

<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 wrist condition causally related to her accepted September 8, 2020 employment incident.

## **FACTUAL HISTORY**

On September 30, 2020 appellant, then a 53-year-old mail handler assistant, filed a traumatic injury claim (Form CA-1) alleging that on September 8, 2020 she developed swollen right hand tendons and bilateral fingers when she felt a strong click on her right hand, and pain in both hands while managing a 70-pound bag full of parcels at the Automatic Parcel and Bundle Sorter (APBS) machine in the performance of duty.

A September 28, 2020 ultrasound of appellant's right wrist indicated a thickened median nerve, possibly due to carpal tunnel syndrome and arthritis of the wrist.

In an October 12, 2020 report, Dr. Eric R. Javier, a physiatrist, diagnosed right wrist carpal tunnel syndrome and median nerve entrapment at the wrist. He provided temporary restrictions for sedentary to light-duty positions. Dr. Javier advised, in a separate note dated October 12, 2020, that appellant could return to work October 26, 2020.

OWCP also received an undated statement from appellant and an October 12, 2020 request for reasonable accommodation.

On November 23, 2020 Dr. Javier continued to provide light-duty restrictions.

On December 7, 2020 OWCP received an October 8, 2020 letter, wherein the employing establishment controverted appellant's claim. It contended that she was hired on August 1, 2020 and that she alleged that her injury occurred within weeks of her hire.

OWCP, in a development letter dated December 7, 2020, informed appellant of the deficiencies of her traumatic injury claim. It advised her of the type of factual and medical evidence necessary to establish her claim and afforded her 30 days to respond.

In a December 9, 2020 response, appellant again described the September 8, 2020 incident and requested modified duty.

OWCP also received a September 11, 2020 x-ray of appellant's hands, which revealed normal findings.

In a December 10, 2020 report, Dr. Javier indicated that appellant has been under his care since September 22, 2020 for a September 8, 2020 work-related injury when she felt a click on her right hand, and numbness and pain in both hands, while placing a 70-pound bag full of parcels onto a general post cart. He noted that her physical examination findings indicated positive bilateral Tinel's and Phalen's tests, decreased range of motion, and decreased sensation of the hands at the median nerve distribution. Dr. Javier diagnosed bilateral wrist tendinitis and bilateral carpal tunnel syndrome. He also noted that appellant was seen for a follow up on October 12, 2020 following a sonogram, which noted thickening of the median nerve and mild arthritis.

Dr. Javier opined that, based on medical literature's definition of causation, her conditions were causally related to the September 9, 2020 work incident. He indicated that patients with chronic degenerative changes frequently develop exacerbations of pain, spasms, loss of motion and/or dysfunction and patients with hand and wrist problems who engage in repetitive vigorous heavy activities may develop swelling, pain and stiffness at the wrist and flexor tendons that causes median nerve entrapment (carpal tunnel syndrome). Dr. Javier, thus, opined that appellant suffered a repetitive injury and required work modification.

By decision dated January 6, 2021, OWCP denied appellant's claim. It found that the September 8, 2020 employment incident occurred as alleged, but that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted employment incident.

On January 13, 2021 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

Appellant submitted a January 12, 2021<sup>3</sup> report, wherein Dr. Javier indicated that appellant had worked at the APBS machine continuously for more than six days. Dr. Javier opined that, based on scientific based medicine and the definition of causation from scientific literature, appellant suffered a repetitive injury to her hands and wrists due to repetitive vigorous heavy activities, which caused swelling, pain and stiffness at the wrist and flexor tendons that caused median nerve entrapment (carpal tunnel syndrome).

OWCP also received a copy of a January 13, 2021 electromyogram and nerve conduction velocity (EMG/NCV) testing.

By decision dated February 26, 2021, OWCP's hearing representative affirmed the January 6, 2021 decision.

On December 27, 2021 appellant, through counsel, requested reconsideration. OWCP received a partial copy of an article entitled, "How Long Does it Take Somebody to Develop Carpal Tunnel?"

In an April 28, 2021 report, Dr. Javier opined that appellant suffered a work-related injury on September 8, 2020 while working at the APBS machines, and was diagnosed with bilateral wrist tendinitis, bilateral carpal tunnel syndrome and mild grade 1 degenerative arthritis. He indicated that her mild degenerative arthritis changes were not the cause of her carpal tunnel syndrome, and did not contribute to her symptoms. Dr. Javier again reiterated that medical and scientifically-based literature supported a conclusion that as appellant worked at the PBSM continuously for more than six days, she developed a cumulative trauma disorder that was known to most commonly affect muscle tendons and nerves. He noted that, while symptoms tend to develop over a period of weeks or months, multiple personal and work factors are involved in upper limb disorders and that carpal tunnel syndrome can be caused, in part or in whole, by adverse working conditions. Dr. Javier noted that appellant had several workplace risk factors at the time of her injury, including high repetition, high force and awkward wrist posture, and that her

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<sup>3</sup> The report dated January 12, 2020 appears to be a typographical error as the injury occurred on September 8, 2020.

threshold limit value for hand activity level and her strain index for the job was high. He noted that the combination of risk factors were strong evidence that demonstrated that the highest rates of carpal tunnel syndrome occur in occupations with high upper extremity physical demands. Dr. Javier, thus, concluded that using the medical and scientific definitions, along with the objective findings in the sonogram and EMG/NCV study, appellant's carpal tunnel syndrome was causally related to her work.

By decision dated March 14, 2022, OWCP denied modification of the February 26, 2021 decision.

