

Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

ISSUE

The issue is whether appellant has met her burden of proof to establish a right wrist condition causally related to the accepted November 6, 2018 accepted employment incident.

FACTUAL HISTORY

On November 8, 2018 appellant, then a 62-year-old dental hygienist, filed a traumatic injury claim (Form CA-1) alleging that on November 6, 2018 she injured her right wrist when performing an extended teeth cleaning on a wheelchair-bound patient while in the performance of duty. She did not immediately stop work.

On November 7, 2018 appellant was treated by Dr. Cathleen R. Clouse, a Board-certified family practitioner, for a right wrist injury that occurred on November 6, 2018. She reported no known actual injury, but believed the right ulnar wrist pain was due to repetitive motion. Dr. Clouse noted visible mild swelling of the lateral distal wrist and tenderness to palpation along the distal ulna and fifth metacarpal (MC). She diagnosed right wrist tendinitis.(rd 11/28/18) In a November 7, 2018 work excuse note, Dr. Clouse indicated that appellant was unable to work on November 7 and 8, 2018.

In an unsigned draft report dated November 8, 2018, Dr. Fozia A. Abrar, a Board-certified physiatrist, noted that appellant was treated for right wrist pain. She related that on November 6, 2018 she had performed an extended dental cleaning on a patient confined to a wheelchair, for approximately one and a half hours, and experienced right wrist pain, swelling, and throbbing. Dr. Abrar noted x-rays of the right wrist were negative for a fracture. He diagnosed right wrist tendinitis, “[c]annot rule out ulnar collateral ligament injury,” and recommended a wrist splint. In a report dated November 15, 2018, Dr. Abrar noted that appellant presented with continued right wrist pain. She recounted that on November 6, 2018, while performing an extended cleaning of a patient in a wheelchair, she held her hand in an upright flexed position which caused pain and swelling. Dr. Abrar assessed right wrist pain, diagnosis unclear.

Appellant was treated by Dr. Christina M. Ward, a Board-certified orthopedist, on November 13, 2018 for right wrist pain. She reported occasional discomfort in the wrist with heavy work, but noted on November 6, 2018 that she had performed an extended cleaning of a patient in a wheelchair and worked with her right wrist in an awkward flexed position. Dr. Ward diagnosed right ulnar wrist pain of uncertain etiology.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the September 17, 2019 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.*

On November 29, 2018 Dr. Andre G. Montoya-Barthelemy, a Board-certified general surgeon, treated appellant for significant ongoing pain in the ulnar right wrist. He noted that appellant reported working with a wheelchair-bound patient in an awkward position for one and a half hours. Dr. Montoya-Barthelemy assessed that appellant presented with right wrist pain due to work-related repetitive injury with unclear diagnosis. In a work excuse note dated November 29, 2018, he returned appellant to work with a wrist brace and restrictions of no use of the right hand.

In a December 5, 2018 note, Brooke D. Hovick, a certified physician assistant noted that appellant was treated on November 13, 2018 and would remain off work through December 18, 2018.

In a December 21, 2018 development letter, OWCP advised appellant that, when her claim was first received, it appeared to be a minor injury that resulted in minimal or no lost time from work. The claim was administratively approved to allow payment for limited medical expenses, but the merits of the claim had not been formally adjudicated. OWCP advised that, because appellant had requested authorization for surgery, her claim would now be formally adjudicated. It requested that she submit factual and medical information, including a comprehensive report from her physician regarding how a specific work incident contributed to her claimed injury. OWCP afforded appellant 30 days to submit the necessary evidence.

In work excuse notes dated November 8 and 15, 2018, Dr. Abrar returned appellant to work with a wrist brace and restrictions of no use of the right hand.⁴

In a return to work note dated November 13, 2018, Dr. Ward advised that appellant was disabled from work from November 13 to December 4, 2018.

A magnetic resonance imaging (MRI) scan of the right wrist dated December 11, 2018 revealed ulnar-sided lunate chondromalacia with cystic change in the proximal triquetrum consistent with ulnocarpal impaction syndrome, peripheral fraying of the triangular fibrocartilage complex (TFCC), radial volar right wrist ganglion cyst, and mild scaphoid, trapezium, and trapezoid (STT) joint osteoarthritis.

On December 14, 2018 Dr. Ward reviewed the MRI scan of the right wrist and diagnosed ulnar impaction syndrome with changes in the proximal lunate and triquetrum. She recommended an ulnar shortening osteotomy. In a note dated December 17, 2018, Dr. Ward advised that appellant was scheduled for hand surgery and would be off work two weeks after surgery.

By decision dated February 11, 2019, OWCP denied the claim, finding that the medical evidence of record failed to establish causal relationship between appellant's diagnosed medical conditions and the accepted November 6, 2018 employment incident.

⁴ Appellant filed several claims for compensation, (Form CA-7) for the period beginning December 19, 2018. OWCP informed appellant that, because her claim had not been accepted as work related, filing of a Form CA-7 was premature.

