

became aware of the condition and that she first realized the condition was causally related to factors of her federal employment. On the reverse side of the Form CA-2, the employing establishment indicated that appellant reported experiencing pain in her right forearm up through her shoulder, which she believed was due to repetitive computer work.

In a development letter dated August 8, 2017, OWCP notified appellant of the type of additional evidence needed to establish her occupational disease claim, including factual evidence documenting hazardous exposures at work, and a narrative report from her attending physician that included a diagnosis and an explanation regarding causal relationship. It also inquired as to whether she had a prior history of elbow injuries. OWCP afforded appellant 30 days to submit the requested evidence.

In an August 11, 2017 statement, appellant indicated that she would sit and type eight hours a day processing disability claims. She believed that repetitive typing motions caused elbow tenderness, as well as a sharp shooting pain down to her wrist. Appellant further noted that she had been working for the employing establishment for 10 years doing the same types of repetitive movement. She typed all day for eight hours or more, five days per week, and occasionally worked overtime on weekends. Appellant indicated that she had “no elbow injuries.” Her elbow “started hurting a couple years ago,” and she saw a doctor who gave her a cortisone shot. However, they were no longer as effective.

A July 2, 2013 lumbar magnetic resonance imaging (MRI) scan revealed early degenerative disc disease of the lower lumbar spine, contributed to by grade one anterolisthesis of L4 on L5. No significant spinal canal stenosis was seen with foraminal stenosis primarily at the L4-5 level.

On July 14, 2015 appellant sought treatment with Dr. Morteza Farr, a Board-certified orthopedic surgeon, for an evaluation of her elbow, hip, and back. Dr. Farr noted the MRI scan demonstrated evidence of spondylolisthesis with facet arthropathy at L4-5, but no stenosis. He indicated that appellant’s pain in her elbow was consistent with lateral epicondylitis, and the symptoms of her hip were consistent with bursitis and iliotibial band syndrome. Dr. Farr diagnosed lateral epicondylitis and lumbar degenerative disc disease. He prescribed physical therapy and continued chiropractic treatment.

In a report dated January 20, 2017, Dr. Farr indicated that appellant presented for evaluation of the epicondylitis in her right arm. He noted a history of pain and discomfort, which worsened with activity. Dr. Farr noted that past treatment included an injection “years ago,” which worked well. Appellant described her pain as severe and frequent. Dr. Farr diagnosed lateral epicondylitis, unspecified elbow and administered an injection. He indicated that appellant would return for treatment on an as-needed basis.

In a report dated July 27, 2017, Dr. Farr evaluated appellant’s left elbow and he again diagnosed lateral epicondylitis, unspecified elbow and administered another injection. He repeated that appellant should return for treatment on an as-needed basis.

By decision dated October 24, 2017, OWCP denied appellant’s occupational disease claim. It explained that the medical evidence of record failed to establish that appellant’s lumbar and

lumbosacral degenerative disc disease and lateral epicondylitis were causally related to the accepted employment factor(s).

On November 21, 2017 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

At the February 26, 2018 hearing, appellant clarified that although she submitted evidence relating to her lumbar condition, she was only filing a claim for her right elbow epicondylitis. She testified that she has built up a tolerance to cortisone shots, which rendered them ineffective to treat her elbow pain. In her testimony, appellant implicated repetitive motion she performed at the employing establishment as the causative factor. The hearing representative explained the type of evidence needed to show causal relationship, and afforded her 30 days to submit additional evidence.

A February 21, 2018 right elbow MRI scan revealed mild lateral epicondylitis and a partial-thickness tear of the common extensor tendon.

In a February 27, 2018 e-mail to appellant, Dr. C. Scott Walthour, a Board-certified orthopedic surgeon, indicated that he had reviewed the MRI scan and found mild changes consistent with probable lateral epicondylitis or tennis elbow. In terms of relation to work he noted, "[a]ll I can say is that it may be related to an overuse[-]type activity as there was no major trauma or injury that occurred."

In a note dated March 5, 2018, Dr. Frank M. De Mayo, a Board-certified orthopedic surgeon, diagnosed bursitis of the right shoulder and lateral epicondylitis of the right elbow. He opined that these diagnosed conditions are, within reasonable medical certainty, related to her work activities.

On March 19, 2018 appellant filed a page of the transcript with a written notation clarifying that her right shoulder had also been injured due to repetitive work.

