

employment. She noted that she first became aware of her condition on November 2, 2015² and realized its relation to her federal employment on January 27, 2021. On the reverse side of the claim form, the employing establishment indicated it would challenge the claim. Appellant did not stop work.

In an undated letter, appellant explained that she was diagnosed with CTS on or about December 2013 and submitted a doctor's statement to her manager, R.J., who supplied an ergonomic keyboard, mouse, and chair. She related that she complied with her doctor's recommended treatment of injections and a wrist brace. The pain gradually worsened and she noted that in 2021 she was diagnosed with radial tunnel and cubital tunnel syndrome. Appellant underwent therapy and began taking breaks during the day, which her manager approved on the condition that she used leave. She explained that she was a veterans claims examiner when she submitted her medical statements and is now a veterans service representative, and both jobs involved repetitive actions including extensive typing and mouse usage.

On November 16, 2021 the employing establishment controverted the claim, asserting that performance of duty and causal relationship had not been established.

In a November 18, 2021 development letter, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of additional evidence needed and afforded her 30 days to respond. In a separate development letter of even date, OWCP informed the employing establishment that additional information was needed regarding appellant's compensation claim. It specifically inquired whether the employing establishment disputed any aspect of the claim and requested a description of the repetitive hand and wrist tasks that appellant performed in the position. OWCP also requested a description of appellant's work area, any precautions or mitigation measures taken, and a description of appellant's official and actual duties.

Appellant submitted a November 2, 2015 letter from Dr. Harvey L. Mirly, a Board-certified orthopedic hand surgeon, who examined her for bilateral hand pain and numbness. Dr. Mirly noted that she reported burning pain and numbness in both hands, wrists, and arms, but predominantly the right side. He diagnosed right CTS, after which he administered an injection to her right carpal tunnel.

OWCP received a note from a May 19, 2016 encounter with Dr. Mirly, who examined appellant for recurrent symptoms of right CTS. Appellant reported burning pain and numbness in both hands, and Dr. Mirly administered a right carpal tunnel injection into her.

A visit note from an April 28, 2017 encounter with Dr. Mirly noted an impression of right CTS with no thenar atrophy or weakness. He administered an injection.

Appellant also submitted May 27, 2021 progress notes from an encounter with Dr. Vikas Dhawan, a Board-certified orthopedic hand surgeon, who observed mild swelling and thenar atrophy as well as thrombotic thrombocytopenic purpura over appellant's flexor/pronator mass

² In a letter, appellant requested that the Board adjust her date of injury from December 10, 2013, the date she originally listed in her Form CA-2, to November 2, 2015.

and small nodules. He recommended cortisone injections to her mobile wad trigger points and a wrist splint.

Progress notes from a September 24, 2021 examination by Samantha Fisher, a physician assistant, reflect that appellant continued to experience numbness and tingling in her right hand. Ms. Fisher observed evidence of thenar atrophy and swelling and tenderness over the dorsal proximal forearm. Appellant reported that trigger point injections over the right dorsal forearm had helped with the pain, but on some days her hand did not function properly. Ms. Fisher reviewed imaging of the right wrist from June 16, 2021 and observed osteophyte formation at the first carpometacarpal joint.

Progress notes from an October 14, 2021 follow up with Ms. Fisher relate that appellant continued to have pain and numbness in her forearm. Ms. Fisher noted swelling and tenderness in appellant's forearm with evidence of thenar atrophy. She administered trigger point injections in appellant's right forearm.

In a November 26, 2021 response to OWCP's development questionnaire, R.T., appellant's supervisor, related that she recalled appellant mentioning in 2016 that she had an ergonomic keyboard, but did not recall whether she had informed her of having CTS in 2016. R.T. noted that appellant was a senior veteran claims examiner responsible for responding to inquiries, and is currently a veteran service representative with a tour of duty of 7:00 a.m. to 4:30 p.m. She also noted that appellant was a work-at-home employee with a signed telework agreement attesting that her home workstation complied with the telework agreement requirements. R.T. indicated that she was informed by her supervisor on September 20, 2021 that appellant was approved to take an extra 15-minute break, in addition to her 30-minute lunch and two standard 15-minute breaks. She further attached a position description enumerating the duties and responsibilities for a veterans service representative, which included preparing statements of the case, preparing correspondence, monitoring claims using electronic systems, and utilizing electronic data processing systems for inputting data, among others. The description noted that the position involved sedentary work in office conditions.

In a December 14, 2021 response to OWCP's development questionnaire, appellant related that she was initially incorrect as to the date of her first diagnosis, but was relying on memory. She asserted that she informed her coach of her condition, who informed her manager. Appellant's doctor had recommended an ergonomic chair, mouse, mouse pad, and keyboard, which her employer provided. She explained that she worked from home and her position involved continuous typing. Appellant asserted that, in 2020, she awoke with severe pain in her upper right arm and observed a large lump in her arm. She did not recall anything that could have aggravated her arm other than the typing at work, so she sought out a hand specialist and underwent nerve conduction testing. Shortly thereafter, appellant's department closed and she was reassigned to the Veterans Service Center and, thus, she was unable to schedule surgery due to the recent job change and demands of training. She related that she continued therapy, injections, and wore a splint. Appellant's manager approved additional breaks, but only on the condition that she used her own leave.

By decision dated January 24, 2022, OWCP denied appellant's claim, finding that she had not submitted sufficient evidence to establish that the claimed events occurred as alleged.

