

ISSUE

The issue is whether appellant has met her burden of proof to establish a bilateral wrist condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On January 18, 2018 appellant, then a 45-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that she developed tendinitis causally related to factors of her federal employment, including casing mail on January 15, 2015. She indicated that she first became aware of the condition on November 11, 2015 and first realized that the condition was caused or aggravated by her federal employment on January 11, 2018. Appellant did not stop work. On the reverse side of the claim form, her supervisor indicated that she had not informed management about her condition.

In a progress report dated December 27, 2017, Dr. Roderick H. Birnie, an orthopedic surgeon, diagnosed bilateral de Quervain's tendinitis. He noted that appellant had received two prior injections for right-sided de Quervain's tendinitis and one prior injection for left-sided de Quervain's tendinitis. Dr. Birnie advised that she had experienced a recurrence of de Quervain's tendinitis on the right side which was "most likely due to the repetitive nature of her work..." He recommended a surgical release of the first dorsal compartment of the right wrist.

On January 4, 2018 a nurse advised that appellant was scheduled for a de Quervain's release on February 2, 2018 and would be out of work for four to six weeks following surgery.

In a February 2, 2018 development letter, OWCP advised appellant of the type of factual and medical evidence needed to establish her claim, including a physician's reasoned report addressing the causal relationship between her claimed condition and specific employment factors. It attached a questionnaire for appellant's completion. OWCP afforded her 30 days to submit the requested information.

In an attending physician's report (Form CA-20) dated March 1, 2018, Dr. Megan Conti Mica, a Board-certified orthopedic surgeon, diagnosed left wrist tendinitis and radial styloid tenosynovitis. She checked a box marked "yes" in response to the question of whether the condition was caused or aggravated by an employment activity and indicated that appellant had overused her thumb and hand. Dr. Mica found that appellant was totally disabled from February 7 to April 2, 2018. She indicated that she had attached findings to the form, but these are not contained in the record.

On February 26, 2018 appellant described her employment duties, including casing mail two to four hours per day, delivering mail and parcels, sorting parcels, constantly scanning parcels (using her thumb, hand, and wrist), tying mail, opening mailboxes, walking, and driving.

By decision dated March 15, 2018, OWCP denied appellant's occupational disease claim finding that the medical evidence submitted was insufficient to establish that she had sustained a diagnosed medical condition causally related to the accepted employment factors.

On April 9, 2018 appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative. A telephonic hearing was held on September 14, 2018. Appellant testified that she began having problems around November 2015. She sought medical treatment and her physician informed her that repetitive motion at work had caused her condition. OWCP's hearing representative afforded appellant 60 days to submit additional evidence.

In a letter dated November 6, 2018, Dr. Neil Allen, a Board-certified internist and neurologist, advised that he had reviewed appellant's medical records in order to determine whether there was a causal relationship between her bilateral wrist conditions and "repetitive work[-]related trauma sustained prior to and on November 11, 2015." He indicated that her job duties required lifting and carrying over 70 pounds and continual pushing, pulling, grasping, and pinching. Dr. Allen noted that appellant began to "notice gradually worsening pain and weakness in her wrists." He diagnosed bilateral radial styloid tenosynovitis and unspecified wrist tendinitis. Dr. Allen advised that appellant had no history of a bilateral wrist injury, and that her job exposed her to many risk factors for wrist tendinitis such as forceful exertion, awkward positions, repetitive movement, and overhead work, causing tension and stress in the tendons. He noted that, without sufficient rest or avoidance, these activities caused the tendons of the hand and wrist to become inflamed, break down, and restrict motion, giving rise to complaints of tenderness, weakness, pain, and motion restriction. Dr. Allen concluded that such subjective complaints and objective findings were "documented throughout the claimant's records." He opined that, as a letter carrier appellant performed constant reaching, pushing, pulling, lifting, pinching and grasping in the performance of her regular daily duties and that these repetitive activities precipitated the bilateral wrist tendinitis.

By decision dated November 21, 2018, OWCP's hearing representative affirmed the March 15, 2018 decision finding that the medical evidence of record was insufficient to establish a causal relationship between appellant's diagnosed conditions and the accepted employment factors. She noted that the medical evidence, while providing a diagnosis, failed to support the diagnosis with any findings on physical examination.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,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

³ *Id.*

⁴ *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

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: (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.⁷

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁸ 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.⁹ 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.¹⁰

ANALYSIS

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

In support of his claim appellant submitted a letter dated November 6, 2018, from Dr. Allen who reviewed her medical record and provided an opinion on the issue of whether the accepted employment factors were sufficient to have caused bilateral wrist conditions. From his review of the medical record Dr. Allen advised, as had appellant's attending physicians, that appellant had no history of a bilateral wrist injury. He discussed appellant's job duties noting that her job exposed her to many risk factors for wrist tendinitis such as forceful exertion, awkward positions, repetitive movement, and overhead work. Dr. Allen explained how those duties were sufficient to have caused tension and stress in the tendons of her upper extremity. He noted that, without sufficient rest or avoidance, appellant's workplace activities were sufficient to cause the tendons of the hand and wrist to become inflamed, break down, and restrict motion, giving rise to complaints of tenderness, weakness, pain, and motion restriction. Dr. Allen concluded that such

⁵ *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 *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

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

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

¹⁰ *M.B.*, Docket No. 19-1816 (issued April 28, 2020); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

subjective complaints and objective findings were documented throughout the claimant's records. He opined that, as a letter carrier appellant performed constant reaching, pushing, pulling, lifting, pinching, and grasping in the performance of her regular daily duties and that these repetitive activities precipitated the bilateral wrist tendinitis.

The Board finds that while Dr. Allen's November 6, 2018 letter is not fully rationalized, it is relevant evidence in support of appellant's claim as it explains the physiological process by which the accepted factors of her federal employment were sufficient to have resulted in the claimed bilateral wrist conditions diagnosed by her attending physicians. Although the opinion letter by Dr. Allen is alone insufficient to meet appellant's burden of proof to establish her claim, it does raise an uncontroverted inference between the diagnosed wrist conditions and the accepted employment factors sufficient to require OWCP to further develop the claim.¹¹

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.¹² It has the obligation to see that justice is done.¹³ The Board will, therefore, remand the case to OWCP for further development of the medical evidence. On remand OWCP shall refer appellant, a statement of accepted facts, and the medical evidence of record to an appropriate Board-certified physician. The chosen physician shall provide a rationalized opinion opining whether the diagnosed conditions are causally related to the accepted factors of appellant's federal employment. If the physician opines that the diagnosed conditions are not causally related, he or she must explain with rationale how or why the opinion differs from that provided by Dr. Allen.¹⁴ 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 decision.

¹¹ See *J.G.*, Docket No. 18-1484 (issued June 14, 2019); *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).

¹² *C.W.*, Docket No. 19-0231 (issued July 15, 2019); *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).

¹³ *Id.*

¹⁴ OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files. For example, if a new injury claim is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required. See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000). On remand OWCP shall administratively combine all necessary claims with the present file for a full and fair adjudication of appellant's pending right knee injury claim prior to the referral to an appropriate specialist.

ORDER

IT IS HEREBY ORDERED THAT the November 21, 2018 decision of the Office of Workers' Compensation Program is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 1, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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