

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**D.J., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Lexington, NC, Employer**

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**Docket No. 18-0694  
Issued: March 16, 2020**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
CHRISTOPHER J. GODFREY, Deputy Chief Judge  
JANICE B. ASKIN, Judge

**JURISDICTION**

On February 13, 2018 appellant filed a timely appeal from a November 27, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

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

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that following the November 27, 2017 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.*

## **FACTUAL HISTORY**

On October 5, 2017 appellant, then a 38-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome due to factors of her federal employment and noting that her hands were sore and “that when a mailbox landed on top of her hand, it escalated the pain.” She identified May 6, 2017 as the date she first realized her condition was employment related and May 18, 2017 as the date she first became aware of the disease or illness. Appellant did not stop work.

On October 13, 2017 the employing establishment challenged appellant’s claim. It noted that she stated that she first became aware of the disease or illness on May 18, 2017, but that she realized her condition was employment related on May 6, 2017. The employing establishment further noted that the medical documentation she provided merely listed her diagnosis without indicating that the diagnosis was work related. It contended that appellant had not established fact of injury or causal relationship.

In an October 18, 2017 development letter, OWCP informed appellant that she had not submitted sufficient evidence to establish her claim. First, it noted that she had not identified the specific work activities she performed as a rural carrier which she believed had contributed to her claimed condition. OWCP also noted that appellant had not provided a physician’s opinion as to how employment activities caused, contributed to, or aggravated her medical condition. It requested additional information regarding the employment factor(s) allegedly responsible for her claimed condition, as well as information regarding any outside activities and/or prior injuries to her upper extremities. OWCP afforded appellant 30 days to submit the requested factual and medical evidence. It also sent a letter of even date to the employing establishment requesting information regarding her duties and work space.

A May 18, 2017 radiographic evaluation of appellant’s right hand and left wrist revealed no acute fractures or malalignment and unremarkable soft tissues.

In a report dated May 18, 2017, Dr. Slade C. Moore, a Board-certified orthopedic surgeon, examined appellant for complaints of bilateral wrist pain, numbness, and tingling, as well as a right hand injury. He noted that she was a mail carrier and that her symptoms had increased at work. Appellant described her symptoms of numbness and tingling, right more than left, that could wake her up at night. On examination of appellant’s right upper extremity, Dr. Moore noted a positive carpal compression test with no atrophy or weakness, in addition to mildly diminished sensation to light touch in the median nerve distribution of the right upper extremity and a mildly positive Phalen’s test. On examination of her left upper extremity, he found no diminished sensation to touch and no positive tests. Dr. Moore examined x-rays of the right hand and wrist as well as an x-ray of the left wrist, which revealed no significant degenerative findings, no bony lesions, and no fractures. He diagnosed right carpal tunnel syndrome. Dr. Moore administered a cortisone injection to the right wrist.

In a report dated May 31, 2017, Dr. Walter Harrill Wray, III, a Board-certified orthopedic surgeon, examined appellant for complaints of bilateral hand pain.<sup>3</sup> He noted that she complained

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<sup>3</sup> The Board notes that this report was generated by a physician assistant, but cosigned by Dr. Wray.

of a worsening of symptoms in both wrists over the last two weeks that had impacted her work as a mail carrier due to numbness in her hands when she drove or carried packages. Dr. Wray diagnosed bilateral carpal tunnel syndrome and placed an order for an electromyogram and nerve condition velocity (EMG/NCV) study.

In an EMG/NCV study dated June 23, 2017, Dr. Richard D. Bey, a Board-certified neurologist, observed findings indicating moderately severe bilateral carpal tunnel syndrome. He noted that median motor nerve conduction studies revealed prolonged latency with normal amplitudes bilaterally with bilateral median palmar sensory responses revealing prolonged latency with decreased amplitudes.

In a report dated August 30, 2017, Dr. Wray noted that appellant indicated that the pain and numbness in her hands had worsened over the prior few months, without relief from wrist splits or nonsteroidal anti-inflammatory drugs.<sup>4</sup> He observed that EMG/NCV testing revealed moderate-to-severe bilateral carpal tunnel syndrome. On examination of the bilateral upper extremities, Dr. Wray noted bilateral decreased grip strength, bilateral positive median nerve compression tests, and bilateral positive Phalen's tests. He scheduled carpal tunnel release procedures for appellant's bilateral upper extremities and noted that she would likely be out of work until six weeks postsurgery on the left hand.

