United States Department of Labor
Employees' Compensation Appeals Board

A.B., Appellant	)	
and	)	**Docket No. 20-0971**
	)	**Issued: January 26, 2021**
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Cleveland, OH, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On April 1, 2020 appellant, through counsel, filed a timely appeal from a February 26, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id*.; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a right elbow, wrist, or hand condition causally related to the accepted May 15, 2019 employment incident.

FACTUAL HISTORY

On July 11, 2019 appellant, then a 22-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on May 15, 2019 she injured her hands and developed carpal tunnel syndrome (CTS) in the right wrist and arm due to continuous grabbing and pulling mail while in the performance of duty.[3]

In a May 16, 2019 duty status report (Form CA-17), an unidentifiable healthcare provider provided work restrictions. In a May 20, 2019 work restrictions note, the same unidentifiable healthcare provider indicated that appellant could return to work with restrictions from May 17 to July 31, 2019.

In a June 30, 2019 statement, appellant indicated that she missed days from work due to appointments and pain in her hands. In a July 11, 2019 statement, she explained that she was working on May 15, 2019 when her hands cramped up and made it hard for her to continue working. The following day, appellant sought treatment with her physician, who suggested she might have arthritis. She indicated that she then notified her supervisor of her injury and was sent home. In a July 12, 2019 statement, appellant noted that she had a follow-up appointment on June 28, 2019 and received cortisone injections in her wrists on June 29, 2019. She asserted that the employing establishment notified her that no job was available for her current conditions.

In a development letter dated July 16, 2019, OWCP informed appellant of the deficiencies in her claim. It advised her of the type of factual and medical evidence needed to establish her claim, asked that she clarify whether she was claiming a traumatic injury or an occupational disease, and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In a July 24, 2019 response to OWCP's questionnaire, appellant asserted that her position as a mail processor clerk contributed to her current conditions. She noted that her shift typically began at 11:00 p.m. and ended between 6:00 a.m. and 6:30 a.m. Appellant described her work duties to include the constant motions of lifting and grabbing. She indicated that she typically retrieved mail from up to 215 to 238 bins. Appellant asserted that on the day of her injury her ring and pinky fingers went numb at random moments, and her wrist was constantly in pain or aching when performing her usual daily activities. She acknowledged that she previously had a boxer's fracture on the same hand in 2013, but it had resolved and she had no other problems before the alleged May 15, 2019 employment incident. Appellant also indicated that she had never been diagnosed with arthritis. She clarified that she was claiming a traumatic injury caused by the alleged May 15, 2019 employment incident, explaining that she experienced a sharp pain shooting from her wrist to elbow while lifting a tray. Appellant explained that she delayed filing her claim

[3] The claim form indicates that appellant stopped work, but the date is illegible.

because she did not receive the proper paperwork from her supervisor. She indicated that she did not participate in any significant activities outside her job.

In a July 30, 2019 medical report, Erik Johnson, a certified physician assistant, noted that appellant presented with right elbow, wrist, and hand injuries, which she sustained at work on May 16, 2019 between 12:00 a.m. and 1:00 a.m. when she lifted a heavy tray and pain shot from her wrist to her elbow. He conducted a physical examination and diagnosed right carpal tunnel syndrome and right cubital tunnel syndrome.

In an August 1, 2019 medical report, Mr. Johnson noted that appellant returned for a recheck of her right wrist. Appellant reported that her pain had increased since the last visit. Mr. Johnson reiterated his diagnoses. In an August 9, 2019 medical report, he noted his findings and diagnoses.

In an August 16, 2019 medical report, Maureen Doolan, a certified physician assistant, noted that appellant had throbbing and achy pain in her right wrist and had been wearing a wrist brace. She diagnosed right carpal tunnel syndrome and right cubital tunnel syndrome.

By decision dated August 26, 2019, OWCP denied appellant's traumatic injury claim, finding that she had not established causal relationship between her diagnosed conditions and the accepted May 15, 2019 employment incident.

OWCP subsequently received additional evidence. In a June 24, 2019 medical report, Dr. Scott Ciaccia, an orthopedic hand surgeon, noted that appellant presented for evaluation of her bilateral upper extremities. Appellant indicated that she experienced numbness and tingling in the hands, right worse than left. She denied any discrete injury, noting that she felt that her activities at work made her more symptomatic. Dr. Ciaccia indicated that appellant's work required performing repetitive activities. He also indicated that she previously had a closed fracture and experienced ongoing hand pain. Dr. Ciaccia diagnosed bilateral carpal tunnel syndrome and cubital tunnel syndrome.