### **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 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 a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.<sup>8</sup> There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>9</sup> Second, the employee must submit evidence, in the form of probative medical evidence, to establish that the employment incident caused a personal injury.<sup>10</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>11</sup> A physician's opinion on whether there is a causal relationship

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

<sup>5</sup> *See J.K.*, Docket No. 20-0527 (issued May 24, 2022); *J.C.*, Docket No. 20-0882 (issued June 23, 2021); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *J.K.*, *id.*; *J.C.*, *id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>8</sup> *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, 59 ECAB 184 (2007).

<sup>9</sup> *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>10</sup> *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>11</sup> *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

between the diagnosed condition and the employment injury must be based on a complete factual and medical background.<sup>12</sup> Additionally, the physician's opinion 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 appellant's employment injury.<sup>13</sup>

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.<sup>14</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a wrist condition causally related to her accepted September 8, 2020 employment injury.

OWCP received several reports from Dr. Javier. In his October 12, 2020 report, Dr. Javier diagnosed right carpal tunnel syndrome. This report, however, is of no probative value because he failed to offer an opinion on causal relationship.<sup>15</sup> Thus, this report is insufficient to meet appellant's burden of proof.

In his December 10, 2020 and January 12, 2021 reports, Dr. Javier indicated that appellant was working at the APBS machine continuously for more than six days and, based on scientific and medical literature, she suffered a repetitive injury. He explained that her hands and wrists were engaged in repetitive vigorous heavy activities, which caused her symptoms of swelling, pain, and stiffness at the wrist and flexor tendons, which, in turn, caused median nerve entrapment (carpal tunnel syndrome). The Board has held that reliance on medical literature has little probative value in resolving medical questions unless a physician shows the applicability of the general medical principles discussed in the articles to the specific factual situation at issue in the case.<sup>16</sup> While Dr. Javier noted the repetition of appellant's activities on September 8, 2020 and that she engaged in such activity for six days, he did not explain how the accepted employment incident of September 8, 2020 physiologically caused any diagnosed condition or how any medical literature supported causal relationship in this matter other than noting she was engaged in

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<sup>12</sup> *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>13</sup> *Id.*

<sup>14</sup> *See G.D.*, Docket No. 20-0966 (issued July 21, 2022); *R.C.*, Docket No. 19-0376 (issued July 15, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

<sup>15</sup> *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018) (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>16</sup> *S.J.*, Docket No. 20-0896 (issued January 11, 2021); *R.G.*, Docket No. 18-0917 (issued March 9, 2020); *T.S.*, Docket No. 18-1518 (issued April 17, 2019); *K.U.*, Docket No. 15-1771 (issued August 26, 2016); *Roger D. Payne*, 55 ECAB 535 (2004).

repetitive activities, a factor of her employment.<sup>17</sup> The Board, therefore, finds that the December 10, 2020 and January 12, 2021 reports are of diminished probative value and insufficient to establish the claim.

In his April 28, 2021 report, Dr. Javier denied that appellant had any medical condition or nonoccupational risk factors that contributed to her symptoms. He also denied that her mild degenerative arthritis changes contributed to or caused her symptoms or carpal tunnel syndrome. Based on medical literature, Dr. Javier opined that appellant developed a cumulative trauma disorder by working at the APBS continuously for more than six days. He noted carpal tunnel syndrome may be caused, in part or in whole, by adverse working conditions, and that appellant had several workplace risk factors (high repetition, high force and awkward wrist posture). Dr. Javier, thus, opined that using the definition the causes of upper-limb cumulative trauma disorders from the medical literature, the combination of appellant's risk factors and the objective findings in the sonogram and EMG/NCV study, appellant's carpal tunnel syndrome was causally related to her work. The Board notes that Dr. Javier again failed to explain how the accepted employment incident of September 8, 2020 physiologically caused any diagnosed condition or how any medical literature supported causal relationship in this matter.<sup>18</sup> Consequently, his report is insufficient to establish appellant's traumatic injury claim.

Appellant also submitted diagnostic tests including EMG, x-ray, and sonogram studies. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship, as they do not provide an opinion as to whether the employment incident caused any of the diagnosed conditions.<sup>19</sup>

Appellant also submitted an article regarding carpal tunnel syndrome. The Board has held, however, that newspaper clippings, medical texts, and excerpts from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and an employee's federal employment. Such materials are of general application, and are not determinative of whether the specific condition claimed is related to the particular employment factors alleged by the employee.<sup>20</sup>

As the medical evidence of record is insufficient to establish a wrist condition causally related to the accepted September 8, 2020 employment incident, the Board finds that she has not met her burden of proof.

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<sup>17</sup> See *S.W.*, Docket No. 21-1105 (issued December 17, 2021); *S.J.*, *id.*; *A.H.*, Docket No. 19-0270 (issued June 25, 2019); *M.W.*, Docket No. 18-1624 (issued April 3, 2019).

<sup>18</sup> See *S.W.*, *id.*

<sup>19</sup> See *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *K.C.*, Docket No. 20-1325 (issued May 5, 2021); *C.B.*, Docket No. 20-0464 (issued July 21, 2020).

<sup>20</sup> See *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *A.G.*, Docket No. 18-0281 (issued July 12, 2018); *R.O.*, Docket No. 08-1133 (issued October 8, 2008); *William C. Bush*, 40 ECAB 1064, 1075 (1989) (excerpts from publications lack probative value in resolving medical questions unless a physician shows the applicability of the general medical principles discussed in the articles to the specific factual situation in a case).

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 wrist condition causally related to her accepted September 8, 2020 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 14, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 21, 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