

ISSUE

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

FACTUAL HISTORY

On November 9, 2020 appellant, then a 46-year-old mail handler technician, filed an occupational disease claim (Form CA-2) alleging that she developed right carpal tunnel syndrome (CTS) due to factors of her federal employment. OWCP assigned this claim File No. xxxxxx998.³ Appellant noted that she first became aware of her condition on October 3, 2017 and realized its relationship to her federal employment on November 3, 2020.

In a November 3, 2020 statement, appellant noted that she underwent an electromyogram/nerve conduction velocity (EMG/NCV) study on October 3, 2020, which diagnosed right CTS due to repetitive motion of her right hand and wrist including gripping, lifting, pushing, and grasping equipment, tubs, and letter trays. Additionally, she noted that her thumb had been locking up.

OWCP, in a November 23, 2020 development letter, informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide a copy of appellant's position description and physical requirements of her job. It afforded both parties 30 days to respond. No additional evidence was received from either party.

By decision dated December 28, 2020, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish the alleged factors of employment, therefore, the factual component of fact of injury had not been established. It concluded, therefore, that she had not met the requirements to establish an injury as defined under FECA.

On January 6, 2021 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

OWCP subsequently received medical evidence by Dr. Prem Parmar, an attending Board-certified orthopedic surgeon. In a letter dated May 3, 2017, Dr. Parmar noted a history of appellant's April 22, 2017 employment injury and reported findings on physical examination. He provided an impression that she probably re-aggravated her previous work-related right shoulder injury.

³ The record indicates that a appellant has prior claims. In OWCP File No. xxxxxx209, OWCP accepted her May 29, 2001 traumatic injury claim (Form CA-1) for right shoulder/upper arm/rotator cuff sprain. In a December 5, 2002 decision, OWCP granted appellant a schedule award for eight percent permanent impairment of the right upper extremity. In OWCP File No. xxxxxx328 OWCP accepted her April 22, 2017 traumatic injury claim for cervical strain at the right trapezius muscle. *See infra* note 4.

In progress notes dated May 3, 2017 through February 3, 2021, Dr. Parmar discussed findings on physical examination of appellant's shoulders and hands. In an October 14, 2020 progress note, he provided an assessment that she was *status quo* with respect to her right and left shoulders. Dr. Parmar also assessed that appellant had right CTS based on an EMG/NCV study, his physical examination findings, and her complaints of discomfort radiating proximally and numbness and tingling in her hand. Further, he provided an assessment that she had right thumb A1 pulley pain. Dr. Parmar opined that appellant's right CTS and right trigger thumb were caused by her repetitive work duties of gripping, grasping, pulling, and pushing that she performed over the past two decades.

In work status notes also dated May 3, 2017 through February 3, 2021, Dr. Parmar diagnosed right shoulder impingement. He advised that appellant could return to work with the temporary restrictions of no use of her right arm above the chest, and no lifting, pushing, or pulling more than 20 pounds.

OWCP also received diagnostic test reports. In an October 3, 2017 cervical spine magnetic resonance imaging (MRI) scan report, Dr. Jeffrey Herman, a Board-certified diagnostic radiologist, provided impressions of minimal annular disc bulging resulting in mild central canal stenosis and mild bilateral foraminal narrowing at C3-4; and mild broad-based posterior disc osteophyte formation and bilateral uncovertebral osteophyte formation resulting in moderate left foraminal narrowing, mild right foraminal narrowing, and mild central at C5-6.

Dr. Scott Sher, a Board-certified diagnostic radiologist, performed a right shoulder MRI scan arthrogram on October 20, 2017 and provided impressions of possible minimal supraspinatus tendinopathy without a tendon tear, no labral tear, and possible minimal subdeltoid/subacromial bursitis.

In an October 7, 2020 diagnostic test report, Dr. Kelly Own, a Board-certified physiatrist, indicated that an EMG/NCV study of appellant's right upper extremity revealed moderate right median sensorimotor neuropathy across the wrist, and no electrodiagnostic evidence of cervical radiculopathy, brachial plexopathy, or peripheral neuropathy.

During the telephonic hearing held on April 19, 2021, appellant again described the repetitive work duties to which she attributed her claimed conditions. Additionally, she testified that she had previously sustained a right shoulder injury in 2001 and a back injury in 2017. Appellant further testified that in the summer of 2020 she began treating with Dr. Parmar for her right-hand symptoms and that he diagnosed right CTS and right trigger thumb.

Following the hearing, OWCP received progress notes by Dr. Parma. In a March 17, 2017 progress note, Dr. Parmar reported appellant's complaints of intermittent bilateral shoulder issues and increasing right hand stiffness, numbness and tingling. He discussed examination findings, noting a positive compression test on the right and negative on the left.

