

ISSUE

The issue is whether appellant has met her burden of proof to establish that the acceptance of her claim should be expanded to include tendinitis of flexor and extensor tendons of the thumb as causally related to her accepted January 8, 2019 employment injury.

FACTUAL HISTORY

On January 8, 2019 appellant, then a 52-year-old registered nurse, filed a traumatic injury claim (Form CA-1) alleging that on that day she was involved in a motor vehicle accident and sustained a concussion and injured her right hip, bilateral knees, and right shoulder while in the performance of duty. OWCP accepted her claim for concussion without loss of consciousness and later expanded her claim to include aggravation of acromioclavicular (AC) joint, arthropathy of the right shoulder, rotator cuff tendinopathy of the right shoulder, contusion of the right shoulder, strain of the right shoulder, contusion of the right hip, contusion of the right knee, and contusion of the right wrist.³ Appellant stopped work on January 8, 2019 and returned to work full-time light duty on January 14, 2019. She was paid on the supplemental rolls for the periods April 17 to 22, 2019, April 28 to May 25, 2019 and June 9 to June 22, 2019.

Appellant submitted emergency room notes from Dr. Glen Harden, Board-certified in emergency medicine, dated January 8, 2019. She reported driving through an intersection when she was “T-boned” on the passenger side by another vehicle. Dr. Harden reported that she had some discomfort in the distal right thumb and there was a little bit of blood. He observed that it looked like her fingernail might have been distracted slightly, but there was no deformity. Dr. Harden also observed tenderness about the right hip and both knees. He diagnosed grade two concussion and various aches, strains, and muscle pains secondary to motor vehicle accident.

In a statement dated May 1, 2019, appellant provided a summary of her injuries sustained during the January 8, 2019 accident. She reported persistent abdomen pain that necessitated an emergency room visit on January 11, 2019 and submitted a computerized tomography scan which revealed an unresolved contusion consistent with a seatbelt injury. Appellant noted that she continued to have residuals of her concussion in the form of difficulty with emotional dysregulation, headaches, dizziness, and tinnitus. She noted left posterior shoulder pain where the seatbelt was secured, right shoulder bicep pain, and left knee pain which was slowly resolving. Appellant complained of bilateral thumb pain which was not improving.

Appellant attended physical therapy treatment from May 23 to July 25, 2019.

³ On March 8, 2019 OWCP further developed appellant’s claim which included referring her to Dr. Paul Cederberg, a Board-certified orthopedic surgeon, for a second opinion examination and opinion on appellant’s employment-related conditions and disability. In a May 9, 2019 medical report, Dr. Cederberg diagnosed contusion and strain of the right shoulder, contusion of the right hip and knee, contusion of the right wrist, and grade II concussion, resolved. In an addendum report dated June 19, 2019, he opined that the aggravation of the right shoulder ceased as of June 10, 2019. On July 2, 2019 Dr. Cederberg opined that the right shoulder injury had not resolved as of June 10, 2019 and additional treatment was needed for the temporary aggravation of the right shoulder. He did not evaluate appellant’s complaints of tenderness in the right anterior biceps of the shoulder and her thumbs.

On July 12, 2019 Dr. Mathew A. Shehan, a Board-certified internist, treated appellant for injuries sustained in a motor vehicle accident that occurred on January 8, 2019. Appellant reported persistent discomfort in her left thumb. Dr. Shehan opined that it was “probably” related to tendinitis of flexors and extensor tendons of her thumb. He noted that appellant did not have these symptoms prior to the accident and opined that they were directly related to the injury sustained in the motor vehicle accident.

In a development letter dated August 16, 2019, OWCP advised appellant that Dr. Shehan’s report was insufficient and informed her of the type of evidence required to support that the acceptance of her claim should be expanded to include her recent diagnosis of tendinitis of the flexor and extensor tendons of her thumb, including a rationalized medical report explaining how the diagnosed condition was caused or aggravated by her accepted employment injury. It afforded her 30 days to submit the necessary evidence.

On August 20, 2019 Dr. David B. Jones, a Board-certified orthopedist, evaluated appellant for bilateral thumb injuries. Appellant reported being involved in a motor vehicle accident on January 8, 2019 in which she had her hands on the steering wheel and sustained a significant impact with the immediate onset of pain. Appellant reported improvement with the right thumb, but persistent pain of the left thumb localized about the metacarpophalangeal (MCP) joint. His physical examination revealed tenderness about the MCP joint and the radial and ulnar collateral ligament. Dr. Jones noted that x-rays of the left thumb were negative for fracture or subluxation. He diagnosed left thumb MCP joint injury with “possible volar plate versus ulnar collateral ligament avulsion” and recommended a magnetic resonance imaging scan. In a return to work form of even date, Dr. Jones advised that appellant could return to work without limitations on August 20, 2019.