In a statement dated October 31, 2017, appellant noted that on May 6, 2017 a mailbox which did not latch had fallen on top of her right hand between the thumb and wrist, causing two prominent lumps on top of the hand, which were still present. She noted that the lumps were very sore and that, while the palms of her hands had hurt in the past, she had attributed this to normal pain from hard work. After the incident with the mailbox landing on her hand on May 6, 2017, appellant's pain, numbness, and weakness had increased. Appellant lost sleep, but continued at work with her duties including pushing, pulling, lifting heavy parcels, casing mail, flipping through delivery point sequences, and steering an automobile, which affected her hand conditions substantially. She clarified that the incident on May 6, 2017 had not caused her carpal tunnel syndrome, but it was the reason she had discovered that she had carpal tunnel syndrome.

By decision dated November 27, 2017, OWCP denied appellant's occupational disease claim finding that she had not established a causal relationship. It noted that the May 31 and August 30, 2017 reports were not considered supporting medical evidence because they were not signed by a qualified physician as defined by FECA.

### **LEGAL PRECEDENT**

A claimant seeking benefits under FECA<sup>5</sup> 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 filed within the applicable time limitation period

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<sup>4</sup> This report was also generated by a physician assistant, but cosigned by Dr. Wray.

<sup>5</sup> *Supra* note 1.

of FECA,<sup>6</sup> that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>7</sup> 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.<sup>8</sup>

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.<sup>9</sup>

Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue.<sup>10</sup> A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background.<sup>11</sup> Additionally, the physician's opinion must be 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 factors.<sup>12</sup>

### ANALYSIS

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

In a May 18, 2017 report, Dr. Moore diagnosed right carpal tunnel syndrome. He noted that appellant worked as a mail carrier and had experienced increased symptoms with her work. Such a generalized statement does not constitute probative medical evidence in support of causal relationship because he merely repeated the history of injury as reported by appellant without providing his own opinion regarding whether the condition was work related.<sup>13</sup> Dr. Moore failed to provide a rationalized opinion explaining the causal relationship between the diagnosed right

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<sup>6</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

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

<sup>8</sup> *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).

<sup>9</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>10</sup> *See A.L.*, Docket No. 19-1122 (issued January 7, 2020); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>11</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, *supra* note 9.

<sup>12</sup> *Id.*

<sup>13</sup> *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *P.S.*, Docket No. 15-976 (issued August 17, 2015).

carpal tunnel syndrome and factors of appellant's employment.<sup>14</sup> As such, Dr. Moore's May 18, 2017 report is not sufficient to meet appellant's burden of proof.

Dr. Wray provided reports dated May 31 and August 30, 2017. He, however, did not provide medical rationale for his opinion. The Board has held that a medical opinion is of limited value if it is conclusory in nature.<sup>15</sup> A medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.<sup>16</sup> Without this explanation, Dr. Wray's reports are insufficient to meet appellant's burden of proof to establish her claim.

The June 23, 2017 EMG/NCV did not address the cause of appellant's reported bilateral median nerve abnormalities. The Board has held that diagnostic studies lack probative value on the issue of causal relationship as they do not address whether an employment factor caused any of the diagnosed conditions.<sup>17</sup>

As appellant has not submitted any rationalized medical evidence to establish causal relationship, she has not met her burden of proof to establish her claim.<sup>18</sup>

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 carpal tunnel syndrome causally related to the accepted factors of her federal employment.

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<sup>14</sup> See *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *I.J.*, 59 ECAB 408, 415 (2008).

<sup>15</sup> *B.H.*, Docket No. 18-1219 (issued January 25, 2019).

<sup>16</sup> *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *A.B.*, Docket No. 16-1163 (issued September 8, 2017).

<sup>17</sup> *J.P.*, Docket No. 19-0216 (issued December 13, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

<sup>18</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 27, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 16, 2020  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board