United States Department of Labor
Employees' Compensation Appeals Board

R.B., Appellant	)	
and	)	**Docket No. 22-0980**
	)	**Issued: October 18, 2022**
U.S. POSTAL SERVICE, POST OFFICE, Carol Stream, IL, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On June 14, 2022 appellant, through counsel, filed a timely appeal from a May 9, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

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[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a recurrence of the need for medical treatment, commencing on or after November 27, 2006, causally related to his accepted September 27, 2001 employment injury.

FACTUAL HISTORY

On September 27, 2001 appellant, then a 41-year-old full-time mail distribution clerk, filed a traumatic injury claim (Form CA-1) alleging that on September 27, 2001 he injured his left ring finger when mail backed up on a belt he was working on and fell onto his finger while in the performance of duty. He did not stop work. Appellant performed full-time light duty thereafter and subsequently stopped work on March 10, 2007.[3] On August 13, 2008 OWCP accepted the claim for contusion of the left finger.[4]

On April 25, 2008 Dr. Lafayette Singleton, a Board-certified neurologist, diagnosed work-related contusion of the left ring finger that developed into post-traumatic arthritis with mild hypertrophy of the proximal interphalangeal (PIP) and metacarpophalangeal (MP) joints. On September 3, 2008 he diagnosed synovial hypertrophy due to a hematoma under the inguinal tuft with slow recovery resulting in ongoing pain in the distal interphalangeal (DIP) joint, and the distal phalanx of the left fourth finger.

In a note dated March 12, 2009, Dr. Eugene Lopez, a Board-certified orthopedic surgeon, diagnosed sprain of the ring finger of the left hand. He attributed the onset of symptoms to an accident at work. On March 8, 2010 Dr. Lopez found swelling and tenderness of the left fourth finger with painful motion. He diagnosed left fourth finger contusion and hand/finger osteoarthritis. In notes dated May 16, 2011 through February 1, 2012, Dr. Lopez included additional diagnoses of work-related left fourth trigger finger. He also diagnosed bilateral trigger thumb, and bilateral cubital tunnel syndrome.

Appellant provided notes from Kody Lewis, a physician assistant, dated August 8, 2013 through October 30, 2014 recommending left fourth finger trigger release.

Beginning February 22, 2017, Dr. Mukund Komanduri, a Board-certified orthopedic surgeon, examined appellant regarding his left ring finger injury. He recounted the history of injury at work in 2001. Dr. Komanduri initially diagnosed subluxation of the lateral bands with hyperextension of the distal interphalangeal (DIP) joint. On April 25, 2017 appellant underwent a left fourth digit magnetic resonance imaging (MRI) scan, which demonstrated volar dislocation of the PIP joint associated with partial tear of the extensor central slip at its insertion on the base of the middle phalanx. Dr. Komanduri examined appellant on May 1, 2017, reviewed the MRI

[3] Appellant filed a separate occupational disease claim February 10, 2004 under OWCP File No. xxxxxx013. OWCP accepted this claim for bilateral shoulder impingement syndrome, carpal tunnel syndrome, ulnar nerve lesion, cervical radiculopathy, and bilateral bicipital tendonitis.

[4] On October 1, 2001 treatment notes demonstrated a very tiny hematoma under the lateral aspect of the nail, general ecchymosis of the nailbed and minimal swelling with tenderness in the tip of the left fourth finger.

scan, diagnosed a central slip rupture of the left fourth finger at the PIP joint, and recommended a surgical repair. In a June 5, 2017 note, he found that appellant's left finger condition was resolving with physical therapy. On July 5, 2017 Dr. Komanduri found that appellant had reached maximum medical improvement and released him from care.

In a December 5, 2019 note, Dr. Komanduri recounted appellant's increasing left ring finger symptoms of bruising and continued pain.

On August 11, 2021 appellant filed a notice of recurrence (Form CA-2a) alleging the need for additional medical treatment for his left ring finger beginning on November 27, 2006 due to his September 27, 2001 employment injury. He reported that he had medical restrictions, limitations and light-duty assignments following the original injury.

Appellant provided a December 3, 2013 report from Dr. Lopez diagnosing work-related left fourth trigger finger.

In a November 2, 2021 development letter, OWCP requested that appellant submit additional evidence in support of his claim, including a physician's opinion supported by a medical explanation establishing the relationship between his current need for medical treatment and the accepted employment conditions. It provided a questionnaire for his completion, which posed questions regarding his medical treatment. OWCP afforded appellant 30 days to respond. No response was received.

By decision dated December 8, 2021, OWCP denied appellant's claim for a recurrence of the need for medical treatment, finding that the evidence of record was insufficient to establish a need for medical treatment due to a worsening of the accepted work-related condition. On December 21, 2021 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The oral hearing was held on April 5, 2022.

