

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

S.M., Appellant	)	
	)	
and	)	Docket No. 22-0826
	)	Issued: April 20, 2023
U.S. POSTAL SERVICE, POST OFFICE,	)	
Mahwah, NJ, Employer	)	
	)	

*Appearances:*  
James D. Muirhead, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On May 5, 2022 appellant, through counsel, filed a timely appeal from a November 17, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## ISSUE

The issue is whether appellant has met her burden of proof to establish a right wrist condition causally related to the accepted May 16, 2019 employment incident.

## FACTUAL HISTORY

On May 20, 2019 appellant, then a 45-year-old postal carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 14, 2019 or May 15, 2019 she injured her right wrist when she picked up heavy bags while in the performance of duty. She stopped work on May 21, 2019. Appellant's supervisor, challenged the claim on the basis that the date of the incident was unclear and "all she said was to send someone to pick up the bags because they are so heavy and it hurts." A May 20, 2019 challenge statement from the employing establishment was also received.

In a May 20, 2019 statement, appellant indicated that she injured her wrist on "May 23<sup>rd</sup> or 24<sup>th</sup>" while on her route. She noted that she had called A.M., her supervisor, and told her that she had hurt her wrist. Appellant also indicated that she did not know that she had to tell her supervisor if she wanted to report an injury.

OWCP received unsigned May 20, 2019 hospital discharge instructions, which noted that appellant was seen for right wrist pain. A May 20, 2019 work excuse note from an unknown provider, excused appellant from work beginning May 23, 2019.

A return-to-work certificate signed by an unknown provider, noted that appellant had been under care since May 23, 2019 for a right wrist sprain and that she would be able to return to work on June 10, 2019.

In a development letter dated June 5, 2019, OWCP informed appellant of the deficiencies of her claim. It advised her of the factual and medical evidence necessary and provided questions for her completion. OWCP afforded appellant 30 days to respond.

In a June 26, 2019 report, Dr. William A. Matarese, an orthopedic surgery specialist, reported that appellant, a letter carrier, presented with right wrist pain of approximately one month duration after lifting heavy boxes for work. Appellant indicated that the pain started on May 14, 2019 after lifting/pushing of boxes, but she continued to work and had reported the pain to her supervisor. She also noted that she went to the hospital on May 21, 2019 and that the x-rays were negative for fracture. Dr. Matarese presented examination findings and reviewed the hospital x-ray, which he indicated showed diffuse degenerative joint disease in the carpals. He provided an assessment of unspecified sprain/strain of right wrist and prescribed a wrist hand orthosis for documented weakness and/or instability of the right wrist. Dr. Matarese also provided a June 26, 2019 disability certificate.

A return-to-work certificate signed by an unknown provider, noted that appellant was under care from June 11, 2019 and would be able to return to work on June 25, 2019.

By decision dated July 8, 2019, OWCP denied appellant's traumatic injury claim, finding that the factual component of fact of injury had not been established. It noted that she did not provide the requested factual statement to explain exactly when the injury occurred or why

conflicting information was provided for when the injury occurred. OWCP also noted that appellant did not explain the reason for the delay in filing her claim or how or why she continued to work for several days after the claimed injury. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP subsequently received an undated statement from appellant. Appellant indicated that her injury occurred on the 13<sup>th</sup> or 14<sup>th</sup> of May, and that she may have related another date because she was upset.

In a July 16, 2019 report, Dr. Matarese continued to diagnose unspecified sprain of the right wrist. He also requested magnetic resonance imaging (MRI) scan of right wrist and provided a July 17, 2019 authorization form.

Appellant submitted a July 19, 2019 claim for compensation (Form CA-7) for disability from work during the period July 3 through 19, 2019.

On July 22, 2019 appellant requested reconsideration as well as an oral hearing before a representative of OWCP's Branch of Hearings and Review. She later changed her request to a request for reconsideration.

OWCP received 31 pages of appellant's May 20, 2019 hospital record, including the May 20, 2019 right wrist x-ray report, which found no displaced fracture or dislocation or lytic or sclerotic lesions. The history of injury noted that her right wrist pain started two weeks ago when she was picking up a heavy box while at work with pain persisting since then.

OWCP also received a September 6, 2019 progress report and an August 28, 2019 disability certificate from Dr. Matarese.

By decision dated September 23, 2019, OWCP denied modification of its July 8, 2019 decision. It noted that while appellant initially stated she was injured on May 14, 2019 or May 15, 2019, she now claimed that the injury occurred on May 13, 2019 or May 14, 2019.

On January 3, 2020 appellant requested reconsideration and provided further explanation of her injury. She indicated that she injured her right wrist lifting sacks of mail on May 14, 2019 and that she noticed her right wrist was painful on May 20, 2019. A duplicate copy of the May 20, 2019 hospital records was provided.

