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M.S., Appellant)	
)	
and)	Docket No. 21-0855
)	Issued: February 3, 2023
U.S. POSTAL SERVICE, HAZLETON POST)	
OFFICE, Hazleton, PA, Employer)	
)	

Case Submitted on the Record

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On June 19, 2018 appellant, then a 51-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he developed arthritis in his left middle finger due to factors of his federal employment.⁴ He indicated that he repetitively used his left hand to finger through letters for 26 years. Appellant further indicated that he first became aware of his condition and first realized it was caused or aggravated by his federal employment duties on May 21, 2018. He did not stop working.

In May 21 and June 18, 2018 reports, Dr. Richard J. Tosti, a Board-certified orthopedic hand surgeon, indicated that appellant was status post left CMC thumb arthroplasty, carpal tunnel release, and cubital tunnel release surgeries, which he underwent on October 31, 2017. He further indicated that appellant had been released to part-time, full-duty work, but had been "struggling" at work with metacarpophalangeal (MP) joint range of motion and soreness around the MP joint when sifting through letters. Dr. Tosti diagnosed MP joint arthrosis of the left middle finger and opined that appellant's condition was related to his work as a mail carrier as well as the other forms of arthritis around the wrist in his hand.

On July 25, 2018 the employing establishment controverted appellant's claim and submitted a position description.

In a July 16, 2018 statement, appellant indicated that he worked as a letter carrier for the past 26 years and he used his left hand repetitively to finger through letters and magazines and third bundles.

In an undated narrative report, Dr. Tosti opined that appellant's conditions were causally related to his work as a mailman as his left upper extremity was solely used to manipulate the mail.

By decision dated August 22, 2018, OWCP denied appellant's occupational disease claim, finding that the evidence of record failed to establish that his diagnosed left middle finger condition was causally related to the accepted factors of his federal employment.

³ Docket No. 19-0913 (issued November 25, 2019).

⁴ Appellant has four other claims relative to his left upper extremity. In 2013, he filed an occupational disease claim that was accepted for left carpal tunnel syndrome under OWCP File No. xxxxxx777. In 2015, appellant filed an occupational disease claim that was denied for a left upper extremity condition under OWCP File No. xxxxxx856. In 2017, he filed an occupational disease claim that was accepted for an exacerbation of left carpal tunnel syndrome, exacerbation of left cubital tunnel syndrome, and arthritis of the left thumb carpal metacarpal (CMC) joint under OWCP File No. xxxxxx847. On October 31, 2017 appellant underwent a left wrist trapeziectomy, left thumb CMC joint arthroplasty with tendon transfer, left carpal tunnel release, and in situ left ulnar nerve release at the elbow.

In a letter dated August 28, 2018, which OWCP received on August 29, 2018, appellant, through counsel, requested a telephone hearing before a representative of OWCP's Branch of Hearings and Review, which was held telephonically on January 15, 2019.

OWCP continued to receive evidence. In a September 14, 2018 narrative report, Dr. Joshua B. Macht, Board-certified in internal medicine, diagnosed left carpal tunnel syndrome, left cubital tunnel syndrome, and left thumb CMC joint arthritis and opined that his diagnosed conditions were causally related to his work as a mail carrier.

In a January 8, 2019 report, Dr. Tosti noted that appellant's main complaint was stiffness in the MP joint of the middle finger post his October 31, 2017 wrist operation, but opined that he was not exactly sure why it was suddenly stiff as he was not in that region of the left hand during the operation.

On February 4, 2018 the employing establishment again controverted appellant's claim, noting that he did not utilize his left hand constantly and repetitively, as alleged, but rather in an intermittent nature.

By decision dated March 1, 2019, an OWCP hearing representative affirmed the August 22, 2018 decision.

On March 25, 2019 appellant, through counsel, appealed to the Board.

Appellant subsequently submitted additional evidence on appeal. In a June 26, 2019 work status report, an unidentifiable healthcare provider indicated that appellant could return to full-duty work on that date.

In an undated statement, appellant noted that, since he began working at the employing establishment in 1992, he used his left hand repetitively to finger through letters and magazines that he cased. He contended that he fingered through approximately 350,000 letters a year and 60,000 delivery point sequence (DPS) letters and magazines for 27 years, which eventually resulted in his current condition. Appellant also submitted his position description as a letter carrier.

