy tray of mail weighing about 50 pounds with her left hand. He diagnosed left thumb/wrist pain, which he opined with a "yes" in the box marked diagnosis(es) due to injury. In the October 31, 2017 attending physician's report (Form CA-20), Dr. Walsh noted a September 10, 2017 date of injury and indicated that appellant had exacerbated her left hand and thumb pain from prior injury. He opined that her left hand thumb osteoarthritis/degenerative joint disease was caused or aggravated by her employment activity as "[appellant] has a physical job."

By decision dated November 9, 2017, OWCP denied appellant's claim. It found that the evidence submitted established that the September 10, 2017 incident occurred, as alleged. However, OWCP further found that the medical evidence submitted was insufficient to establish causal relationship between the diagnosed left wrist and thumb conditions and the accepted September 10, 2017 employment incident.

OWCP received a November 28, 2017 statement from appellant and additional medical evidence.

In duty status reports (Form CA-17) dated October 31 and November 17, 2017, Dr. Walsh continued to hold appellant off work due to left thumb pain and weakness and wrist pain. He also opined "yes" in the box diagnosis(es) due to injury.

In a November 28, 2017 letter, which OWCP received December 5, 2017, appellant requested a review of the written record before an OWCP hearing representative and submitted duplicative evidence.

By decision dated April 20, 2018, an OWCP hearing representative affirmed the prior decision. The hearing representative found that the medical evidence of record failed to include a

rationalized opinion which explained how the diagnosed conditions were causally related to the accepted September 10, 2017 employment incident.

LEGAL PRECEDENT

A claimant seeking benefits under FECA⁴ 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, including that an injury was sustained in the performance of duty as alleged, and that any specific condition or disability claimed is causally related to the employment injury.⁵

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁶ The second component is whether the employment incident caused a personal injury.⁷ An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.⁸

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.⁹ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.¹⁰ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).¹¹

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.¹²

⁴ See *supra* note 1.

⁵ 20 C.F.R. § 10.115(e), (f); see *T.O.*, Docket No. 18-1012 (issued October 29, 2018); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁶ See *T.O.*, *id.*; *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ See *T.O.*, *supra* note 5; *John J. Carlone*, 41 ECAB 354 (1989).

⁸ See *K.C.*, Docket No. 17-1693 (issued October 29, 2018); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

⁹ See *K.C.*, *id.*; *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁰ See *K.C.*, *supra* note 8; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹¹ *Id.*

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that her diagnosed medical conditions were causally related to the accepted September 10, 2017 employment incident.

In support of her claim appellant submitted a series of medical reports from her treating physician, Dr. Kamat. The September 10, 2017 form reports from Dr. Kamat do not include an opinion regarding causal relationship, if any, between her diagnosed conditions and the September 10, 2017 employment incident. In his attending physician's report, Dr. Kamat noted the history of the September 10, 2017 employment incident and assessed a wrist strain and possible scaphoid fracture. While he opined, by checking a box marked "yes," that the diagnosed condition was caused or aggravated by the employment activity, he provided no further explanation as to how such causal relationship existed. The Board has held that a physician's form report which merely checked a box marked "yes" to the inquiry as to whether the condition for which treatment is rendered is causally related to the history of injury as given, is of diminished probative value as it constitutes a conclusion without the benefit of medical rationale.¹³ Dr. Kamat also completed reports of even date and diagnosed a strain and osteoarthritis of the left thumb joint and left wrist sprain, respectively. However, he did not offer an opinion on the diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁴ Accordingly, Dr. Kamat's reports are insufficient to establish appellant's claim.

The reports from Dr. Walsh are similarly deficient as they do not include a discussion of a causal relationship between appellant's diagnosed conditions and the September 10, 2017 employment incident. His reports which predate the September 10, 2017 employment incident reflect that she had preexisting left basilar thumb arthritis and bilateral carpal tunnel conditions, for which she underwent right-sided carpal tunnel release prior to the September 10, 2017 employment incident. In his September 15, 2017 report and form reports, Dr. Walsh noted the history of the September 10, 2017 employment incident and that x-rays showed stage IV CMC degenerative joint of the left thumb. While he opined that appellant's left thumb degenerative joint disease was billable under workers' compensation insurance, as the injury occurred during the course of her employment, he provided no further explanation as to how such causal relationship existed. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/disability was related to employment factors.¹⁵ A well-rationalized opinion is particularly warranted, as is the case here, when there is a history of a preexisting condition.¹⁶

¹³ See *S.G.*, Docket No. 18-0390 (issued September 11, 2018); *Barbara J. Williams*, 40 ECAB 649 (1989).

¹⁴ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale describing the relation between work factors and a diagnosed condition/disability).

¹⁶ See *S.G.*, *supra* note 13; *T.M.*, Docket No. 08-0975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

In multiple duty status reports (Form CA-17) dated September 15 through 29, 2017, Dr. Walsh diagnosed left thumb degenerative joint disease, but did not offer an opinion regarding the cause of appellant's condition.¹⁷ In his October 18 and 31, 2017 reports, he opined that her 22 plus years of working or the fact that she had a physical job caused and/or aggravated the severe degenerative joint disease in the left thumb. However, Dr. Walsh did not provide an explanation or rationale as to how the accepted September 10, 2017 employment incident caused or aggravated the diagnosed condition.¹⁸ He further opined in October 31 and November 17, 2017 duty status reports that appellant's left thumb and wrist pain was due to the September 10, 2017 employment incident. However, this opinion merely related appellant's painful left thumb and wrist to the accepted September 10, 2017 employment incident. Pain is a description of a symptom rather than a firm diagnosis of a compensable medical condition.¹⁹ The Board therefore finds that as Dr. Walsh did not explain how physiologically appellant's employment incident caused or contributed to her diagnosed conditions, his opinion is of limited probative value.²⁰

OWCP also received a diagnostic test report. However, the diagnostic test report of record does not provide an opinion regarding cause of any diagnosed conditions. The Board has long held that diagnostic reports which offer no opinion regarding causal relationship are of no probative value.²¹

Because appellant has not submitted reasoned medical evidence explaining how a diagnosed medical condition is causally related to her accepted employment incident, she has not met her burden of proof.²²

On appeal, appellant indicates that she had to retire from work and that her lifestyle was restricted due to limited use of her left hand. She requested that her claim be approved so she could undergo left wrist surgery. As discussed above, none of the medical evidence appellant submitted contains sufficient rationale explaining how the diagnosed left hand/wrist conditions was causally related to or aggravated by the accepted September 10, 2017 employment incident.

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.

¹⁷ See *M.S.*, Docket No. 16-1907 (issued August 29, 2017).

¹⁸ See *supra* note 16.

¹⁹ The Board has consistently held that pain is a symptom, rather than a compensable medical diagnosis. See *F.U.*, Docket No. 18-0078 (issued June 6, 2018); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

²⁰ See *K.K.*, Docket No. 17-1061 (issued July 25, 2018).

²¹ See *M.B.*, Docket No. 18-0906 (issued November 21, 2018).

²² The Board notes that the employing establishment executed a Form CA-16 on September 10, 2017 authorizing medical treatment. The Board has held that where an employing establishment properly executes a Form CA-16, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim. *L.D.*, Docket No. 16-1289 (issued December 8, 2016).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that her diagnosed medical conditions were causally related to the accepted September 10, 2017 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 20, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 23, 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