

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

S.S., Appellant

and

**U.S. POSTAL SERVICE, PROCESSING AND
DISTRIBUTION CENTER/FACILITY,
White Plains, NY, Employer**

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**Docket No. 22-1072
Issued: April 25, 2023**

Appearances:
Appellant, pro se
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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 5, 2022 appellant filed a timely appeal from a January 7, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has established a medical condition, causally related to the accepted June 25, 2021 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the January 7, 2022 decision, appellant submitted additional evidence to OWCP and on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On June 30, 2021 appellant, then a 50-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 25, 2021 she injured her right wrist when she tried to pull a heavy package while in the performance of duty. On the reverse side of the claim form, appellant's supervisor acknowledged that she was injured in the performance of duty. Appellant stopped work on June 26, 2021.

In support of her claim, appellant submitted a work excuse note dated June 28, 2021 from Jason Asselin, a physician assistant, holding appellant off work until July 5, 2021. In a July 1, 2021 work excuse note, Mr. Asselin diagnosed cellulitis of the right hand and held appellant off work until July 16, 2021.

In an attending physician's report, Part B, of an authorization for examination and/or treatment (Form CA-16) dated July 6, 2021, a healthcare provider with an illegible signature related that appellant was lifting packages at work on June 25, 2021 when she felt a sudden onset of pain in the dorsum of the right hand and wrist. The author of the form diagnosed cellulitis of the right hand and wrist checked a box marked "Yes," indicating that the diagnosed condition was caused by the claimed June 25, 2021 employment incident. The form indicated that appellant was temporarily, totally disabled from work from June 25 through July 19, 2021.

In a July 14, 2021 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

Appellant subsequently submitted a June 25, 2021 emergency department report from Rachael K. Grant, a physician assistant, relating appellant's history of injury. Examination of the right upper extremity revealed tenderness to palpation over the radial aspect of wrist and anatomical snuffbox and painful range of motion (ROM) of wrist and thumb. Ms. Grant reviewed x-rays of the right hand and wrist taken that day, which revealed no abnormalities. She diagnosed right wrist sprain and thumb pain.

In a June 27, 2021 emergency department report, Dr. Joseph D. Felice, a Board-certified emergency medicine specialist, relating that appellant was seen the day before when she heard a pop and felt immediate pain in her right hand and wrist after pulling on a large, heavy package at work. Appellant reported that her pain had increased and now travelled up the forearm. Examination revealed swelling of the dorsum of the right hand extending proximally to the mid-forearm and diffuse tenderness, greatest focally over the scaphoid. A right wrist x-ray taken that day was negative for fracture. Dr. Felice diagnosed injury of wrist and advised appellant to follow up with a hand specialist.

A June 28, 2021 report from Dr. Russell Tigges, Board-certified in orthopedic surgery, related that appellant was lifting packages at work when she felt a sudden onset of pain in the dorsum of the hand and wrist. Dr. Tigges noted this was a work-related injury. Examination demonstrated erythema, moderate edema, and tenderness to palpation at the dorsum of the hand, as well as moderate edema in all five fingers. Dr. Tigges diagnosed cellulitis of the right hand and wrist and indicated that appellant could return to work on July 6, 2021.

In a July 1, 2021 medical report, Dr. Lawrence Kusior, a Board-certified orthopedic surgeon, related that appellant was seen for cellulitis of the right hand and wrist and was doing very well. He noted that she had less redness and swelling in the thumb and wrist but continued to have first dorsal compartment pain “most likely from repetitive motion of her job” as a mail handler. Examination revealed positive Finkelstein test and tenderness to palpation of the first dorsal compartment of the right wrist. Dr. Kusior noted that appellant’s right-hand cellulitis had resolved and diagnosed de Quervain’s syndrome of the right wrist. He indicated that she was temporarily totally disabled with regard to her right hand and advised that she should remain off work for another two weeks.

In a July 19, 2021 report, Dr. Sasha Ristic, Board-certified in orthopedic surgery, related that appellant sustained trauma to the right wrist at work several weeks prior and was improving. Examination revealed severe tenderness at the carpometacarpal (CMC) joint, grind, weakness to pinch, and mildly positive Finkelstein test. Dr. Ristic noted that appellant did not appear to have an infection upon examination. He diagnosed cellulitis of right hand and wrist, right wrist pain, and localized primary CMC osteoarthritis and advised that she was temporarily totally disabled from work. Dr. Ristic recommended that appellant undergo a magnetic resonance imaging (MRI) scan of the right wrist. In a work excuse note of even date, he diagnosed cellulitis of right hand and held her off work until August 9, 2021.

On July 30, 2021 appellant responded to OWCP’s development questionnaire, describing her history of injury and treatment. She reported that she had not sustained any other injury and had no history of prior wrist pain.

In an August 16, 2021 work excuse note, Dr. Ristic diagnosed localized primary CMC osteoarthritis and held appellant off work until September 13, 2021.

By decision dated September 1, 2021, OWCP denied appellant’s traumatic injury claim, finding that the evidence of record was insufficient to establish that her medical condition was causally related to the accepted June 25, 2021 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury and/or medical condition.

OWCP subsequently received an August 30, 2021 attending physician’s report (Form CA-20) from Dr. Ristic relating that appellant was lifting packages at work and felt sudden onset of pain in the hand and wrist. He diagnosed localized primary CMC osteoarthritis and checked a box marked “Yes,” indicating that her condition was caused by the employment incident. Dr. Ristic indicated that appellant was temporarily, totally disabled from work from September 1 through 25, 2021.