By decision dated November 25, 2019, the Board affirmed OWCP's March 1, 2019 decision.⁵

On January 6, 2020 appellant, through counsel, requested reconsideration.

In a November 20, 2019 report, Dr. Randall W. Culp, a Board-certified hand surgeon, noted that appellant had been working as a letter carrier for over 20 years. He indicated that his work duties required him to repetitively lift up to 70 pounds. Dr. Culp explained that when "one reviews repetitive motion disorders of the upper extremity, it is clear that [appellant's] post-traumatic arthrosis is aggravated by his work activities." He noted that appellant reported that his

⁵ *Supra* note 3.

symptoms were worse while working and better when not working. Dr. Culp opined that this was “a classic description of a work-related aggravation.”

On April 23, 2021 the employing establishment again controverted appellant’s claim.

By decision dated April 26, 2021, OWCP denied modification of the November 25, 2019 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁶ 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,⁷ 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.⁸ 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.⁹

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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 claimant.¹⁰

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.¹¹ 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 factors identified by the employee.¹²

⁶ *Supra* note 2.

⁷ *J.W.*, Docket No. 18-0678 (issued March 3, 2020); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁸ *J.S.*, Docket No.18-0657 (issued February 26, 2020); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁹ *L.J.*, Docket No. 19-1343 (issued February 26, 2020); *R.R.*, Docket No.18-0914 (issued February 24, 2020); *Delores C. Ellyett*, 41 ECAB 992 (1990).

¹⁰ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

¹¹ *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

¹² *R.G.*, Docket No. 18-0792 (issued March 11, 2020); *D.J.*, Docket No. 19-1301 (issued January 29, 2020); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

In a case in which a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹³

ANALYSIS

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

Preliminarily, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's March 1, 2019 decision, which was considered by the Board in its November 25, 2019 decision. Findings made in prior Board decisions are *res judicata* absent further merit review by OWCP under section 8128 of FECA.¹⁴

Dr. Culp, in his November 20, 2019 report, indicated that appellant's work duties as a letter carrier required him to repetitively lift up to 70 pounds, which he performed for over 20 years. He explained that when "one reviews repetitive motion disorders of the upper extremity, it is clear that [appellant's] post-traumatic arthrosis is aggravated by his work activities." Dr. Culp noted that appellant's symptoms got worse while he was working and better while resting. He opined that this was "a classic description of a work-related aggravation." While he supported causal relationship, Dr. Culp did not provide medical rationale explaining the basis of his conclusory opinion regarding the causal relationship between appellant's left middle finger condition and the accepted factors of his federal employment.¹⁵ The Board has held that a medical opinion is of limited value if it is conclusory in nature.¹⁶ A medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.¹⁷ Further, as noted above, a well-rationalized opinion is particularly important since appellant has a history of preexisting left hand conditions.¹⁸ For these reasons, Dr. Culp's report is insufficient to establish causal relationship.

The remaining medical evidence of record consists of the June 26, 2019 work status report, containing an illegible signature. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence,

¹³ *A.O.*, Docket No. 20-0038 (issued August 26, 2020); *B.H.*, Docket No. 18-1693 (issued July 20, 2020); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

¹⁴ *See P.B.*, Docket No. 20-0124 (issued March 10, 2021); *I.S.*, Docket No. 19-1461 (issued April 30, 2020).

¹⁵ *K.G.*, Docket No. 20-0625 (issued November 6, 2020); *T.F.*, Docket No. 20-0260 (issued June 12, 2020).

¹⁶ *D.S.*, Docket No. 19-1814 (issued April 1, 2020); *C.M.*, Docket No. 19-0360 (issued February 25, 2020).

¹⁷ *Id.*

¹⁸ *Supra* note 13.

as the author cannot be identified as a physician.¹⁹ Therefore, this document has no probative value and is also insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence establishing a causal relationship between his diagnosed left middle finger condition and the accepted factors of federal employment, the Board finds that he has not met his burden of proof to establish his 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 left middle finger condition causally related to the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the April 26, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 3, 2023
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

¹⁹ *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *T.O.*, Docket No. 19-1291 (issued December 11, 2019).