In March 28, 2018 progress notes, Dr. Walthour indicated that appellant was recovering from a recent lateral tendon debridement procedure. He explained that appellant indicated to him that she completes electronic forms, uses a keyboard and mouse, answers telephone calls, uses a scanner and fax machine, and occasionally is required to handwrite. Dr. Walthour noted that appellant uses a computer for most of her workday. He noted that certainly due to the type of work that appellant performs it is reasonable that she may have some overuse-type syndrome that could be exacerbated by her work activities. Dr. Walthour explained, however, that unfortunately lateral epicondylitis occurs to those who type, but also to those who do not type and therefore there is no 100 percent causal relationship opinion, but certainly repetitive overuse-type activities can exacerbate or even, in some cases, be the cause of epicondylitis. He noted that her symptoms are exacerbated by work and have been going on again for several years and therefore, in his professional opinion, it is reasonable to consider that her lateral epicondylitis had been exacerbated by an overuse type of injury which could occur in the workplace.

By decision dated April 10, 2018, OWCP's hearing representative affirmed the prior denial, finding that the medical evidence of record failed to establish causal relationship. She explained that neither Dr. De Mayo nor Dr. Walthour provided sufficient medical rationale

explaining the relationship between appellant's work activities and her diagnosed right elbow lateral epicondylitis and/or right shoulder bursitis.

On May 17, 2018 appellant requested reconsideration.

In a May 14, 2018 note, Dr. De Mayo repeated verbatim the content of his March 5, 2018 letter, and added, "there is a causal relationship between work activities and these problems."

By decision dated June 27, 2018, OWCP denied modification of the prior decision. It determined that Dr. De Mayo's letter of May 14, 2018 was conclusory, and therefore, insufficient to establish causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 of FECA,³ 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.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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 diagnosed condition is causally related to the identified employment factors.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ 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.⁸ Additionally, the physician's opinion must be

² *Id.*

³ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *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).

⁶ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

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).⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish right shoulder and right elbow conditions causally related to the accepted factors of her federal employment.

In support of her claim appellant submitted medical reports of Dr. Farr. Dr. Farr consistently diagnosed lateral epicondylitis. However, his July 14, 2015, and January 20 and July 27, 2017 reports did not include an opinion as to causal relationship. Medical evidence which does not offer an opinion on causal relationship is of no probative value to the issue of causal relationship.¹⁰ Therefore these reports are insufficient to establish appellant's claim.

Dr. De Mayo's notes of March 5 and May 14, 2018 also do not establish that appellant's injury was causally related to the accepted factors of her employment. He diagnosed bursitis of the right shoulder and lateral epicondylitis of the right elbow. Dr. De Mayo explained that these orthopedic problems are within reasonable medical certainty related to her work activities and thus, there is a causal relationship between work activities and these problems. His notes do not contain a physiological explanation as to how appellant's right shoulder bursitis and right elbow lateral epicondylitis occurred.¹¹ The Board has held that a medical opinion is of limited value if it is conclusory in nature.¹² A medical opinion must provide an explanation of how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.¹³ Without this explanation, Dr. De Mayo's notes are insufficient to establish the claim.¹⁴

Dr. Walthour, in a March 28, 2018 report, accurately described the causative factors of employment and notes a temporal relationship between the onset of pain and the accepted factors. He does not, however, offer an unequivocal opinion that the right shoulder and elbow conditions were caused by appellant's federal employment. Of lateral epicondylitis as an elbow condition generally, Dr. Walthour noted that overuse-type activities can exacerbate or even, in some cases, be the cause of epicondylitis. In regards to appellant's specific case, he explained that she noted that her symptoms were exacerbated by work and this had been going on again for several years and thus it is certainly reasonable to consider that her lateral epicondylitis had been exacerbated by an overuse-type of injury which could occur in the workplace. However, the Board has found that the mere fact that a disease manifests itself during a period of employment does not raise an

⁹ *Id.*; *Victor J. Woodhams, supra* note 6.

¹⁰ *See L.T.*, Docket No. 18-1603 (issued February 21, 2019).

¹¹ *B.H.*, Docket No. 18-1219 (issued January 25, 2019).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

inference that there is a causal relationship between the two,¹⁵ and temporal relationship alone will not suffice for purposes of establishing causal relationship.¹⁶ Dr. Walthour's opinion is couched in speculative terms, noting only the possibility that appellant's condition "could" have been caused by her federal employment. Entitlement to FECA benefits may not be based on surmise, conjecture, speculation, or on the employee's own belief of a causal relationship.¹⁷ While the opinion supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, the opinion must be one of reasonable medical certainty and not speculative or equivocal in character.¹⁸ Because Dr. Walthour's opinion is speculative and equivocal in nature, it does not carry appellant's burden of proof as to causal relationship.

For these reasons, the Board finds the evidence of record is insufficient to meet appellant's burden of proof on the issue of causal relationship.

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 right shoulder and right elbow conditions causally related to the accepted factors of her federal employment.

¹⁵ *L.T.*, *supra* note 10; *Birger Areskog*, 30 ECAB 571 (1979).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *C.L.*, Docket No. 18-1379 (issued February 5, 2019).

ORDER

IT IS HEREBY ORDERED THAT the June 27, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 14, 2019
Washington, DC

Christopher J. Godfrey, 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