Dr. Parmar, in a June 9, 2021 progress note, related that appellant's right lateral elbow complaints were a bigger concern than her bilateral shoulder complaints. He noted that she had been performing increased repetitive activities at work. Dr. Parmar also noted that appellant

noticed pain in the right elbow. He provided an impression that she had right tennis elbow due to her repetitive work activities.

By decision dated June 30, 2021, an OWCP hearing representative affirmed OWCP's December 28, 2020 decision, finding that the evidence of record was sufficient to establish the alleged employment factors. The claim remained denied, however, as the medical evidence of record was insufficient to establish that appellant's diagnosed medical conditions were causally related to the accepted employment factors.⁴

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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 timely filed within the applicable time limitation period 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 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 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 condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁹

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹⁰ The opinion of the physician must be based on a complete factual

⁴ The hearing representative also directed OWCP to administratively combine appellant's prior claims for right shoulder and neck injuries under OWCP File Nos. xxxxxx209 and xxxxxx328 with the present claim, OWCP File No. xxxxxx998 in accordance with OWCP's procedures. The Board notes that the electronic case record as transmitted to the Board indicates that OWCP administratively combined appellant's claims under OWCP File Nos. xxxxxx209, xxxxxx328, and xxxxxx998 with OWCP File No. xxxxxx209 serving as the master file.

⁵ *Supra* note 2.

⁶ *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁷ *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁸ *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁹ *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).

¹⁰ *L.F.*, Docket No. 19-1905 (issued April 10, 2020); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

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 specific employment factors identified by the claimant.¹¹

In any 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 medical condition causally related to the accepted factors of her federal employment.

In support of her claim, appellant submitted reports from Dr. Parmar, who indicated that he had treated appellant for her bilateral shoulders and hands, and right thumb and elbow conditions. In a March 17, 2017 progress note, Dr. Parmar reported examination findings, including a positive compression test on the right and negative on the left. In a progress note dated October 14, 2020, he reported findings on physical examination and reviewed EMG/NCV study results and appellant's employment duties, which consisted of gripping, grasping, pulling, and pushing over the past two decades. Dr. Parmar assessed right CTS and right trigger thumb. He opined that appellant's diagnosed conditions were caused by the accepted employment factors. Dr. Parmar, in a June 9, 2021 progress note, provided an impression that appellant had right tennis elbow due to her repetitive work activities. While he provided an affirmative opinion on causal relationship, he did not offer medical rationale to explain why he believed appellant's accepted employment duties could have resulted in or contributed to her diagnosed conditions. The Board has held that a medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.¹³ Without explaining how or why gripping, grasping, pulling, and pushing over the past two decades caused or aggravated appellant's right wrist and thumb conditions, Dr. Parmar's progress notes are of limited probative value and, thus, insufficient to establish appellant's burden of proof.¹⁴

Dr. Parmar noted in his May 3, 2017 letter that appellant "probably" re-aggravated her prior work-related right shoulder injury. This opinion is speculative in nature as he identified only a possible cause of the aggravation. The Board has held that medical opinions that are speculative

¹¹ A.S., Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *J.D.*, Docket No. 20-0404 (issued July 22, 2020); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *M.S.*, Docket No. 19-0913 (issued November 25, 2019).

¹³ See *R.P.*, Docket No. 20-0661 (issued April 14, 2021); *R.L.*, Docket No. 21-0397 (issued September 7, 2021); *B.S.*, Docket No. 20-0927 (issued January 29, 2021); *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹⁴ *Id.*

or equivocal are of diminished probative value.¹⁵ Thus, the Board finds that Dr. Parmar's May 3, 2017 letter is insufficient to meet appellant's burden of proof.

Dr. Parmar's remaining work status notes dated May 3, 2017 through February 3, 2021 addressed appellant's right shoulder impingement, work capacity, and restrictions, but failed to offer a medical opinion addressing whether the diagnosed condition and resultant work restrictions were causally related to the accepted employment factors. 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.¹⁶ Therefore, the Board finds that this evidence is insufficient to establish appellant's claim.

Appellant also submitted diagnostic test reports. However, diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether employment factors caused the diagnosed condition.¹⁷

As the record does not contain rationalized medical opinion evidence sufficient to establish causal relationship, the Board finds that appellant 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 a medical condition causally related to the accepted factors of her federal employment.

¹⁵ See *D.B.*, Docket No. 20-0775 (issued July 28, 2021); *R.P.*, *supra* note 13.

¹⁶ *E.G.*, Docket No. 20-1191 (issued April 5, 2021); *K.G.*, Docket No. 20-0625 (issued November 6, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁷ *C.A.*, Docket No. 21-0601 (issued November 15, 2021); *K.R.*, Docket No. 20-1103 (issued January 5, 2021); *F.S.*, Docket No. 19-0205 (issued June 19, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

ORDER

IT IS HEREBY ORDERED THAT the June 30, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 25, 2022
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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