

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

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<b>R.I., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 20-0913</b>
	)	<b>Issued: September 26, 2022</b>
<b>U.S. POSTAL SERVICE, OSHKOSH CARRIER</b>	)	
<b>ANNEX, Madison, WI, Employer</b>	)	
_____	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On May 24, 2022 appellant filed a timely appeal from a March 16, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 his burden of proof to establish a medical condition causally related to the accepted factors of his federal employment.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

This case has been previously before the Board. The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference.<sup>2</sup> The relevant facts are as follows.

On June 25, 2020 appellant, then a 65-year-old rural letter carrier, filed an occupational disease claim (Form CA-2) alleging that he developed bilateral carpal tunnel syndrome (CTS) causing pain and numbness in the thumbs and hands as a result of factors of his federal employment, including repetitious motion. He noted that he first became aware of his conditions and realized their relationship to his federal employment on March 26, 2018. Appellant did not stop work.

In a visit note dated June 5, 2020, Dr. Timothy Bergan, an osteopath Board-certified in occupational medicine, diagnosed arthritis of the carpometacarpal joints of both thumbs as confirmed by bilateral finger x-ray findings. He opined that the condition was work related and that appellant could return to work without restrictions, effective immediately.

In a July 6, 2020 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the factual and medical evidence necessary to establish his claim and also provided a questionnaire for completion. OWCP afforded appellant 30 days to respond. In the same letter, it also informed the employing establishment that if he was treated at an agency medical facility for the alleged medical condition, it must provide treatment notes.

Appellant, in a July 13, 2020 response to OWCP's development questionnaire, indicated that his work duties included daily sorting of 2,000 to 3,000 letters and flats of magazines, flyers, and small catalogs into small one-inch-wide openings. He also extracted mail from the case to place it into trays. Appellant explained that he sometimes had to force mail in and out of the slots because they were filled too tightly and had a narrow opening. He related that these duties were extremely repetitive and that he believes this caused great wear and tear to his hands and wrists. Appellant further noted that, while out on his route, he would open and close hundreds of mailboxes repetitively, which was difficult in the winter when the mailboxes were frozen shut. He stated that he performed all of these activities five to six days per week for 38 years, and an employing establishment supervisor, M.B., signed in concurrence. Appellant denied any prior similar injuries or engaging in any activities outside of work which would cause his symptoms. He noted that the pain had been present for about two years, but decreased when he was off from work for a few days.

In a July 15, 2020 visit note, Dr. Bergan diagnosed bilateral thumb pain. He noted that the cause of appellant's condition was undetermined, but that appellant could return to work without restrictions and would be discharged from care.

By decision dated August 10, 2020, OWCP denied appellant's claim finding that the evidence of record was insufficient to establish that the injury or events occurred as alleged. It

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<sup>2</sup> Docket No. 20-1616 (issued February 11, 2022).

concluded, therefore, that he had not met the requirements to establish an injury as defined by FECA.

OWCP continued to receive evidence, including reports of x-rays dated June 5, 2020 for unrelated conditions of the left shoulder and left hip, and both thumbs, which were read as normal.

On September 3, 2020 appellant appealed OWCP's August 10, 2020 decision to the Board.

By decision dated February 11, 2022,<sup>3</sup> the Board found that the case was not in posture for decision. The Board found that appellant had established accepted factors of his federal employment. Accordingly, the Board remanded the case to OWCP to review the medical evidence of record and, following any further development deemed necessary, issue an appropriate decision.

In a February 14, 2022 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the medical evidence necessary to establish his claim, including a narrative medical report from a treating physician, containing a detailed description of findings and a diagnosis, explaining how his work activities caused, contributed to, or aggravated his medical conditions. OWCP afforded appellant 30 days to respond.

OWCP thereafter received a July 15, 2020 medical report by Dr. Bergan, who noted that appellant related complaints of bilateral wrist pain, which he attributed to his work duties. Dr. Bergan performed a physical examination and diagnosed bilateral thumb pain. He opined that "it is certainly plausible and likely that this is an overuse injury" that "could represent [CTS], but without further diagnostic studies that would be difficult to say." Dr. Bergan noted that appellant's clinical presentation was not convincing for CTS.

By decision dated March 16, 2022, OWCP denied appellant's claim finding that the evidence of record was insufficient to establish causal relationship between his diagnosed conditions and the accepted employment factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> 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,<sup>5</sup> 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

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<sup>3</sup> *Supra* note 2.

<sup>4</sup> *Supra* note 1.

<sup>5</sup> *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).

employment injury.<sup>6</sup> 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.<sup>7</sup>

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 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.<sup>8</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>9</sup> 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.<sup>10</sup>

### ANALYSIS

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

In support of his claim, appellant submitted a visit note dated June 5, 2020 by Dr. Bergan, who diagnosed arthritis of the carpometacarpal joints of both thumbs. Dr. Bergan opined that the conditions were work related. Although he opined that appellant's medical conditions were related to his work, he did not explain how the accepted factors in the present claim physiologically caused or aggravated the diagnosed conditions. Medical reports that lack a rationalized medical opinion regarding causal relationship are of diminished probative value.<sup>11</sup> Therefore, the June 5, 2020 report of Dr. Bergen is insufficient to meet appellant's burden of proof.<sup>12</sup>

In reports dated July 15, 2020, Dr. Bergen diagnosed bilateral thumb pain and noted that appellant's clinical presentation was not convincing for CTS. He opined that it was "plausible" that appellant had an overuse injury, but that it was "difficult to say" without further diagnostic

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<sup>6</sup> *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).

<sup>7</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Dolores C. Ellyett*, 41 ECAB 992 (1990).

<sup>8</sup> *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.*

<sup>9</sup> *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>10</sup> *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

<sup>11</sup> *See A.C.*, Docket No. 20-1510 (issued April 23, 2021); *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

<sup>12</sup> *See J.P.*, Docket No. 18-0349 (issued December 30, 2019); *D.D.*, 57 ECAB 734 (2006).

testing. The Board has held that pain is a description of a symptom, not a clear diagnosis of a medical condition.<sup>13</sup> Moreover, medical opinions that are speculative or equivocal in character are of diminished probative value.<sup>14</sup> Therefore, this evidence is also insufficient to establish appellant's burden of proof.

OWCP also received reports of x-rays of both thumbs. 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.<sup>15</sup> Consequently, these diagnostic reports are also insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence sufficient to establish a medical condition causally related to the accepted employment factors, the Board finds that 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.

### **CONCLUSION**

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

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<sup>13</sup> *D.R.*, Docket No. 18-1408 (issued March 1, 2019); *D.A.*, Docket No. 18-0783 (issued November 8, 2018).

<sup>14</sup> *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).

<sup>15</sup> *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).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 16, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 26, 2022  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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