United States Department of Labor
Employees' Compensation Appeals Board

J.S., Appellant	)	
and	)	**Docket No. 20-0534**
	)	**Issued: December 31, 2020**
U.S. POSTAL SERVICE, POST OFFICE, Albany, NY, Employer	)	

Appearances:
Patrick Sorsby, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On January 10, 2020 appellant, through counsel, filed a timely appeal from a December 17, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

ISSUE

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

FACTUAL HISTORY

On June 26, 2018 appellant, then a 69-year-old clerk, filed an occupational disease claim (Form CA-2) for CTS due to factors of her federal employment. She explained that she experienced pain in her right hand beginning in May 2018 and began using a brace she was previously prescribed with the hopes that this would slow or stop the progression of her CTS. Appellant indicated that she first became aware of her condition and attributed it to her federal employment on May 5, 2018. She did not stop work.

In an undated narrative statement, appellant indicated that she is right-handed and her work duties required unlocking and opening a security door to the passport office, setting up a camera for passport pictures, taking photographs of new applicants, cutting and trimming the pictures, answering the telephone, and writing down messages, all with her right hand.

In reports dated May 29, June 4 and 25, 2018, Dr. Michael Krastins, a Board-certified internist, indicated that appellant had been seen for pain in her right hand "similar to her previous carpal tunnel." He recounted that the pain was exacerbated by repetitive hand work and worsened if she worked more than eight hours. Dr. Krastins noted that appellant was diagnosed with CTS in 2006 and an electromyography (EMG) at that time had confirmed bilateral CTS. He also indicated that she also had a laceration with proximal interphalangeal (PIP) joint dislocation in her right hand in 2013 and used splints and a brace since then, which may have worsened her symptoms.

In an attending physician's report (Form CA-20) dated June 25, 2018, Dr. Krastins noted that appellant worked at a post office and her job involved repetitive hand movements, which included typing and writing. He diagnosed CTS and checked a box marked "Yes" indicating his belief that the condition was aggravated by her federal employment.

In a development letter dated July 13, 2018, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and afforded her 30 days to submit the necessary evidence.

Appellant subsequently submitted an April 24, 1998 report from Dr. Henry Kim, a Board-certified orthopedic surgeon, who diagnosed bilateral thumb trigger fingers with associated carpometacarpal (CMC) joint arthritis and ruled out rheumatologic condition. Dr. Kim indicated that appellant had presented for an initial evaluation for complaints of bilateral hand and wrist pain with associated tingling and swelling. Appellant reported that her symptoms began in November 1997 and her medical history included sustained bilateral palm puncture wounds "while she was in the service." Dr. Kim noted that appellant "may also have [CTS] bilaterally with an odd presentation."

In a June 2, 2006 report, Dr. Jianhui Zhang, a Board-certified neurologist, diagnosed mild CTS likely due to diabetes.

On August 7, 2006 Dr. Anitha Abraham, a Board-certified neurologist, diagnosed CTS and advised appellant to continue to use wrist splints, especially at night.

In a report dated June 6, 2018, Dr. Krastins noted that appellant had reported pain in her right hand and that repetitive motion increased the pain in her hand and kept her from working. He indicated that he had previously diagnosed her with CTS and she wore a brace on her right hand. Dr. Krastins advised appellant to avoid continued repetitive motion of her right hand and noted that she had not yet had a release of her right CTS.

An electrodiagnostic testing report dated June 25, 2018 revealed mild-to-moderate bilateral median neuropathy at the wrist affecting both wrists, sensory more than motor fibers.

In a June 25, 2018 report, Dr. Krastins indicated that appellant was seen for CTS and continued to complain of numbness and tingling mostly involving her thumb, first, and second digit of her right hand. He reiterated that she was first diagnosed with CTS in 2006.

In a duty status report (Form CA-17) dated June 25, 2018, Dr. Krastins again diagnosed CTS and indicated that appellant also suffered from osteoarthritis. He advised that she was not capable of returning to her regular-duty position and provided work restrictions.

On July 23, 2018 Dr. Frank Lore, a Board-certified physiatrist, indicated that appellant had a history of CTS and she had reported changing jobs and using a splint on her right wrist with improvement in symptoms until last August when her job change occurred and she had had a recurrence of her symptoms. He diagnosed persistent mild-to-moderate median neuropathy consistent with CTS.

In an August 1, 2018 report, Dr. Krastins reiterated his diagnosis of right-sided CTS and opined that appellant's activities as a postal worker "likely" exacerbated her CTS. He noted that repetitive arm movements and activity were known to worsen CTS symptoms. Dr. Krastins indicated that, if more details were needed regarding the cause of appellant's condition, he would suggest that she discuss this with a plastic surgeon for his or her opinion.

In a report dated August 9, 2018, Dr. James L. Dolph, a Board-certified plastic surgeon, diagnosed bilateral CTS, recently considerably worsened on the right side, and opined that this condition was directly related to appellant's job functions/repetitive motions. He recommended a right carpal tunnel release.

By decision dated October 10, 2018, OWCP denied appellant's occupational disease claim finding that the medical evidence of record is insufficient to establish a causal relationship between appellant's diagnosed conditions and the accepted factors of her federal employment.

On March 1, 2019 appellant, through counsel, requested reconsideration.