By decision dated October 20, 2020, OWCP denied modification of its September 23, 2019 decision.

On October 13, 2021 appellant, through counsel, requested reconsideration. He indicated that the evidence supported that appellant was injured on May 16, 2019. In an October 13, 2021 letter, appellant indicated that the date of injury was May 16, 2019. In support of her allegation, she attached a copy of a telephone record of calls made to her supervisor.

OWCP received a copy of a November 23, 2019 MRI scan of appellant's right wrist. The scan revealed mild extensor carpi ulnaris tendinosis with significant medial subluxation from the ulnar groove.

In a January 7, 2020 report, Dr. Tony S. Wanich, a Board-certified orthopedic surgeon, indicated that appellant had right wrist pain due to work injury after lifting a sack of mail on May 14, 2019. At that time, appellant reported hearing a “pop” upon lifting the mail sack. Dr. Wanich noted that she has not been working since May 20, 2019 due to the pain. Dr. Wanich noted examination findings and reviewed the November 23, 2019 MRI scan. He provided an impression of right wrist triangular fibrocartilage complex (TFCC) tear.

By decision dated November 17, 2021, OWCP modified the October 20, 2020 decision, finding that the evidence of record established the factual component of fact of injury and that the date of May 16, 2019<sup>3</sup> was accepted as the date of injury. The claim remained denied, however, as the medical evidence of record was insufficient to establish causal relationship between appellant’s diagnosed conditions and the accepted May 16, 2019 employment incident.

### **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 the fact 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 period 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 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 determine whether an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>8</sup> The second component is whether the employment incident caused a personal injury.<sup>9</sup>

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<sup>3</sup> The decision notes the date as May 16, 2021; however, this appears to be a typographical error as the case record indicates that May 16, 2019 was the date of injury.

<sup>4</sup> *Supra* note 2.

<sup>5</sup> *S.S.*, Docket No. 19-1815 (issued June 26, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *S.A.*, Docket No. 19-1221 (issued June 9, 2020); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990). See 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined, respectively).

<sup>8</sup> *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>9</sup> *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>10</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment incident identified by the employee.<sup>11</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right wrist condition causally related to the accepted May 16, 2019 employment incident.<sup>12</sup>

OWCP received several reports from Dr. Matarese. In his June 26, 2019 report, Dr. Matarese, and Dr. Wanich, in his January 7, 2020 report, indicated that appellant reported right wrist pain on May 14, 2019 after lifting/pushing of boxes. Dr. Wanich even noted that appellant had heard a “pop” upon lifting the mail sack on that date. The Board also notes that while these physicians provided diagnoses of appellant’s right wrist condition, neither Dr. Matarese nor Dr. Wanich provided an opinion on causal relationship between the diagnosed conditions and the accepted May 16, 2019 employment incident. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee’s condition is of no probative value on the issue of causal relationship.<sup>13</sup> Therefore, these reports are insufficient to meet appellant’s burden of proof to establish her claim.

OWCP also received unsigned return-to-work certificates which noted a diagnosis of right wrist sprain, and unsigned May 20, 2019 hospital records which noted that appellant’s right wrist pain started two weeks ago when she picked up a heavy box while at work. The Board has held that reports that are unsigned or that bear illegible signatures cannot be considered probative medical evidence because they lack proper identification as the author cannot be identified as a physician.<sup>14</sup> Accordingly, this medical evidence is insufficient to satisfy appellant’s burden of proof.

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<sup>10</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>11</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>12</sup> *See G.B.*, Docket No. 22-0269 (issued August 8, 2022).

<sup>13</sup> *J.H.*, Docket No. 21-1255 (issued April 28, 2022); *D.T.*, Docket No. 22-0031 (issued May 24, 2022); *T.T.*, Docket No. 20-0687 (issued December 11, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>14</sup> *D.T.*, Docket No. 20-0685 (issued October 8, 2020); *W.L.*, Docket No. 19-1581 (issued August 5, 2020); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

Appellant submitted x-ray and MRI scan reports. However, diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether an employment incident caused the diagnosed condition.<sup>15</sup>

As the medical evidence of record is insufficient to establish that appellant's diagnosed right wrist conditions were causally related to the accepted May 16, 2019 employment incident, the Board finds that appellant has not met her 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 her burden of proof to establish a right wrist condition causally related to the accepted May 16, 2019 employment incident.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the November 17, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 20, 2023  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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<sup>15</sup> *C.M.*, Docket No. 21-0004 (issued May 24, 2021); *K.R.*, Docket No. 20-1103 (issued January 5, 2021); *F.S.*, Docket No. 19-0205 (issued June 19, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).