

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

P.M., Appellant)	
)	
And)	Docket No. 22-0050
)	Issued: June 6, 2022
DEPARTMENT OF VETERANS AFFAIRS,)	
VETERANS HEALTH ADMINISTRATION,)	
Columbia, SC, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 13, 2021 appellant filed a timely appeal from a May 17, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish right carpal tunnel syndrome (CTS) causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On March 31, 2021 appellant, then a 39-year-old management and program analyst, filed an occupational disease claim (Form CA-2) alleging injury to his fingers and wrist causally related

¹ 5 U.S.C. § 8101 *et seq.*

to factors of his federal employment including performing work on his computer. He explained that his “[f]ingers became tingly and wrist was fatigued.” Appellant indicated that he became aware of his condition and its relationship to his federal employment on March 14, 2018. He did not stop work.

In progress notes dated March 14, 2018, Dr. Mae Jean Englee, a family medicine specialist, noted that appellant related that he had experienced bilateral tingling at the fingertips for two weeks and no burning pain. She also noted that he indicated that he spent a lot of time on the computer and was right-handed. Dr. Englee examined appellant and noted that his wrists had full range of motion and positive Phalen’s and Tinel’s signs. She noted the possibility of bilateral carpal tunnel and ordered an electromyography (EMG) scan to confirm.

In an April 4, 2018 progress note, Dr. Englee called appellant and confirmed that his EMG scan was positive for moderate severity right medial nerve neuropathy. She noted that she discussed treatment options with appellant, who confirmed that he had “tingling only, no pain.”

In development letters dated April 1, 2021, OWCP informed appellant and the employing establishment of the type of factual and medical evidence needed and provided a questionnaire for appellant’s completion. It afforded both parties 30 days to submit additional evidence and to respond to its inquiries.

OWCP received a position description and physical therapy notes. It also received an April 3, 2018 nerve conduction velocity (NCV) study which revealed moderately-severe right median neuropathy at the wrist “as in carpal tunnel syndrome.”

In an April 20, 2021 statement, appellant described his work duties. He noted that, since February 2017, he created reports and tools using structured query language to pull data from the corporate data warehouse. Appellant also indicated that he was the employing establishment’s SharePoint administrator and spent most of his time on his computer typing and creating sites for the employing establishment. He noted that he had spent approximately eight to nine hours a day on his computer for the past four years. Appellant further noted that his wrists started to bother him in March 2018 when they became numb and tingly. He indicated that he was diagnosed with CTS in his wrists. Appellant denied prior injuries to his hand, arm, or wrist. Other than checking for nonwork e-mails, he denied computer usage outside work.

In an undated report, Dr. Christina M. Reilly-Torres, a family medicine specialist, noted that appellant had right CTS that was diagnosed by EMG scan on April 3, 2018. She related that he began wearing a splint, but continued to experience pain, weakness, and numbness in his fingers. Dr. Reilly-Torres noted that she examined appellant on April 22, 2021 for ongoing issues of right CTS and found profound weakness, pain, and decreased sensation. She advised that a further EMG was warranted. Dr. Reilly-Torres related that appellant was a management analyst and a SharePoint administrator which required a lot of typing. She opined that it was known that “excess in movement such as typing and mouse use can cause [CTS].”

In a letter dated April 26, 2021, OWCP requested that Dr. Reilly-Torres provide further clarification and a rationalized medical opinion regarding the cause of the diagnosed CTS. It afforded her 30 days to submit the requested information.

OWCP received a duplicate copy of the April 22, 2021 report from Dr. Reilly-Torres and a May 3, 2021 work capacity evaluation (Form OWCP-5c) from her which noted appellant's work restrictions.

By decision dated May 17, 2021, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish that his right CTS was causally related to the accepted factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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,³ 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.⁴ 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.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ The opinion of the physician must be based upon a complete factual and medical background, 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.⁸

² *Id.*

³ *See B.W.*, Docket No. 20-0283 (issued April 5, 2021); *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).

⁴ *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).

⁵ *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).

⁶ *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

⁷ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish right CTS causally related to the accepted factors of his federal employment.

In progress notes dated March 14, 2018, Dr. Englee noted that appellant had bilateral tingling at the fingertips for two weeks and nonburning pain. She related that he informed her that he spent a lot of time on the computer and was right-handed. Dr. Englee examined appellant, noted that there was possibility of bilateral CTS, and ordered an EMG scan to confirm. In an April 4, 2018 progress note, she indicated that his EMG scan was positive for moderate severity right medial nerve neuropathy. However, Dr. Englee did not provide an opinion on causal relationship. 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.⁹

In an April 22, 2021 report, Dr. Reilly-Torres provided a history of injury, examined appellant, and diagnosed right CTS. She opined that it is "known that excess in movement such as typing and mouse use can cause [CTS]." However, Dr. Reilly-Torres did not explain how work factors caused or aggravated the diagnosed condition of right CTS. The Board finds that the report from her is conclusory and fails to provide a rationalized medical opinion explaining how she arrived at this conclusion.¹⁰ The Board has held that medical opinion evidence should reflect a correct history and offer a medically-sound explanation of how the specific employment work factors, physiologically caused injury.¹¹ This report was therefore insufficient to establish causal relationship.

In a development letter dated April 26, 2021, OWCP requested that Dr. Reilly-Torres provide clarification and a rationalized medical opinion on causation. However, it received only a copy of the April 22, 2021 report and a Form OWCP-5 that provided work restrictions, but did not address causation. 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 Therefore, this evidence from Dr. Reilly-Torres is also insufficient to meet appellant's burden of proof.¹³

The remaining evidence of record consists of diagnostic testing reports and notes from physical therapists. The Board has held that diagnostic studies, standing alone, lack probative

⁹ *D.K.*, Docket No. 21-0214 (issued September 29, 2021); *S.W.*, Docket No. 19-1579 (issued October 9, 2020); *L.B.*, *id.*; *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁰ *See D.A.*, Docket No. 20-0951 (issued November 6, 2020); *G.M.*, Docket No. 15-1288 (issued September 18, 2015).

¹¹ *K.J.*, Docket No. 21-0020 (issued October 22, 2021); *L.R.*, Docket No. 16-0736 (issued September 2, 2016); *J.R.*, Docket No. 12-1099 (issued November 7, 2012); *Douglas M. McQuaid*, 52 ECAB 382 (2001).

¹² *See supra* note 9.

¹³ *See J.P.*, Docket No. 18-0349 (issued December 30, 2019); *D.D.*, 57 ECAB 734 (2006).

value, and are insufficient to establish the claim.¹⁴ In addition, certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.¹⁵ Their medical findings, reports and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.¹⁶ Consequently, this additional evidence is insufficient to meet appellant's burden of proof.

As appellant has not submitted rationalized medical evidence to establish a right CTS condition causally related to the accepted factors of his federal employment, the Board finds that he has not met his 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 his burden of proof to establish right CTS causally related to the accepted factors of his federal employment.

¹⁴ See *B.R.*, Docket No. 21-1109 (issued December 28, 2021); *J.K.*, Docket No. 20-0591 (issued August 12, 2020); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

¹⁵ 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); *C.G.*, Docket No. 20-0957 (issued January 27, 2021); *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 *K.A.*, Docket No. 18-0999 (issued October 4, 2019).

¹⁶ *K.A., id.*; *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk, id.*

ORDER

IT IS HEREBY ORDERED THAT the May 17, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 6, 2022
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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