

ISSUE

The issue is whether appellant has met his burden of proof to establish right upper extremity conditions causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On September 17, 2021 appellant, then a 60-year-old letter carrier filed an occupational disease claim (Form CA-2) alleging right index finger, right middle finger, and right elbow conditions due to factors of his federal employment, including repetitive motion while delivering mail. He indicated that he first became aware of the conditions and the relationship to his employment on August 11, 2020. Appellant stopped work on September 8, 2021.

On September 8, 2021 Dr. Maggie Ngar, an osteopath Board-certified in family practice, placed appellant off work from September 9 to 19, 2021. She released appellant to return to work on September 20, 2021 with no restrictions.

In a development letter dated September 24, 2021, OWCP informed appellant that additional factual and medical evidence was necessary to establish his claim. It indicated that the evidence provided was insufficient to establish that he actually experienced the employment factors alleged to have caused injury. OWCP also noted that there was no diagnosis of any condition, nor a physician's opinion as to how the alleged injury resulted in a medical condition. It requested appellant provide a narrative report from a physician containing a detailed description of findings and a diagnosis, as well as a medical explanation of how the work incident caused or aggravated a medical condition. OWCP afforded him 30 days to respond. In another development letter of even date, it requested that the employing establishment provide additional information regarding appellant's claim. No response was received.

By decision dated December 15, 2021, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish the implicated employment factors, nor any medical evidence containing a medical diagnosis signed by a physician in connection with the alleged injury. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On December 28, 2021 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

On April 6, 2022 OWCP received an undated report from Dr. Michael A. Boin, an orthopedic surgeon. Dr. Boin opined that appellant's work was a significant contributing factor to his right elbow pathology. He diagnosed right elbow lateral epicondylitis and a partial thickness tear of his common extensor tendon. Dr. Boin indicated that appellant had a long history of right elbow pain and had recently undergone an arthroscopic procedure, which had completely alleviated the pain until appellant returned to work. He further noted that appellant's overall symptoms lasted longer than the expected amount of time. Dr. Boin related that appellant's work performing repetitive tasks at the employing establishment required wrist extension and forearm supination which can cause symptom exacerbation. He opined that appellant's work in the employing establishment very likely prevented his extensor tendon from healing due to the

repetitive wrist extension and forearm supination at work. Dr. Boin indicated that any further treatment or procedures were unlikely to improve symptoms if appellant returned to work in the same capacity.

On April 11, 2022 a telephonic hearing was held.

In an August 12, 2020 report, Dr. Ngar indicated that appellant noted that his pain intensified with movement. Appellant also indicated that he had been remodeling a house in the last couple of months. Dr. Ngar diagnosed lateral epicondylitis of the right elbow. An x-ray report of even date signed by Dr. James Bergh, a Board-certified nuclear and internal medicine physician, did not show fracture, subluxation, or dislocation. In his December 7, 2020 report, Dr. Ngar related continued right elbow pain. Appellant also related that he fell down the stairs on his left knee. Dr. Ngar diagnosed acute left knee pain and administered an injection in the right elbow for the continued lateral epicondylitis. On September 8, 2021 appellant was seen by Dr. Ngar for a follow up. Appellant indicated continued right elbow pain and shooting pains into right index fingers. He related that he was not working and resting made it better. Dr. Ngar indicated that appellant had recurrent epicondylitis secondary to repetitive motion at work. She recommended time off from work if possible.

Appellant also submitted a magnetic resonance imaging (MRI) scan report signed by Dr. Tim Mihalovich, a Board-certified diagnostic radiology physician, dated October 13, 2021, which revealed lateral epicondylitis with advanced tendinosis and a small partial tear. The report also indicated partial tears at the biceps tendon and medial epicondyle tendon.

By decision dated June 24, 2022, OWCP's hearing representative affirmed the December 15, 2021 decision with the modification that the claim was now denied on the basis of causal relationship. She found that the medical evidence provided was insufficient to establish causal relationship between a diagnosed condition and appellant's employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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, 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

³ *Id.*

⁴ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

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 by the claimant.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 on 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 incident.⁸ Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹

ANALYSIS

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

On August 12, 2020 Dr. Ngarwho diagnosed lateral epicondylitis of the right elbow. However, she did not address the cause of the diagnosed condition. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹⁰ As Dr. Ngar did not address the issue of causal relationship between the diagnosed right elbow condition and the factors of appellant's employment, this report is of no probative value and is, therefore, insufficient to establish appellant's claim.

Appellant also submitted additional reports from Dr. Ngar dated December 7, 2020 and September 8, 2021. Dr. Ngar diagnosed acute left knee pain from an unrelated fall and lateral epicondylitis of the right elbow. She also recommended time off from work. However, Dr. Ngar again did not offer an opinion as to whether appellant's diagnosed right elbow condition was

⁶ *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *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 *D.S.*, Docket No. 21-1388 (issued May 12, 2022); *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.S. id.*; *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

⁹ *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *see also J.L.*, Docket No. 18-1804 (issued April 12, 2019).

¹⁰ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

causally related to his employment factors.¹¹ As such, this evidence is insufficient to establish appellant's burden of proof.

OWCP received a report from Dr. Boin on April 6, 2022. Dr. Boin diagnosed right elbow lateral epicondylitis and a partial thickness tear of his common extensor tendon. He opined that appellant's work was a significant contributing factor to his right elbow pathology. Dr. Boin related that appellant's work performing repetitive tasks at the employing establishment required wrist extension and forearm supination which can cause symptom exacerbation. He also opined that appellant's work in the employing establishment very likely prevented his extensor tendon from healing due to the repetitive wrist extension and forearm supination at work. The Board has held that medical opinions that are speculative or equivocal are of diminished probative value.¹² While Dr. Boin provided a possible explanation as to how the factors of appellant's employment caused appellant's right elbow pathology, his opinion was couched in speculative terms, and did not fully address appellant's history and preexisting conditions. 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.¹³ Dr. Boin's report was, therefore, insufficient to establish causal relationship.

In an x-ray report of August 11, 2021, Dr. Bergh noted that there was no fracture, subluxation, nor dislocation shown. Appellant also submitted an MRI scan report signed by Dr. Mihalovich, dated October 13, 2021, which found lateral epicondylitis with advanced tendinosis and a small partial tear. The report also indicated partial tears at the biceps tendon and medial epicondyle tendon. Diagnostic studies standing alone, however, lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.¹⁴

As there is no rationalized medical evidence explaining how appellant's employment duties caused or aggravated his diagnosed conditions, 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.

¹¹ *Id.*

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.5(c)(3); *D.S.*, Docket No. 20-0384 (issued October 8, 2020); *H.A.*, Docket No. 18-1455 (issued August 23, 2019).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019).

¹⁴ *A.O.*, Docket No. 21-0968 (issued March 18, 2022); *see M.S.*, Docket No. 19-0587 (issued July 22, 2019).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the June 24, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 15, 2022
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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