



## ISSUE

The issue is whether appellant has met her burden of proof to establish a diagnosed medical condition causally related to the accepted factors of her federal employment.

## FACTUAL HISTORY

On March 17, 2021 appellant, then a 48-year-old support services administrator, filed a traumatic injury claim (Form CA-1) alleging that she sustained an injury on March 2, 2020 to her hands, neck, and shoulders while in the performance of duty. She asserted that she felt a burning sensation and pop in both hands when moving computers at work in March 2020, and that she developed cramping, pain, and numbness in her hands, as well as pain and burning sensation in her neck and shoulders. Appellant also implicated typing duties on March 16, 2021 as causing injury and described the claimed “nature of injury” as bilateral carpal tunnel syndrome, and strains of the hands, neck, and shoulders. She stopped work on or about the time she filed her claim.

Appellant submitted a July 31, 2020 form completed by Dr. Troy Tada, an osteopath Board-certified in anesthesiology, as part of her request for work accommodation. Dr. Tada detailed appellant’s complaints, which included pain of the neck and shoulders, and severe upper extremities intermittent numbness, burning, and tingling from the neck to the fingers. He opined that appellant’s severe pain limited her functioning and required her to rest for 10 minutes at times.

In a March 25, 2021 report, Susan G. Suer, a physician assistant, diagnosed bilateral carpal tunnel syndrome and adjustment disorder with mixed anxiety and depressed mood.

In a March 29, 2021 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her as to the type of additional factual and medical evidence required and provided a questionnaire for her completion. OWCP noted that appellant had described a condition that she claimed had developed over a period of more than a year and it later indicated that it was developing her claim as one for an occupational disease.<sup>3</sup> OWCP afforded appellant 30 days to respond.

In response, appellant asserted that the pain in her neck and hands had worsened over a period of time and made it hard to fully perform her work. She reported that she experienced increased pain and burning sensation in her neck and hands after typing at work for 8 to 10 hours.

Appellant submitted an April 1, 2021 note from Renae Gibbs, a certified nursing assistant, who indicated that appellant could work four or five hours per day for four weeks commencing April 5, 2021. Ms. Gibbs also indicated that appellant should have 4 breaks of 15 minutes each per workday.

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<sup>3</sup> The Board notes that a traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment over a period longer than a single workday or shift. 20 C.F.R. §§ 10.5(q), (ee); *R. V.*, Docket No. 18-1037 (issued March 26, 2019); *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

In an April 8, 2021 work restriction profile form report, Dr. Clayton Everline, a Board-certified internist, advised that appellant could perform full-time modified-duty work with restrictions, including intermittently lifting/carrying no more than 21 pounds. He diagnosed neck muscle and thoracic myofascial strains, muscle spasm, hyperalgesia, and somatic dysfunction of the thoracic, cervical, and lumbar regions.

In an April 21, 2021 report, Dr. Frederick O'Brien, a Board-certified orthopedic surgeon, advised that appellant could return to work for four hours per day with a 15-minute break for every hour that she worked. He noted that she was given splints to help with her "condition." In a duty status report (Form CA-17) of even date, Dr. O'Brien listed a "date of injury" of March 15, 2021 and noted that appellant reported sustaining neck and back injuries due to moving computers for work purposes on March 2, 2020. He provided a diagnosis "due to injury" of carpal tunnel syndrome and indicated that she could work for four hours per day with restrictions.

Appellant submitted reports from Rafael Salazar, a physical therapist, who described therapy sessions held on April 6, 9, 15, 20, and 28, 2021. She also submitted an April 15, 2021 report from Brittney Harrell, a physical therapist.

By decision dated May 10, 2021, OWCP accepted appellant's claimed employment factors, including moving computers and typing. However, it denied her occupational disease claim as it found that the medical evidence was insufficient to establish that the medical conditions diagnosed were causally related to the accepted employment factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish 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 filed with the applicable time limitation, 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>5</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> *E.S.*, Docket No. 18-1580 (issued January 23, 2020); *M.E.*, Docket No. 18-1135 (issued January 4, 2019); *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>6</sup> *E.S.*, *id.*; *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>7</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>9</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 factor(s).<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition causally related to the accepted factors of her federal employment.

Appellant submitted a July 31, 2020 form report from Dr. Tada who opined that she reported severe pain limited her functioning and required her to rest for 10 minutes at times. The Board finds that this report is of no probative value regarding her occupational disease claim because he did not provide an opinion regarding causal relationship between her diagnosed conditions and the accepted employment factors. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.<sup>11</sup> Therefore, this report is insufficient to establish appellant's occupational disease claim.

In an April 8, 2021 form report, Dr. Everline indicated that appellant could perform full-time modified-duty work with restrictions, including intermittently lifting/carrying no more than 21 pounds. He diagnosed neck muscle and thoracic myofascial strains, muscle spasm, hyperalgesia, and somatic dysfunction of the thoracic, cervical, and lumbar regions. In an April 21, 2021 report, Dr. O'Brien advised that appellant could return to work for 4 hours per day with a 15-minute break for every hour that she worked. He noted that she was given splints to help with her "condition." However, these reports are of no probative value regarding appellant's occupational disease claim because neither Dr. Everline nor Dr. O'Brien provided an opinion on the cause of a diagnosed medical condition. As stated above, the Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability

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<sup>7</sup> *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>8</sup> *W.M.*, Docket No. 14-1853 (issued May 13, 2020); *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

<sup>10</sup> *Id.*; *Victor J. Woodhams*, *supra* note 7.

<sup>11</sup> *T.H.*, Docket No. 18-0704 (issued September 6, 2018). *See also L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

is of no probative value on the issue of causal relationship.<sup>12</sup> Therefore, these reports are insufficient to establish appellant's occupational disease claim.

In an April 21, 2021 Form CA-17, Dr. O'Brien listed a "date of injury" of March 15, 2021, noting that appellant reported sustaining neck and back injuries due to moving computers for work purposes on March 2, 2020 and diagnosed "due to injury" of carpal tunnel syndrome with restrictions that she could work for four hours per day. Although he referenced her work duties, he failed to provide a rationalized medical opinion relating the diagnosed upper extremity condition to the noted employment factors. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.<sup>13</sup> Therefore, this report is insufficient to establish appellant's claim.

Appellant submitted a March 25, 2021 report from Ms. Suer, a physician assistant, and an April 1, 2021 note from Ms. Gibbs, a certified nursing assistant. She also submitted reports from Mr. Salazar, an occupational therapist, dated April 6, 9, 15, 20, and 28, 2021, and an April 15, 2021 report from Ms. Harrell, a physical therapist. However, certain healthcare providers such as physician assistants, nurses, nurse practitioners, physical/occupational therapists, nursing assistants, and social workers are not considered "physician[s]" as defined under FECA.<sup>14</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

As appellant has not submitted rationalized medical evidence establishing that her diagnosed medical conditions were causally related to the accepted factors of her federal employment, the Board finds that she has not met her burden of proof to establish her claim.

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 a diagnosed medical condition causally related to the accepted factors of her federal employment.

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

<sup>13</sup> *See Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

<sup>14</sup> 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* 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); *see also R.L.*, Docket No. 19-0440 (issued July 8, 2019) (nurse practitioners and physical therapists are not considered physicians under FECA).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 10, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 22, 2021  
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