On March 13, 2019 appellant, through counsel, requested an oral hearing before an OWCP hearing representative which was held on June 5, 2019.

OWCP subsequently received a March 13, 2019 report, wherein Dr. Ward diagnosed ulnar impaction syndrome. Appellant reported intermittent symptoms in her right wrist over the years as a dental hygienist, but experienced an acute worsening of her pain and swelling after working several hours with a patient that required awkward positioning of her hand. Dr. Ward explained that this was a degenerative condition of the wrist which occurs when repetitive ulnar deviation and loading of the wrist causes repeated impact of the ulnar carpus on the distal end of the ulna. She advised that appellant's job as a hygienist required such positioning in order to hold instruments and work in tight space. Dr. Ward opined that the repetitive motion contributes to pain at the wrist from ulnar impaction syndrome. In an operative report dated May 7, 2019, she performed a right ulnar shortening osteotomy and diagnosed right ulnar impaction syndrome. In a July 23, 2019 work status note, Dr. Ward returned appellant to work on August 12, 2019 subject to restrictions.

Appellant attended physical therapy on May 20, 2019.

A June 25, 2019 x-ray of the right wrist revealed postoperative changes distal left ulna, soft tissue swelling was improved, and mild degenerative changes at the STT articulation. An x-ray of the right wrist dated July 23, 2019 revealed postoperative changes distal left ulna with side plate and screw fixation with new bone growth. An x-ray of the right wrist dated August 20, 2019 revealed no change in the postoperative findings.

On July 24, 2019 Dr. Ward prepared a supplemental report in support of appellant's claim. She related that on November 6, 2018 appellant's job required prolonged positioning of her wrist in flexion and rotation, which aggravated her ulnar impaction syndrome. Dr. Ward noted that appellant's symptoms did not improve with conservative care and she underwent surgical treatment. In a return to work note dated August 20, 2019, she reduced appellant's work restrictions through September 30, 2019.

By decision dated September 17, 2019, an OWCP hearing representative affirmed the February 11, 2019 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ has the burden of proof to establish the essential elements of his or her claim, including 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,⁶ 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

⁵ *Id.*

⁶ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

employment injury.⁷ 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.⁸

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁹

The medical evidence required to establish causal relationship between a claimed condition and a specific employment incident is rationalized medical opinion evidence.¹⁰ The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment incident identified by the employee.¹¹

In a case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹²

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right wrist condition causally related to the accepted November 6, 2018 employment incident.

In a November 13, 2018 report, Dr. Ward diagnosed right ulnar wrist pain of uncertain etiology. Appellant reported occasional discomfort in the wrist with heavy work, but noted that on November 6, 2018 she had an extended cleaning of a patient in a wheelchair and worked with her right wrist in an awkward flexed position. The Board has held, however, that pain is a

⁷ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁸ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁹ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁰ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹¹ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

symptom, not a specific medical diagnosis.¹³ Accordingly, Dr. Ward's November 13, 2018 report is insufficient to meet appellant's burden of proof.¹⁴

In a return to work note dated November 13, 2018, Dr. Ward advised that appellant was disabled from work from November 13 to December 4, 2018. Similarly, on December 17, 2018 she advised that appellant was scheduled for hand surgery and would be off work two weeks after surgery. In work status notes dated July 23 and August 20, 2019, Dr. Ward returned appellant to work subject to restrictions. In these notes, she did not provide an opinion as to whether a diagnosed condition was causally related to the accepted employment incident. The Board has held that medical evidence that does not include an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁵ These notes from Dr. Ward are, therefore, insufficient to establish appellant's claim.

Likewise, on December 14, 2018 Dr. Ward diagnosed ulnar impaction syndrome and on May 7, 2019 she performed a right ulnar shortening osteotomy. However, these documents do not address whether the accepted November 6, 2018 employment incident either caused or contributed to appellant's diagnosed conditions. As such, they too are of no probative value and are insufficient to meet appellant's burden of proof.¹⁶

On March 13, 2019 Dr. Ward diagnosed ulnar impaction syndrome. She noted that appellant reported intermittent symptoms in her wrist over the years as a dental hygienist, but experienced an acute worsening of her pain and swelling after working several hours with a patient that required awkward positioning of her hand. Dr. Ward explained that this was a degenerative condition of the wrist which occurs when repetitive ulnar deviation and loading of the wrist causes repeated impact of the ulnar carpus on the distal end of the ulna. She advised that appellant's job as a hygienist required such positioning to hold instruments and opined that the repetitive motion contributed to pain in the wrist from ulnar impaction syndrome. While Dr. Ward provided an opinion as to causal relationship in her report, she failed to explain with sufficient medical rationale how the accepted incident on November 6, 2018 either caused or contributed to her diagnosed conditions. The Board has consistently held that medical rationale is particularly necessary when there are preexisting conditions involving the same body part,¹⁷ and has required medical rationale differentiating between the effects of the work-related injury and the preexisting condition in such

¹³ Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012).