In a September 1, 2021 report, Dr. Ristic related that appellant was seen for her work-related injury. He diagnosed localized primary CMC osteoarthritis, cellulitis of right hand and wrist, right wrist pain, and wrist sprain. Dr. Ristic noted that there was confusion over the requested MRI scan and clarified that appellant no longer had any clinical evidence of cellulitis, but rather the MRI scan was to assess the wrist itself, including the tendons, cartilage, and ligaments. He indicated that she was temporarily totally disabled.

On September 15, 2021 appellant requested a review of the written record by a representative of OWCP’s Branch of Hearings and Review.

By decision dated January 7, 2022, OWCP's hearing representative affirmed the September 1, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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,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 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 at the time and place, and in the manner alleged.⁷ The second component is whether the employment incident caused a personal injury.⁸

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁹ 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.¹⁰

³ *Supra* note 1.

⁴ *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).

⁵ *M.H.*, Docket No. 19-0930 (issued June 17, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *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).

⁷ *R.K.*, Docket No. 19-0904 (issued April 10, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *John J. Carlone*, 41 ECAB 354 (1989).

⁹ *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).

¹⁰ *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).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted June 25, 2021 employment incident.

In a June 28, 2021 report, Dr. Tigges related that appellant was lifting packages at work when she felt a sudden onset of pain in the dorsum of the hand. He diagnosed cellulitis of the right hand and wrist and opined that her injury was work related. In a July 1, 2021 report, Dr. Kusior noted that appellant continued to have first dorsal compartment pain “most likely from repetitive motion of her job” as a mail handler. He noted that her right-hand cellulitis had resolved and diagnosed de Quervain’s syndrome of the right wrist. On an August 30, 2021 Form CA-20, Dr. Ristic related that appellant was lifting packages at work and felt sudden onset of pain in the hand and wrist. He diagnosed localized primary CMC osteoarthritis and checked a box marked “Yes,” indicating that her condition was caused by lifting packages at work. While these reports provided affirmative opinions on causal relationship, they do not include medical rationale explaining why they believed appellant’s employment duties could have resulted in or contributed to her diagnosed conditions. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹¹ As such, these medical reports are of limited probative value, and are insufficient to meet appellant’s burden of proof.¹²

In a June 27, 2021 emergency department report, Dr. Felice related that appellant heard a pop and felt immediate pain in her right hand and wrist after pulling on a large, heavy package at work. He diagnosed injury of wrist. In a July 19, 2021 report, Dr. Ristic related that appellant sustained trauma to the right wrist at work several weeks prior and was improving. He diagnosed cellulitis of right hand and wrist, right wrist pain, and localized primary CMC osteoarthritis. Although Dr. Felice and Dr. Ristic each suggested a work-related cause for appellant’s medical condition, neither provided a rationalized medical opinion relating the specific diagnosed condition to the June 25, 2021 employment incident. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹³ Therefore, these reports are insufficient to establish appellant’s traumatic injury claim.

In a work excuse note dated July 19, 2021, Dr. Ristic diagnosed cellulitis of the right hand and held appellant off work until August 9, 2021. In an August 16, 2021 work excuse note, he diagnosed localized primary CMC osteoarthritis and held her off work until September 13, 2021. In a September 1, 2021 report, Dr. Ristic related that appellant was seen for her work-related injury and diagnosed localized primary CMC osteoarthritis, cellulitis of right hand and wrist, right wrist pain, and wrist sprain. However, Dr. Ristic did not offer an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an

¹¹ *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹² *See A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹³ *Supra* note 11.

employee's condition is of no probative value on the issue of causal relationship.¹⁴ For this reason, this medical evidence is insufficient to meet appellant's burden of proof.

OWCP also received medical records from Mr. Asselin and Ms. Grant, physician assistants. The Board has held that medical reports signed solely by a physician assistant are of no probative value as such healthcare providers are not considered physicians as defined under FECA and are, therefore, not competent to provide medical opinions.¹⁵ Consequently, their medical findings and/or opinions will not suffice for the purpose of establishing entitlement to FECA benefits.

The remaining evidence consists of an attending physician's report, Part B, of a Form CA-16 dated July 25, 2021 bearing an illegible signature. The Board has held that a report that is unsigned or bears an illegible signature lacks proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.¹⁶ This evidence is, therefore, insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish causal relationship between appellant's diagnosed conditions and the accepted June 25, 2021 employment incident, the Board finds that she 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 medical condition causally related to the accepted June 25, 2021 employment incident.¹⁷

¹⁴ *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ Section § 8102(2) of FECA provides as follows: (2) 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. § 8102(2); 20 C.F.R. § 10.5(t). See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); see also *S.S.*, Docket No. 21-1140 (issued June 29, 2022) (physician assistants are not considered physicians under FECA and are not competent to provide medical opinions); *George H. Clark*, 56 ECAB 162 (2004) (physician assistants are not considered physicians under FECA).

¹⁶ *R.C.*, Docket No. 20-1525 (issued June 8, 2021); *I.M.*, Docket No. 19-1038 (issued January 23, 2020); *T.O.*, Docket No. 19-1291 (issued December 11, 2019); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁷ A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *V.S.*, Docket No. 20-1034 (issued November 25, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the January 7, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 25, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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