



## ISSUE

The issue is whether appellant has met her burden of proof to establish that her right upper extremity conditions were causally related to the accepted factors of her federal employment.

## FACTUAL HISTORY

On August 26, 2015 appellant, then a 51-year-old social insurance specialist/plans for achieving self-support (PASS)) specialist, filed an occupational disease claim (Form CA-2) alleging that on November 15, 2014 she first realized that her right carpal tunnel syndrome, thumb osteoarthritis, and de Quervain's disease were due to her federal employment duties of repetitive typing, filing, and writing. She stopped work on March 24, 2015. The employing establishment noted that on June 17, 2015 appellant returned to full-duty work for six hours per day.

In support of her claim, appellant submitted a Certification of Health Care Provider for Employee's Serious Medical Condition (Family and Medical Leave Act) signed by Dr. Kai-Uwe Mazur, a Board-certified hand and orthopedic surgeon, and a March 24, 2015 work status form releasing appellant to return to full-duty work on March 26, 2015.

In a development letter dated September 10, 2015, OWCP informed appellant that additional medical and factual 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.

In response to OWCP's request, appellant submitted a statement responding to the questions posed in the questionnaire.

By decision dated November 6, 2015, OWCP denied appellant's claim, finding that she had not met her burden of proof to establish a diagnosed medical condition causally related to the accepted employment factors. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On December 9, 2015 OWCP received appellant's December 3, 2015 request for a telephonic hearing before an OWCP hearing representative, which was held on August 9, 2016.

In progress reports covering the period March 24 to October 20, 2015, Dr. Mazur noted physical examination findings and diagnoses of right thumb basilar joint arthritis, status post right carpal tunnel release and de Quervain's release, and status post right volar radiocarpal ganglionectomy.

An August 20, 2015 magnetic resonance imaging (MRI) scan of appellant's right wrist revealed tenosynovitis, positive ulnar variance with central thickening and likely triangular fibrocartilage perforation, and small bilobed ganglion cyst on the dorsum of the mid carpal joint deep to the extensor tendons. A right hand MRI scan of even date revealed mild thumb carpometacarpal joint osteoarthritis without significant edema and first compartment extensor tendinopathy, which did not appear to extend beyond the carpometacarpal joint into the extensor tendons.

Dr. Mazur, in a May 5, 2016 report, noted that appellant was seen for complaints of right thumb discomfort. Active problems were noted to include arthritis, right wrist ganglion, right hand primary osteoarthritis, radial styloid tenosynovitis/de Quervain's, and right hand first carpometacarpal joint primary osteoarthritis. A physical examination revealed full finger range of motion, normal wrist range of motion, some tightness along the dorsal wrist with wrist volar flexion, and mildly painful Finkelstein's test along the thumb dorsum metacarpophalangeal joint.

By decision dated October 24, 2016, OWCP's hearing representative modified the November 6, 2015 decision, finding that the evidence of record was sufficient to establish a medical diagnosis. However, the claim remained denied as appellant had not met her burden of proof to establish causal relationship between the diagnosed medical conditions and the accepted employment factors.

On March 16, 2017 appellant, through counsel, requested reconsideration and submitted additional evidence.

In a January 17, 2017 progress note, Dr. Mazur diagnosed right hand primary osteoarthritis of the first carpometacarpal joint and pain in the right wrist and finger(s). He noted appellant's complaints, symptoms, and work activities. A physical examination revealed mildly painful Finkelstein's test along the thumb metaphalangeal (MP) dorsum, normal wrist range of motion, full range of motion for her fingers, and some tightness along the dorsal wrist with volar flexion. Diagnoses included right thumb arthritis and flexor carpi radialis tendinosis, which Dr. Mazur attributed to cumulative trauma from her repetitive work duties and acceleration of natural degeneration.

By decision dated June 12, 2017, OWCP denied modification, finding that the record lacked probative medical evidence supporting causal relationship between the diagnosed conditions and the accepted employment factors.

On January 4, 2018 appellant, through counsel, requested reconsideration and submitted a December 17, 2017 report from Dr. John Ellis, a Board-certified family practitioner, in support of her request.