¹⁴ *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, *supra* note 6.

¹⁵ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁶ *Id.*

¹⁷ *K.R.*, Docket No. 18-1388 (issued January 9, 2019).

cases.¹⁸ Thus, the Board finds that this report from Dr. Ward is also insufficient to establish the claim.

On July 24, 2019 Dr. Ward provided a supplemental report in support of appellant's claim. She related that on November 6, 2018 appellant's job required prolonged positioning of her wrist in flexion and rotation which aggravated her ulnar impaction syndrome. However, Dr. Ward failed to provide rationale for her conclusion. As such this report is of limited probative value.¹⁹

Appellant submitted a November 7, 2018 report from Dr. Clouse for a right wrist injury that occurred on November 6, 2018. Dr. Clouse diagnosed right wrist tendinitis. In a November 7, 2018 work excuse note, she indicated that appellant was unable to work on November 7 and 8, 2018. In November 8 and 15, 2018 reports Dr. Abrar returned appellant to work with a wrist brace and restrictions. These reports are insufficient to establish the claim as the physicians did not address whether appellant's employment activities had caused or aggravated a diagnosed medical condition. As the Board has held, 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. As such, these reports are also insufficient to establish the claim.²⁰

In a November 15, 2018 report, Dr. Abrar assessed right wrist pain, diagnosis unclear. Her notes are insufficient to establish the claim as "pain" is a symptom and not a compensable medical diagnosis.²¹

In a draft report by Dr. Abrar dated November 8, 2018, he diagnosed right wrist tendinitis, possible ulnar collateral ligament injury. He noted that appellant reported that on November 6, 2018 she had an extended dental cleaning of a patient confined to a wheelchair and experienced right wrist pain. A report lacking a signature has no probative value.²²

On November 29, 2018 Dr. Montoya-Barthelemy assessed right wrist pain due to work-related "repetitive injury" with unclear diagnosis. Appellant reported working with a wheelchair bound patient in an awkward position for one and a half hours. In a work excuse note dated November 29, 2018, Dr. Montoya-Barthelemy returned appellant to work with a wrist brace and restrictions of no use of the right hand. The Board has held that pain is a symptom and not a compensable medical diagnosis. Therefore, Dr. Montoya-Barthelemy assessment of right wrist

¹⁸ See, e.g., *A.J.*, Docket No. 18-1116 (issued January 23, 2019); *M.F.*, Docket No. 17-1973 (issued December 31, 2018); *J.B.*, Docket No. 17-1870 (issued April 11, 2018); *E.D.*, Docket No. 16-1854 (issued March 3, 2017); *P.O.*, Docket No. 14-1675 (issued December 3, 2015).

¹⁹ *K.B.*, Docket No. 19-0398 (issued December 18, 2019).

²⁰ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

²¹ *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *J.P.*, *supra* note 13; *Joe D. Cameron*, *supra* note 6.

²² See *Z.G.*, 19-0967 (issued October 21, 2019); *D.D.*, 57 ECAB 734 (2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

pain is insufficient to establish entitlement to FECA benefits.²³ Additionally, he attributed appellant's condition to a "repetitive injury"; however, appellant filed a traumatic injury claim asserting that performing her dental hygienist duties on November 6, 2018 caused her injury.²⁴

OWCP received an MRI of the right wrist and several x-rays of the right wrist. The Board has held, however, that reports of diagnostic tests, standing alone, lack probative value as they do not provide an opinion on causal relationship between an employment incident and a diagnosed condition.²⁵

Appellant also submitted reports from a physical therapist and physician assistants. Certain healthcare providers such as physical therapists²⁶ and physician assistants²⁷ are not considered "physician[s]" as defined under FECA.²⁸ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.²⁹

Appellant has not submitted rationalized medical evidence establishing a right wrist condition causally related to the accepted November 6, 2018 accepted employment incident. As such, she 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.

²³ *Id.* Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (August 2012).

²⁴ *Supra* note 16.

²⁵ *See J.M.*, Docket No. 17-1688 (issued December 13, 2018).

²⁶ *V.W.*, Docket No. 16-1444 (issued March 14, 2017) (where the Board found that physical therapy reports do not constitute competent medical evidence because a physical therapist is not a "physician" as defined under FECA).

²⁷ *See S.E.*, Docket No. 08-2214 (issued May 6, 2009) (reports of a physician assistant have no probative value as medical evidence).

²⁸ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physician assistant or certified nurse practitioner will be considered medical evidence if countersigned by a qualified physician. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

²⁹ *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physician assistant or certified nurse practitioner will be considered medical evidence if countersigned by a qualified physician. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a right wrist condition causally related to a November 6, 2018 employment incident.

ORDER

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

Issued: June 25, 2020
Washington, DC

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

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

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