

ISSUE

The issue is whether appellant met his burden of proof to establish that his right wrist condition was causally related to the accepted November 29, 2018 employment incident.

FACTUAL HISTORY

On December 4, 2018 appellant, then a 21-year-old casual mail handler, filed a traumatic injury claim (Form CA-1) alleging that on November 29, 2018 he injured his right wrist when he lifted a box which slipped from his hand while in the performance of duty. On the reverse side of the claim form, the employing establishment indicated that appellant was injured in the performance of duty and had stopped work on December 4, 2018.

A note from Smitha Ghevarughese, a registered nurse, indicated that appellant was seen in the emergency room on December 4, 2018 and that he could not return to work until he was cleared by work health.

December 4, 2018 hospital discharge instructions indicated that appellant was seen by Dr. Andrew Ogden, an osteopathic physician specializing in emergency medicine. Dr. Ogden diagnosed a wrist strain and prescribed pain medication. He instructed appellant to avoid lifting with his right arm and provided him with information about wrist splints and wrist sprains.

In a December 21, 2018 development letter, OWCP indicated that when appellant's claim was received it appeared to be a minor injury that resulted in minimal or no lost time from work, and that based on these criteria and because the employing establishment did not controvert the continuation of pay or challenge the merits of the case, payment of a limited amount of medical expenses was administratively approved. The merits of the claim, however, had not been formally considered. OWCP advised appellant that the documentation received to date was insufficient to support his claim for FECA benefits. It explained that the evidence of record was insufficient to establish that he sustained an injury in the performance of duty, as alleged. OWCP advised appellant of the factual and medical evidence necessary to establish his claim and attached a questionnaire for his completion. It afforded him 30 days to submit the requested factual and medical evidence.

December 10, 2018 hospital discharge instructions indicated that appellant was treated in the emergency room by Dr. Christopher Komurek, an osteopathic physician specializing in emergency medicine. Dr. Komurek diagnosed wrist pain and instructed appellant to follow up with an orthopedist.

In response to the December 27, 2018 questionnaire, appellant recounted the circumstances surrounding his alleged November 29, 2019 injury, indicated that he had no similar disabilities or symptoms before his injury.

By decision dated January 22, 2019, OWCP denied appellant's traumatic injury claim, finding that the evidence of record failed to establish a diagnosed condition in connection with the accepted November 29, 2018 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On February 4, 2019 appellant requested reconsideration. In an accompanying letter, he described the circumstances surrounding his injury.

A December 4, 2018 x-ray interpreted by Dr. Barry Siskind, a Board-certified radiologist, revealed normal results. Dr. Siskind indicated that appellant experienced pain and a work-related injury.

December 4, 2018 emergency room records by Dr. Ogden indicated that appellant presented with mild and achy right wrist pain. Dr. Ogden related that appellant had lifted a heavy box at work five days previously when his right hand turned incorrectly and became painful. He noted that he was still in pain and continued to lift heavy objects at work. Dr. Ogden denied any other injuries and indicated his right wrist pain was exacerbated upon palpation. A physical examination of appellant revealed tenderness upon palpation of the ulnar styloid, discomfort with forced ulnar deviation, and otherwise normal results. Appellant's December 4, 2018 right wrist x-ray results were noted and Dr. Ogden diagnosed wrist strain, specifically with a strain of an unspecified muscle, fascia, and tendon in the wrist and hand level. Dr. Ogden recommended that appellant refrain from lifting with his right arm.

Additional December 10, 2018 emergency room records authored by Dr. Komurek indicated that appellant presented with mild right wrist pain and persistent pain with range of motion in his wrist. Dr. Komurek noted that appellant had experienced constant wrist pain since his December 4, 2018 injury. He conducted a physical examination which revealed normal results. Dr. Komurek replaced appellant's splint, recommended following up with an orthopedist, and diagnosed appellant with wrist sprain.

By decision dated May 2, 2019, OWCP modified its January 22, 2019 decision, finding that the evidence of record established a diagnosis in connection with the accepted November 29, 2018 employment incident. However, it continued to deny appellant's claim, finding that the evidence of record failed to establish a causal relationship between his diagnosed condition and his accepted November 29, 2018 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of establishing 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 the

³ *Supra* note 1.

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).

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 determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.⁷ Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁸ The second component is whether the employment incident caused a personal injury.⁹ An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.¹⁰

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 incident.¹¹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his right wrist condition was causally related to the accepted November 29, 2018 employment incident.

December 4, 2018 emergency room records and hospital discharge notes by Dr. Ogden indicated that appellant presented with mild and achy right wrist pain and that five days prior he was lifting a heavy box at work when his right hand turned incorrectly and became painful. Dr. Ogden conducted a physical examination and diagnosed wrist strain, specifically with a strain of an unspecified muscle, fascia, and tendon in the wrist and hand level. However, he did not explain how appellant's workplace incident caused his wrist strain. To be of probative medical value, a medical opinion must explain how physiologically the movements involved in the employment incident caused or contributed to the diagnosed condition.¹² Dr. Ogden's reports were therefore insufficient to establish appellant's claim.

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 *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

⁸ *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *J.P.*, *supra* note 4; *L.T.*, *supra* note 8; *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

¹¹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹² *See A.W.*, Docket No. 19-0327 (issued July 19, 2019).

Dr. Komurek's December 10, 2018 emergency room records indicated that appellant presented with mild right wrist pain and he diagnosed wrist sprain. He noted that appellant experienced constant wrist pain since his December 4, 2018 injury, and that appellant indicated he had persistent pain with range of motion in his wrist. However, Dr. Komurek did not provide his own opinion which addressed the cause of the diagnosed condition. Medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹³

OWCP also received December 4, 2018 records from Ms. Ghevarughese. Certain healthcare providers such as physician assistants, nurses, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.¹⁴ Consequently, their medical findings and/or opinions do not suffice for purposes of establishing entitlement to FECA benefits.¹⁵

Appellant also submitted a December 4, 2018 right wrist x-ray. The Board has explained that diagnostic studies standing alone lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.¹⁶

The Board therefore finds that the record lacks medical evidence establishing a causal relationship between appellant's right wrist condition and the accepted November 29, 2018 employment incident. Thus, appellant has not met his 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 his burden of proof to establish that his right wrist condition was causally related to the accepted November 29, 2018 employment incident.

¹³ *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *J.H.*, Docket No. 19-0383 (issued October 1, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁴ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

¹⁵ Section 8101(2) of FECA provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *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); *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (nurse practitioners are not considered physicians under FECA); *K.W.*, 59 ECAB 271, 279 (2007); *H.A.*, Docket No. 18-1253 (issued April 23, 2020) (a nurse practitioner is not considered a physician under FECA).

¹⁶ *N.B.*, Docket No. 19-0221 (issued July 15, 2019).

ORDER

IT IS HEREBY ORDERED THAT the May 2, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 4, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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