OWCP continued to receive medical evidence. In a November 3, 2021 report, Dr. Komanduri recounted appellant's history of injury on September 27, 2001 when his left ring finger was injured in a conveyor belt and found that this incident resulted in significant soft tissue injury, strain, and laceration. He noted appellant's ongoing symptoms of chronic pain, swelling, tenderness, and intermittent loss of function. Dr. Komanduri found hypersensitivity and a possible form of complex regional pain syndrome (CRPS). He diagnosed sequela of sprain and opined that appellant was partially disabled. Dr. Komanduri explained that appellant had CRPS with associated hypersensitivity and aggravation due to untreated cubital and carpal tunnel syndromes. He found that the condition had materially worsened overtime due to lack of treatment.

By decision dated May 9, 2022, OWCP's hearing representative affirmed the December 8, 2021 OWCP decision.

LEGAL PRECEDENT

The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances, and supplies prescribed or recommended by a qualified physician

that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability, or aid in lessening the amount of any monthly compensation.[5]

A recurrence of a medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.[6] An employee has the burden of proof to establish that he or she sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury without intervening cause.[7]

If a claim for recurrence of medical condition is made more than 90 days after release from medical care, a claimant is responsible for submitting a medical report supporting a causal relationship between the current condition and the original injury in order to meet his or her burden.[8] To meet this burden the claimant must submit medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, supports that the condition is causally related and supports his or her conclusion with sound medical rationale.[9] Where no such rationale is present, medical evidence is of diminished probative value.[10]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a recurrence of the need for medical treatment, commencing on or after November 27, 2006, causally related to his accepted September 27, 2001 employment injury.

In reports dated April 25 and September 2, 2008, Dr. Singleton noted the accepted September 27, 2001 fourth finger contusion and provided additional diagnoses of post-traumatic arthritis with mild hypertrophy of PIP and MP joints and synovial hypertrophy due to a hematoma under the inguinal tuft. Dr. Lopez completed notes dated March 12, 2009 through February 1, 2012 diagnosing sprain, osteoarthritis, and trigger finger of the left ring finger due to an accident at work. In reports dated February 22, 2017 through November 3, 2021, Dr. Komanduri, recounted appellant's history of injury at work in 2001 and diagnosed central slip rupture of the left fourth finger at the PIP joint and CRPS. However, none of these physicians discussed how or why the additional diagnosed conditions were causally related to the accepted September 27, 2001 employment incident or injury. These physicians failed to provide an explanation with rationale of how appellant's accepted left ring finger contusion, or the underlying accepted employment

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[5] 5 U.S.C. § 8103(a).

[6] 20 C.F.R. § 10.5(y).

[7] *B.B.,* Docket No. 21-1358 (issued May 11, 2022); *S.P.,* Docket No. 19-0573 (issued May 6, 2021); *M.P.,* Docket No. 19-0161 (issued August 16, 2019); *E.R.,* Docket No. 18-0202 (issued June 5, 2018).

[8] Federal (FECA) Procedural Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.4b (June 2013); *see also J.M.,* Docket No. 09-2041 (issued May 6, 2010); *S.W.,* Docket No. 21-1094 (issued April 18, 2022).

[9] *T.B.,* Docket No. 18-0672 (issued November 2, 2018); *O.H.,* Docket No. 15-0778 (issued June 25, 2015).

[10] *T.B., id.*; *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988); *see also Mary A. Ceglia,* Docket No. 04-0113 (issued July 22, 2004).

incident, would have physiologically caused or aggravated the additionally diagnosed left ring finger conditions. The Board has held that a medical opinion should offer a medically-sound and rationalized explanation by the physician of how the accepted employment injury physiologically caused the diagnosed conditions.[11] Given the lack of rationale, the Board finds that the medical evidence is of diminished probative value and insufficient to establish the claim.[12]

Appellant also provided notes from Kody Lewis, a physician assistant, dated August 8, 2013 through October 30, 2014. Physician assistants are not considered physicians as defined under FECA, and their medical findings and opinions are insufficient to establish entitlement to compensation benefits.[13]

As the medical evidence of record does not contain a rationalized medical opinion establishing that appellant required medical treatment causally related to his September 27, 2001 employment injury, the Board finds that he has not met his burden of proof to establish his recurrence claim.

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 a recurrence of the need for medical treatment, commencing on or after November 27, 2006, causally related to his accepted September 27, 2001 employment injury.

[11] *See S.W., supra* note 8; *B.R.,* Docket No. 21-1109 (issued December 28, 2021).

[12] *Id.*

[13] 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 supra* note 8 at Chapter 2.805.3a(1) (January 2013); *N.C.,* Docket No. 21-0934 (issued February 7, 2022); *M.J.,* Docket No. 19-1287 (issued January 13, 2020); *P.H.,* Docket No. 19-0119 (issued July 5, 2019); *T.K.,* Docket No. 19-0055 (issued May 2, 2019); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as nurses, physician assistants, and physical therapists are not competent to render a medical opinion under FECA).

ORDER

IT IS HEREBY ORDERED THAT the May 9, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 18, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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