In a July 25, 2019 medical report, Dr. Ciaccia indicated that appellant received a steroid injection in both hands, but noted that her pain, numbness, and tingling continued in her right hand. He again diagnosed bilateral carpal tunnel syndrome and noted that appellant had swelling in her right third metacarpophalangeal (MCP) joint in the absence of a discrete injury. Dr. Ciaccia also noted that appellant experienced numbness and tingling in the ulnar nerve consistent with mild cubital tunnel syndrome.

In an August 2, 2019 letter, an unidentifiable healthcare provider noted that appellant was diagnosed with carpal tunnel syndrome, which worsened with repetitive motions.

Ms. Doolan, in medical reports dated from August 5 to September 3, 2019, noted that repetitive motions made appellant's pain worse and reiterated her diagnoses.

In a November 25, 2019 medical report, Dr. Dominic Haynesworth, an emergency medicine specialist, noted that appellant injured herself while lifting a tray of mail. He indicated that appellant was working with restrictions. Dr. Haynesworth conducted a physical examination and diagnosed unspecified right elbow and right wrist sprains. He opined, within a reasonable

degree of medical certainty, that the diagnosed conditions were causally related to the initial May 15, 2019 employment incident. In a Form CA-17 of even date, Dr. Haynesworth provided work restrictions.

On December 9, 2019 appellant requested reconsideration.

In a December 24, 2019 medical report, Sarah Williams, a certified nurse practitioner (CNP), conducted a physical examination and diagnosed unspecified right elbow and right wrist sprains.

In a January 21, 2020 medical report, Jennifer Miller, a CNP, also diagnosed unspecified right elbow and right wrist sprains.

By decision dated February 26, 2020, OWCP denied modification of the August 26, 2019 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] 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,[5] 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 employment injury.[6] 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.[7]

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. Second component is whether the employment incident caused a personal injury and can be established only by medical evidence.[8]

[4] *Supra* note 2.

[5] *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).

[6] *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).

[7] *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).

[8] *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).

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[9] 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 factors identified by the employee.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right elbow, wrist, or hand condition causally related to the accepted May 15, 2019 employment incident.

In a November 25, 2019 medical report, Dr. Haynesworth diagnosed unspecified right elbow and right wrist sprains and opined, to a reasonable degree of medical certainty, that they were causally related to the initial May 15, 2019 employment incident. The Board finds that, although he supported causal relationship, he did not provide medical rationale explaining the basis of his conclusory opinion. The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.[11] Therefore, Dr. Haynesworth's November 25, 2019 report is insufficient to establish appellant's claim.

In medical reports dated June 24 and July 25, 2019, Dr. Ciaccia diagnosed bilateral carpal tunnel syndrome and cubital tunnel syndrome. These reports, however, do not address whether appellant's diagnosed conditions were caused or aggravated by the May 15, 2019 employment incident. Likewise, Dr. Haynesworth, in his November 25, 2019 Form CA-17, provided work restrictions, but did not provide an opinion on the cause of appellant's conditions. 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.[12] As such, these reports are also insufficient to establish appellant's claim.

The record also contains reports from certified physician assistants and nurse practitioners. Certain healthcare providers such as physician assistants, nurse practitioners, and physical

[9] *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).

[10] *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).

[11] *J.W.*, Docket No. 18-0678 (issued March 3, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[12] *See D.M.*, Docket No. 19-1968 (issued August 28, 2020); *L.B.*, *id*.; *D.K.*, *id.*

therapists are not considered physicians as defined under FECA.[13] Consequently, these reports will not suffice for purposes of establishing entitlement to FECA benefits.[14]

Finally, appellant also submitted a May 16, 2019 Form CA-17, a May 20, 2019 work restrictions note, and an August 2, 2019 letter. However, these documents contained illegible signatures from an unidentifiable healthcare providers. The Board has held that reports that bear illegible signatures cannot be considered probative medical evidence because they lack proper identification that the author is a physician.[15] Accordingly, these documents are also insufficient to satisfy appellant's burden of proof to establish her claim.

As the medical evidence of record does not include a rationalized opinion explaining how the accepted May 15, 2019 employment incident caused appellant's diagnosed conditions, the Board finds that 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish right a right elbow, wrist, or hand condition causally related to the accepted May 15, 2019 employment incident.

[13] Section 8101(2) of FECA provides that medical opinions can only be given by a qualified physician. This section defines a physician as 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 M.M.*, Docket No. 20-0019 (issued May 6, 2020); *K.W.*, 59 ECAB 271, 279 (2007); *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); *see also C.P.*, Docket No. 19-1716 (issued March 11, 2020) (physician assistants are not considered physicians as defined under FECA); *S.L.*, Docket No. 19-0603 (issued January 28, 2020) (nurse practitioners are not considered physicians as defined under FECA).

[14] *Id*.

[15] *J.P.*, Docket No. 19-0197 (issued June 21, 2019).

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 26, 2021
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