

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

L.A., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Vinita, OK, Employer**

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**Docket No. 22-0487
Issued: June 14, 2022**

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
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On February 17, 2022 appellant filed a timely appeal from a January 5, 2022 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 her burden of proof to establish a bilateral hand/wrist condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On December 1, 2021 appellant, then a 48-year-old window clerk, filed an occupational disease claim (Form CA-2) alleging that she developed carpal tunnel syndrome (CTS) due to the factors of her federal employment, including repetitive movements while sorting letters and flats, and scanning packages. She explained that she initially experienced bilateral hand numbness while sleeping, but that her symptoms progressed and started to occur during the day. Appellant noted

¹ 5 U.S.C. § 8101 *et seq.*

that she first became aware of her condition on August 8, 2021 and realized its relation to her federal employment on November 16, 2021. She did not stop work.

In a December 3, 2021 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It afforded both parties 30 days to respond.

In a medical report dated November 8, 2021, Shiela Williams, a certified nurse practitioner, related that appellant had been experiencing numbness in her hands while sleeping for four months and subsequently developed fluctuating bilateral hand pain following an incident involving an "unknown" mechanism of injury that occurred more than a week prior.

On November 23, 2021 appellant was seen by Dr. Gregory S. Connor, a Board-certified neurologist, who examined her for bilateral hand numbness. On that date, Dr. Connor performed an electromyography (EMG) and nerve conduction velocity (NCV) study of both arms. He diagnosed radiculopathy, bilateral median neuropathies at the wrist, and right ulnar neuropathy at the elbow.

By decision dated January 5, 2022, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish a bilateral hand/wrist condition causally related to the accepted factors of her 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

² *Supra* note 1.

³ *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).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors by the claimant.⁶

The medical evidence required to establish causal relationship between a claimed specific condition and an employment factor is rationalized medical opinion evidence.⁷ 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.⁸

ANALYSIS

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

In support of her claim, appellant submitted Dr. Connor's November 23, 2021 medical report, wherein he diagnosed radiculopathy, bilateral median neuropathies at the wrist, and right ulnar neuropathy at the elbow following an EMG/NCV study. However, Dr. Connor 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 the employee's condition is of no probative value on the issue of causal relationship.⁹ As such, Dr. Connor's November 23, 2021 medical report is insufficient to establish the claim.

The remaining medical evidence consists of a November 8, 2021 treatment note from Ms. Williams, a nurse practitioner, who examined appellant for symptoms of pain and numbness of the hands. The Board has held that medical reports signed solely by a nurse practitioner are of no probative value because such providers are not considered physicians as defined under FECA.¹⁰ This report, therefore, is also insufficient to establish appellant's claim.

The medical evidence of record is insufficient to establish a bilateral hand condition that is causally related to the accepted factors of appellant's federal employment. As a result, the Board finds that she has not met her burden of proof.

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 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).

⁸ 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).

⁹ L.B., Docket No. 18-0533 (issued August 27, 2018); *see D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁰ Section 8101(2) of FECA provides that a 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 B.V.*, Docket No. 21-0742 (issued December 14, 2021) (nurse practitioners are not considered physicians as defined under FECA); *M.C.*, Docket No. 19-1074 (issued June 12, 2020).

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 bilateral hand/wrist condition causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the January 5, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 14, 2022
Washington, DC

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

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

A handwritten signature in dark ink, appearing to read "J. D. McGinley", written in a cursive style.

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board