United States Department of Labor
Employees' Compensation Appeals Board

N.C., Appellant	)	
and	)	**Docket No. 19-0299**
	)	**Issued: June 24, 2019**
U.S. POSTAL SERVICE, POST OFFICE, Manchester, NH, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On November 20, 2018 appellant filed a timely appeal from a September 28, 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.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish left wrist carpal tunnel syndrome causally related to the accepted factors of her federal employment.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the September 28, 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 July 12, 2018 appellant, then a 23-year-old city carrier assistant, filed an occupational disease claim (Form CA-2) alleging that she sustained carpal tunnel syndrome due to factors of her federal employment. She noted that she first became aware of her claimed condition on July 2, 2018 and explained that she did not inform the employing establishment within 30 days after she realized her disease's relationship to her federal employment because she was initially instructed by her physician to treat her wrist condition with a brace and ibuprofen, and over the course of such treatment she realized that her wrist was not healing. On the reverse side of the claim form, the employing establishment noted that appellant first received medical care and reported her condition to her supervisor on July 2, 2018 and that she stopped work and was last exposed to conditions alleged to have caused her disease on July 2, 2018.

In a report dated December 6, 2017, Dr. Ryan Kramer, a Board-certified family practitioner, diagnosed bilateral carpal tunnel syndrome.

In a report dated July 2, 2018, Elizabeth Nigrello, a physician assistant, examined appellant and diagnosed acute left wrist pain.

Appellant submitted an unsigned hospital report dated July 2, 2018, received by OWCP on July 12, 2018, in which the author diagnosed carpal tunnel syndrome and referred her to an orthopedic surgeon for a follow-up.

In a personal statement dated July 2, 2018, appellant indicated that she was diagnosed with carpal tunnel syndrome in January 2018 and was asked to sleep with a brace on both wrists. She noted that on July 1, 2018, while at home, her wrists became swollen and painful. Appellant did not perform parcel deliveries at work that day.

In a letter dated July 12, 2018, the employing establishment challenged appellant's claim contending that she failed to establish fact of injury and causal relationship.

In a development letter dated July 17, 2018, OWCP advised appellant of the factual and medical deficiencies of her claim. It provided a questionnaire for her completion to establish the employment factors alleged to have caused or contributed to her medical condition and requested a medical report from her attending physician explaining how and why her federal work activities caused, contributed to, or aggravated her medical condition. OWCP afforded appellant 30 days to submit the necessary evidence.

In a separate development letter dated July 17, 2018, OWCP requested that the employing establishment submit comments from a knowledgeable supervisor on the accuracy of her statements, a description of the tasks she performed that involved repetitive hand and wrist movements, and a description of the specific work area which she indicated led to the development of her claimed condition.

OWCP continued to receive medical evidence. In a duty status report (Form CA-17) dated July 6, 2018, Dr. Courtney Arrington, a Board-certified family practitioner, diagnosed carpal tunnel syndrome and left wrist pain. She indicated that appellant could resume full-time employment on August 2, 2018 with restrictions.

In an attending physician's report (Form CA-20) dated July 24, 2018, Dr. Arrington diagnosed carpal tunnel syndrome. She checked a box marked "yes" when asked whether appellant had any history or evidence of concurrent or preexisting injury or disease. Dr. Arrington also checked a box marked "yes" when asked if she believed that appellant's condition was caused or aggravated by her employment activities, and noted that her condition resulted from repetitive pushing, pulling, and carrying. She related that she was unsure whether appellant could resume regular work, and indicated that appellant may only intermittently lift one-pound.

By decision dated September 28, 2018, OWCP denied appellant's claim, finding that the evidence submitted was insufficient to establish that her diagnosed medical condition was causally related to the accepted factors of her federal employment. It concluded, therefore, that she had not met the requirements to establish an employment-related injury or condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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 period of FECA,[4] 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.[5] 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 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.[7]

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.[8] Rationalized medical opinion evidence is medical evidence which includes a

[3] *Supra* note 1.

[4] *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*,41 ECAB 153 (1989).

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

[6] *S.C., id.*; *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).

[7] *C.D.*, Docket No. 17-2011 (issued November 6, 2018); *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

[8] *M.B.*, Docket No. 17-1999 (issued November 13, 2018).

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.[9]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish left wrist carpal tunnel syndrome causally related to the accepted factors of her federal employment.

In his December 6, 2017 report, Dr. Kramer simply diagnosed bilateral carpal tunnel syndrome, however, he did not opine as to the cause of appellant's condition. 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.[10]

Appellant also submitted a Form CA-17 dated July 6, 2018 and a Form CA-20 dated July 24, 2018 from Dr. Arrington who diagnosed carpal tunnel syndrome. In the Form CA-17 Dr. Arrington did not address causal relationship between the carpal tunnel syndrome and factors of appellant's federal employment. As such, her report is of no probative value on the issue of causal relationship.[11]

In the Form CA-20, Dr. Arrington checked a box marked "yes" when asked if she believed that appellant's condition was caused or aggravated by her employment activities, and noted that her condition resulted from repetitive pushing, pulling, and carrying. The Board has checked a box marked "yes" in a form report, without additional explanation or rationale, is insufficient to establish causal relationship.[12] In addition, while Dr. Arrington opined as to the cause of appellant's condition, her conclusory opinion is insufficiently rationalized. 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.[13] For the foregoing reasons, Dr. Arrington's reports are insufficient to establish appellant's claim.

Appellant submitted a July 2, 2018 report from Ms. Nigrello, a physician assistant, who diagnosed acute left wrist pain. The Board has held that medical reports signed solely by a physician assistant are of no probative value as a physician assistant is not considered a physician

[9] *M.L.*, Docket No. 18-1605 (issued February 26, 2019).

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

[11] *Id.*

[12] *S.C.*, *supra* note 4; *see Barbara J. Williams*, 40 ECAB 649, 656 (1989).

[13] *S.C.*, *id.*; *see Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

as defined under FECA and therefore is not competent to provide a medical opinion.[14] Therefore, Ms. Nigrello's report has no probative value.

OWCP also received an unsigned hospital report dated July 2, 2018, in which the author diagnosed carpal tunnel syndrome, and referred appellant to an orthopedic surgeon for a follow-up. The Board has held that a report that bears an illegible signature cannot be considered probative medical evidence because it lacks proper identification.[15] Thus, this report has no probative value.

As there is no rationalized medical evidence of record explaining how appellant's employment duties caused or aggravated her carpal tunnel syndrome, appellant has not met her burden of proof to establish that her left wrist carpal tunnel syndrome was causally related to factors of her federal employment.

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

[14] *See David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law). *T.K.*, Docket No. 19-0055 (issued May 2, 2019) (physician assistants are not considered physicians under FECA).

[15] *K.C.*, Docket No. 18-1330 (issued March 11, 2019); *see R.M.*, 59 ECAB 690 (2008); *D.D.*, 57 ECAB 734 (2006); *Richard J. Charot*, 43 ECAB 357 (1991).

ORDER

IT IS HEREBY ORDERED THAT the September 28, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 24, 2019
Washington, DC

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

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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