In a statement dated August 26, 2019, appellant reported continued complaints of bilateral thumb pain since her January 8, 2019 employment injury. She indicated that her left thumb injury was not a new complaint, as she first reported pain in her left thumb when she visited the emergency department immediately following her accident. Appellant noted that it was her belief that the bilateral thumb injuries were a result of the manner in which her thumbs rested on the steering wheel at the time of the accident.

By decision dated September 18, 2019, OWCP denied expansion of the acceptance of appellant’s claim, finding that the medical evidence of record was insufficient to establish that the additional condition of tendinitis of flexor and extensor tendons of the thumb is causally related to the accepted January 8, 2019 employment injury.

LEGAL PRECEDENT

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.⁴

⁴ See *T.F.*, Docket No. 17-0645 (issued August 15, 2018); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

To establish causal relationship, the employee must submit rationalized medical opinion evidence.⁵ 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 accepted employment injury.⁶ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁷

ANALYSIS

The Board finds that appellant has not established that the acceptance of her claim should be expanded to include tendinitis of the flexor and extensor tendons of her thumb as causally related to her accepted January 8, 2019 employment injury.

OWCP accepted that appellant sustained a concussion without loss of consciousness, aggravation of AC joint, arthropathy of the right shoulder, rotator cuff tendinopathy of the right shoulder, contusion of the right shoulder, strain of the right shoulder, contusion of the right hip, contusion of the right knee, and contusion of the right wrist while in the performance of duty. By decision dated September 18, 2019, it denied her request to expand the acceptance of her claim to include tendinitis of the flexor and extensor tendons of her thumb.

In support of her request for claim expansion, appellant submitted a July 12, 2019 report from Dr. Shehan who treated her for persistent discomfort in her left thumb following a motor vehicle accident that occurred on January 8, 2019. Dr. Shehan opined that it was "probably" related to tendinitis of flexors and extensor tendons of her thumb. He noted that appellant was asymptomatic prior to the accident and therefore he concluded that these symptoms were directly related to the motor vehicle accident. The Board has held that the mere fact that symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between a diagnosed condition and employment factors.⁸ A medical opinion must provide an explanation of how the specific employment incident or employment factors physiologically caused or aggravated the diagnosed conditions.⁹ Further, the Board has held that medical opinions that suggest that a condition was "probably" caused by work activities are speculative or equivocal in character and have limited probative value.¹⁰ As such, this report from Dr. Shehan did not offer a rationalized medical opinion explaining causal relationship and is insufficient to establish appellant's claim to expand the accepted conditions.

⁵ See *S.A.*, Docket No. 18-0399 (issued October 16, 2018).

⁶ See *P.M.*, Docket No. 18-0287 (issued October 11, 2018).

⁷ *Id.*

⁸ *A.S.*, Docket No. 19-1955 (issued April 9, 2020).

⁹ *G.L.*, Docket No. 18-1057 (issued April 14, 2020).

¹⁰ *J.W.*, Docket No. 18-0678 (issued March 3, 2020).

On August 20, 2019 Dr. Jones discussed appellant's motor vehicle accident of January 8, 2019 in which she sustained a significant impact to her hands and an immediate onset of pain. He diagnosed left thumb MCP joint injury with "possible" volar plate versus ulnar collateral ligament avulsion. However, Dr. Jones' opinion that appellant sustained a "possible" volar plate versus ulnar collateral ligament avulsion is not a definitive opinion, but rather, speculative in nature and thus of diminished probative value.¹¹ In a return to work form of even date, Dr. Jones advised that appellant could return to work without limitations on August 20, 2019. This report is of no probative value as to whether acceptance of the claim should be expanded as it does not address the additional diagnosed conditions. The Board has 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.¹² Thus, Dr. Jones' evidence is insufficient to meet appellant's burden of proof.

The record contained reports from a physical therapist. This evidence has no probative value, however, because physical therapists are not considered physicians as defined under FECA.¹³

Appellant also submitted diagnostic testing reports. The Board has held that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.¹⁴

The Board thus finds that appellant has not met her burden of proof to establish that the acceptance of her claim should be expanded to include tendinitis of flexor and extensor tendons of the thumb as causally related to the accepted January 8, 2019 employment injury.

On appeal appellant asserts that she submitted sufficient evidence to support expansion of her claim to include her left thumb. As explained above, the evidence of record does not contain sufficient medical rationale to expand appellant's claim to include additional diagnosed conditions.

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.

¹¹ *D.C.*, Docket No. 18-1358 (issued June 13, 2019).

¹² *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ 5 U.S.C. § 8102(2) of FECA provides as follows: (2) physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. *See also Roy L. Humphrey*, 57 ECAB 238 (2005). *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); 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *Jane A. White*, 34 ECAB 515, 518 (1983) (physical therapists are not considered physicians under FECA).

¹⁴ *J.P.*, Docket No. 19-0216 (issued December 13, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017) (diagnostic tests, lack probative value as they fail to provide an opinion on the causal relationship).

CONCLUSION

The Board finds that appellant has not established that the acceptance of her claim should be expanded to include additional conditions as causally related to the accepted January 8, 2019 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the September 18, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 9, 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