In a December 17, 2017 report, Dr. Ellis, based upon a review of medical records, diagnostic tests, and a physical examination, diagnosed right carpal tunnel syndrome, right de Quervain's tenosynovitis, right thumb basilar joint arthritis, right thumb tenosynovitis of the first compartment extensor tendons, right hand triangular fibrocartilage perforation, right hand ganglion cyst dorsum of mid carpal joint deep to extensor tendons, right elbow cubital tunnel syndrome, right elbow medial epicondylitis, right shoulder traumatic arthritis, and right shoulder tendinitis, which he attributed to her employment. He noted that appellant worked for the employing establishment from 1989 to 1997 as a claims representative, then worked as a technical expert from 1997 to 2010, and from 2010 to 2016 worked as a PASS specialist. Dr. Ellis described her job duties over the years and different positions, which included taking and processing claims, maintaining records, determining eligibility, using the computer, filing, typing, and writing. Based on review of the medical records and examination of appellant, he opined that appellant's work duties contributed to, aggravated, and/or caused the diagnosed conditions and disability noted in his report. Dr. Ellis explained that appellant's repetitive work duties caused multiple repetitive

right upper extremity muscle, tendon, and joint strains, particularly the right wrist and thumb, tendinitis, and carpal tunnel syndrome. He explained that the right thumb and wrist inflammatory response caused tendon swelling leading to wrist median nerve impingement or carpal tunnel syndrome. As the wrist median nerve was impinged, it caused the right forearm extensor and flexor muscles to be taut, which in turn caused right elbow medial and lateral epicondylitis. Dr. Ellis further noted that the repetitive typing on a straight keyboard was an ulnar deviated or abnormal position, which led to internal wrist derangement. He explained that the right hand stresses caused the diagnosed right hand, elbow, and shoulder nerve impingement, ulnar wrist tendinitis, inflammatory right rotator cuff, and acromioclavicular joint tendons.

By decision dated March 21, 2018, OWCP denied modification finding that appellant had not met her burden of proof to establish her claim as the medical evidence of record was insufficiently rationalized to support causal relationship between the diagnosed right shoulder, elbow, wrist, and hand conditions to the accepted employment factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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 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 period, 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.<sup>4</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>5</sup>

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."<sup>6</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.<sup>7</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> See *E.B.*, Docket No. 17-0164 (issued June 14, 2018); *Alvin V. Gadd*, 57 ECAB 172 (2005).

<sup>5</sup> See *P.S.*, Docket No. 17-0939 (issued June 15, 2018); *Ellen L. Noble*, 55 ECAB 530 (2004).

<sup>6</sup> 20 C.F.R. § 10.5(ee).

<sup>7</sup> *Roy L. Humphrey*, 57 ECAB 238 (2005).

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>8</sup> 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 employee.<sup>9</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup>

### ANALYSIS

The Board finds that this case is not in posture for a decision.

The record reflects that appellant's employment activities consist of repetitive typing, writing, taking and processing claims, and filing. Therefore, the issue is whether she has submitted sufficient medical evidence to establish that the factors of her federal employment caused or aggravated the diagnosed medical conditions.

In a December 17, 2017 report, Dr. Ellis noted that appellant worked in various positions for the employing establishment with her latest job as a PASS specialist and he explained the duties she performed with each position. He opined that appellant's work duties caused and aggravated her right upper extremity conditions including carpal tunnel syndrome, right wrist and thumb tendinitis, and right upper extremity joint, muscle, and tendon strains. In particular, Dr. Ellis explained that the act of typing on a straight keyboard caused her right forearm flexor and extensor muscle to become taught, which led to right elbow medial and lateral epicondylitis. He also explained that appellant's right thumb and wrist inflammatory response caused tendon swelling, which caused carpal tunnel syndrome or wrist median nerve impingement. Dr. Ellis related that stress from repetitive typing in an abnormal position on a straight keyboard caused internal wrist derangement. This stress from the repetitive work duties resulted in right hand, elbow, and shoulder nerve impingement, ulnar wrist tendinitis, inflammatory right rotator cuff and acromioclavicular joint tendons.

The Board finds that, while Dr. Ellis' December 17, 2017 report is not fully rationalized, he explained the physiological process by which appellant's accepted factors of her federal employment caused her diagnosed right upper extremity conditions. Although the medical report is insufficient to meet appellant's burden of proof to establish her claim, it raises an uncontroverted inference between the diagnosed conditions and the accepted work factors, sufficient to require OWCP to further develop the claim.<sup>11</sup>

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<sup>8</sup> *L.D.*, Docket No. 17-1581 (issued January 23, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *L.D.*, *id.*; *see also Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>10</sup> *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>11</sup> *See D.V.*, Docket No. 17-1590 (issued December 12, 2018); *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While it is appellant's burden of proof to establish the claim, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.<sup>12</sup> The Board will, therefore, remand the case to OWCP for further development. On remand OWCP should prepare a statement of accepted facts and obtain a rationalized opinion from an appropriate Board-certified physician as to whether appellant's right shoulder, elbow, hand, and wrist conditions are causally related to the accepted factors of her federal employment. Following this and any other further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's claim.

### **CONCLUSION**

The Board finds that this case is not in posture for a decision.

### **ORDER**

**IT IS HEREBY ORDERED THAT** that the March 21, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this decision of the Board.

Issued: June 14, 2019  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>12</sup> *D.V., id.; D.G.*, Docket No. 15-0702 (issued August 27, 2015); *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).