Appellant further submitted an October 18, 2018 report from Dr. Dolph who indicated that she underwent right carpal tunnel release on September 10, 2018 and was returned to work on

October 22, 2018. Dr. Dolph advised that she could work light duty for one month and had restrictions of not lifting more than five pounds and not write more than five minutes at a time. He opined that diabetes, arthritis, and contralateral (remote) left palmar puncture wounds were very unlikely to have caused her right CTS. Dr. Dolph concluded that the cumulative effects of many years of the repetitive motions she used at work were, in his best medical opinion, far more likely to have caused her right CTS.

By decision dated December 17, 2019, OWCP denied modification of its prior October 10, 2018 decision.

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 timely filed within the applicable time limitation period 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 sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.[6]

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, 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.[7]

[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] *S.K.*, Docket No. 18-1414 (issued April 29, 2020); *I.J.*, 59 ECAB 408 (2008).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish bilateral CTS causally related to the accepted factors of her federal employment.

In his August 9, 2018 report, Dr. Dolph diagnosed bilateral CTS, recently considerably worsened on the right side, and opined that this condition was directly related to appellant's job functions/repetitive motions. On October 18, 2018 he noted that he performed a right carpal tunnel release on September 10, 2018 and released her back to work on October 22, 2018. Dr. Dolph opined that the cumulative effects of many years of the repetitive motions she used at work were, in his best medical opinion, far more likely to have caused her right CTS. He did not, however, explain the pathophysiological process by which repetitive hand motions resulted in bilateral CTS.[8] A mere conclusion without necessary rationale explaining why the physician believes that a claimant's accepted employment resulted in the diagnosed condition is not sufficient.[9] As Dr. Dolph's reports do not provide a well-rationalized opinion on causal relationship, it is insufficient to meet appellant's burden of proof.

Dr. Krastins, in his reports dated May 29, June 4, 6, and 25, 2018, noted that appellant was initially diagnosed with CTS in 2006. He further indicated that she was diagnosed with osteoarthritis and a laceration with PIP joint dislocation in her right hand in 2013, which he opined may have worsened her symptoms. However, Dr. Krastins did not provide an opinion on causal relationship between appellant's diagnosed CTS and the accepted factors of her federal employment. The Board has long 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] Therefore these reports are insufficient to establish the claim.

In his June 25, 2018 Form CA-20, Dr. Krastins checked a box marked "Yes" indicating his belief that appellant's condition was aggravated by her federal employment. However, the Board has held that an opinion on causal relationship with an affirmative check mark, without more by way of medical rationale, is insufficient to establish the claim.[11] As such, this report is insufficient to establish appellant's claim.

In his August 1, 2018 report, Dr. Krastins opined that appellant's activities as a postal worker "likely" exacerbated her CTS. He explained that repetitive arm movements and activity were known to worsen CTS symptoms. The Board has held that a medical opinion that is speculative or equivocal in nature is of diminished probative value.[12] Moreover, a medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or

[8] *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *S.W.*, Docket No. 18-1489 (issued June 25, 2019).

[9] *D.O.*, Docket No. 18-0086 (issued March 28, 2018).

[10] *See R.C.*, Docket No. 19-0376 (issued July 15, 2019)*; L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[11] *C.S.*, Docket No. 18-1633 (issued December 30, 2019); *D.S.*, Docket No. 17-1566 (issued December 31, 2018).

[12] *C.B.*, Docket No. 20-0464 (issued July 21, 2020).

aggravated the specific diagnosed conditions.[13] A well-rationalized opinion is particularly warranted when there is a history of preexisting conditions.[14] Thus, Dr. Krastins' August 1, 2018 report is also insufficient to meet appellant's burden of proof.

On July 23, 2018 Dr. Lore diagnosed persistent mild-to-moderate median neuropathy consistent with CTS; however, he did not address causal relationship. As noted above, a medical report that does not provide an opinion on causal relationship is of no probative value.[15]

The remaining evidence includes an April 24, 1998 report by Dr. Kim who diagnosed bilateral thumb trigger fingers with associated CMC joint arthritis, a June 2, 2006 report from Dr. Zhang who diagnosed mild CTS likely due to diabetes, and an August 7, 2006 report from Dr. Abraham who also diagnosed CTS. Neither physician addressed causal relationship.[16] Therefore, their reports are insufficient to meet appellant's burden of proof.[17]

Appellant also submitted a June 25, 2018 electrodiagnostic testing report. The Board has held that reports of diagnostic tests, standing alone, lack probative value as they do not provide an opinion on causal relationship between the accepted employment factor(s) and a diagnosed condition.[18]

As the medical record does not contain rationalized medical evidence establishing a causal relationship between appellant's diagnosed condition and the accepted employment factors, the Board finds that appellant has not met her burden of proof.

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 CTS causally related to the accepted factors of her federal employment.

[13] *Id*.

[14] *D.M.*, Docket No. 16-0346 (issued June 15, 2017).

[15] *Supra* note 11.

[16] The Board further notes that their reports predate the 2018 occupational disease claim, as well as the date appellant alleged that she was first aware of her condition on May 5, 2018.

[17] *Id.*

[18] *C.F.*, Docket No. 18-1156 (issued January 22, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

ORDER

IT IS HEREBY ORDERED THAT the December 17, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 31, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board