Consequently, it found that she had not met the requirements to establish an injury as defined by FECA.

On February 2, 2022 appellant requested reconsideration. In a letter accompanying her request, she explained that as a veterans service representative she types all day, every day, and she had typed every day in her previous job as a veterans claims examiner. Appellant asserted that she had been typing every day in both of her positions for over 12 years, and this repetitive action caused bilateral CTS, predominantly in the right. She contended that the condition worsened and she developed radial tunnel and weak muscles in her right arm, requiring surgery.

Appellant continued to submit evidence, including an undated article describing the symptoms of radial and cubital tunnel syndrome.

In a February 10, 2022 report, Dr. Dhawan noted that appellant was being treated for right CTS and opined that her condition was “most likely” caused by the repetitive motion of typing in her daily activities required for work.

By decision dated March 11, 2022, OWCP modified its January 24, 2022 decision to find that the medical evidence of record was sufficient to establish fact of injury. The claim remained denied, however, because the medical evidence of record was insufficient to establish causal relationship between appellant’s diagnosed conditions and the accepted factors of her federal 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,⁴ 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.⁵ 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.⁶

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (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

³ *Supra* note 1.

⁴ *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).

⁵ *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).

⁶ *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).

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.⁷

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence.⁸ The opinion of the physician must be based on a complete factual and medical background of the employee, must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factor(s) identified by the employee.⁹ The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹⁰

ANALYSIS

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

In support of her claim, appellant submitted a February 10, 2022 letter from Dr. Dhawan indicating that he treated appellant for right CTS and that her condition was "most likely" caused by the repetitive motion of typing in her daily activities required for work. The Board finds that his opinion that appellant's employment diagnosed conditions were "most likely" caused by the accepted factors of her federal employment is speculative in nature.¹¹ Medical opinions that are speculative or equivocal in character are of diminished probative value.¹² Accordingly, Dr. Dhawan's opinion is insufficient to establish expansion of appellant's claim.¹³

Appellant also submitted a November 2, 2015 letter from Dr. Mirly, noting a diagnosis of right CTS and that she received a right carpal tunnel injection. Likewise, notes from May 19, 2016 and April 28, 2017 from Dr. Mirly also noted that she received additional injections. However, these reports did not address causal relationship. The Board has held that medical evidence which

⁷ *T.D.*, Docket No. 20-0921 (issued November 12, 2020); *M.S.*, Docket No. 18-1554 (issued February 8, 2019). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *S.A.*, Docket No. 18-0399 (issued October 16, 2018); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 7.

¹⁰ *D.R.*, Docket No. 19-0954 (issued October 25, 2019); *James Mack*, 43 ECAB 321 (1991).

¹¹ See *P.D.*, Docket No. 18-1461 (issued July 2, 2019); *E.B.*, Docket No. 18-1060 (issued November 1, 2018); *Leonard J. O'Keefe*, 14 ECAB 42 (1962).

¹² *D.B.*, Docket No. 18-1359 (issued May 14, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

¹³ See *S.S.*, Docket No. 21-0837 (issued November 23, 2021).

does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship. As such, these reports are insufficient to establish appellant's claim.¹⁴

Similarly, progress notes from a May 27, 2021 encounter with Dr. Dhawan noted mild swelling and thenar atrophy as well as thrombotic thrombocytopenic purpura over appellant's flexor/pronator mass and over small nodules but did not offer an opinion on causal relationship. As noted above, evidence that does not address causal relationship is of no probative value. Thus, Dr. Dhawan's May 27, 2021 notes are also insufficient to establish appellant's claim.¹⁵

Appellant also submitted an undated article describing the symptoms of radial and cubital tunnel syndrome. The Board has long held, however, that excerpts from publications have little probative value in resolving medical questions unless a physician establishes the applicability of the general medical principle discussed in the article to the specific factual situation in the case.¹⁶

The remaining medical evidence consists of progress notes dated September 24 and October 14, 2021 from Ms. Fisher. However, healthcare providers such as physician assistants, nurses, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA.¹⁷ Consequently, their medical findings or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁸

As appellant has not submitted rationalized medical evidence sufficient to establish that her diagnosed medical conditions were caused or aggravated by the accepted factors of her federal employment, the Board finds that she has not met her burden of proof.¹⁹

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.

¹⁴ See *D.Y.*, Docket No. 20-0112 (issued June 25, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ *Id.*

¹⁶ *T.S.*, Docket No. 18-1518 (issued April 17, 2019); *W.C. (R.C.)*, Docket No. 18-0531 (issued November 1, 2018); *K.U.*, Docket No. 15-1771 (issued August 26, 2016); *Roger D. Payne*, 55 ECAB 535 (2004).

¹⁷ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

¹⁸ Section 8101(2) of FECA provides that medical opinions can only be given by a qualified physician. This section defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. *H.K.*, Docket No. 19-0429 (issued September 18, 2019); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006); see also *S.L.*, Docket No. 19-0603 (issued January 28, 2020) (a nurse is not considered a physician as defined under FECA).

¹⁹ See *T.J.*, Docket No. 19-1339 (issued March 4, 2020); *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *D.N.*, Docket No. 19-0070 (issued May 10, 2019); *R.B.*, Docket No. 18-1327 (issued December 31, 2018).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an upper extremity condition causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the March 11, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 9, 2022
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board