

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

T.W., Appellant

and

SOCIAL SECURITY ADMINISTRATION,
OFFICE OF THE GENERAL COUNSEL,
San Francisco, CA, Employer

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**Docket No. 22-1078
Issued: November 10, 2022**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 13, 2022 appellant filed a timely appeal from a June 2, 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 medical condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On March 18, 2022 appellant, then a 46-year-old general attorney, filed an occupational disease claim (Form CA-2) alleging that she developed a repetitive stress injury, ganglion cyst and

¹ 5 U.S.C. § 8101 *et seq.*

carpal tunnel syndrome (CTS) in her right wrist and bulging disc at C6-7 with severe neuroforaminal narrowing due to factors of her federal employment. She noted that her work duties primarily entailed typing and use of a computer mouse and that she began experiencing pain, numbness, and loss of sensation in her right shoulder, arm, wrist, and hand while typing and using the mouse for work. Appellant noted that she first became aware of her condition and realized its relationship to her federal employment on February 4, 2022. She did not stop work.

In a March 18, 2022 statement, appellant described symptoms of pain, burning, weakness, and numbness throughout her upper right extremity while working. She noted that her condition progressively worsened after using a computer on February 5, 2022 when she developed significant pain and burning in her right upper extremity and upper back. Appellant summarized her medical records dated February 9 through March 17, 2022 and provided a description of her job duties, which included up to eight hours of intense computer use every day, five days per week, for over 14 years with the employing establishment.

In an April 14, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of medical evidence needed to establish her claim. OWCP afforded appellant 30 days to respond.

Thereafter, OWCP received a diagnostic report dated February 9, 2022 Dr. Ryan Sieberg, a Board-certified diagnostic radiologist, who noted that appellant presented with acute onset swelling of the right wrist. Dr. Sieberg provided an impression of a cyst on the volar and radial aspect of the wrist and noted that, based upon its location and onset, it was diagnosed as a benign ganglion cyst.

In an electromyogram and nerve conduction velocity (EMG/NCV) study dated March 10, 2022, Dr. Michael Chang, a Board-certified physiatrist, noted a history of numbness and tingling in appellant's right hand for several years. The results of the EMG/NCV study revealed mild impingement of the median nerve at the right carpal tunnel ligament without axonal involvement and demonstrated electrophysiological evidence suggestive of a mild cervical radiculopathy in the right lower cervical spine.

In a March 16, 2022 magnetic resonance imaging (MRI) scan of the cervical spine, Dr. Betsy Holland, a Board-certified radiologist, noted a history of posterior neck pain and right radiculopathy. The MRI scan revealed: a mild annular bulge of the C6-7 intervertebral disc with mild marginal osteophytic changes; mild-to-moderate bilateral uncovertebral joint degenerative change was also present along moderately severe right and left neural foraminal narrowing; a tiny central protrusion of the C7-T1 intervertebral disc; and minor degenerative changes of the C5-6 intervertebral disc.

In a medical report dated March 17, 2022, Dr. Saqib Hasan, a Board-certified orthopedic surgeon, noted appellant's complaint of ongoing and constant pain radiating to the posterior cervical axial region, bilateral superior trapezius, and right lateral arm. She reported that her symptoms were exacerbated by sitting, standing, driving, computer work, cervical movements, and lifting and that she had difficulty performing her work duties. Dr. Hasan performed a physical examination and reviewed the March 16, 2022 MRI scan. He diagnosed C6-7 broad-based disc bulge causing severe right foraminal and moderate left foraminal stenosis, cervical radiculopathy,

left sacroiliitis and possible left hip impingement. Dr. Hasan further provided work restrictions of working no more than four hours per day and typing and use of a computer mouse for up to three hours per day. He reiterated his work restrictions in a work status note of even date.

On March 18, 2022 appellant sought treatment with Dr. Austin Pitcher, a Board-certified orthopedic surgeon, with unchanged complaints of numbness, tingling, and pain throughout her right arm, shoulder, and neck. On physical examination, he found a volar wrist mass, rotational abnormality of the ring finger, positive Tinel's and Durkan's, and painful range of motion in the neck. Dr. Pitcher reviewed prior diagnostic studies and diagnosed cervical radiculopathy, CTS of the right upper limb and closed displaced fracture of right proximal phalanx.

By decision dated June 2, 2022, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish causal relationship between her diagnosed medical conditions and the accepted employment factors.

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 employment factors identified by the employee.⁶

² *Id.*

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).

⁶ *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Dolores C. Ellyett, id.*

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

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 a report dated March 17, 2022, Dr. Hasan noted appellant's complaints of ongoing and constant pain in her right upper extremity and neck. He diagnosed C6-7 broad-based disc bulge causing severe right foraminal and moderate left foraminal stenosis, cervical radiculopathy, left sacroiliitis and possible left hip impingement and provided work restrictions. However, Dr. Hasan did not provide an opinion on the cause of appellant's condition. The Board has held that medical reports lacking an opinion on causal relationship are of no probative value.⁹ Thus, Dr. Hasan's March 17, 2022 report is insufficient to establish appellant's claim.

Likewise, Dr. Pitcher, in his report dated March 18, 2022, noted appellant's complaints of ongoing pain, tingling and numbness in her right upper extremity and neck. He provided diagnoses, but he did not address causation. As noted above, medical reports lacking an opinion on causal relationship are of no probative value.¹⁰ Therefore, Dr. Pitcher's report is also insufficient to establish appellant's burden of proof.

The remaining evidence of record consists of diagnostic studies dated March 10, 16, and 17, 2022. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment factors caused a diagnosed condition.¹¹ Consequently, these reports are insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted employment factors, the Board finds that appellant has not met her burden of proof.

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).

⁹ *L.B.*, *id.*; *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *see also Charles H. Tomaszewski*, 39 ECAB 461 (1988).

¹⁰ *Id.*

¹¹ *S.W.*, Docket No. 21-1105 (issued December 17, 2021); *W.L.*, Docket No. 20-1589 (issued August 26, 2021); *A.P.*, Docket No. 18-1690 (issued December 12, 2019).

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.

ORDER

IT IS HEREBY ORDERED THAT the June 2, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 10, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

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