

ISSUE

The issue is whether appellant has met his burden of proof to expand the acceptance of his claim to include right carpal tunnel syndrome (CTS) as causally related to the accepted January 21, 2003 employment injury.

FACTUAL HISTORY

On January 27, 2003 appellant, then a 42-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 21, 2003 he sustained right shoulder pain and bilateral hand numbness when his employing establishment vehicle was rear ended by another vehicle in the performance of duty. On March 18, 2003 OWCP accepted the claim for a right shoulder sprain. On July 30, 2021 it expanded the acceptance of the claim to include right shoulder bursitis, right shoulder acromioclavicular joint arthritis, and sprain of the right shoulder and upper arm.

On January 26, 2004 appellant underwent an authorized right shoulder arthroscopy, subacromial decompression, and a distal clavicle resection. Following surgery, he was released to return to work on March 3, 2004, with restrictions of no driving, no lifting over five pounds, no overhead activity, and no pushing/pulling over five pounds. The record reflects that appellant returned to work on April 19, 2004, but resigned on June 11, 2004, for personal reasons.

In a June 16, 2021 report, Dr. John W. Ellis, a Board-certified orthopedic surgeon, requested that the acceptance of appellant's claim be expanded to include the additional diagnosis of right CTS. He related that, following the authorized right shoulder surgery in January 2004, appellant began noticing numbness, tingling, and loss of strength in the right hand. Dr. Ellis noted that appellant underwent an electromyography/nerve conduction velocity (EMG/NCV) study, which was abnormal for right-sided sensorimotor median demyelinating mononeuropathy across the wrist, consistent with the clinical diagnosis of right-sided CTS. He examined appellant's right upper extremity and noted that appellant had a positive Tinel's sign. Dr. Ellis diagnosed right CTS. He opined that, "It is my medical opinion that, due to the work-related duties required by [appellant] as a mail carrier, required lots of repetitive work, such as lifting and moving, twisting, turning, and pulling of objects weighing upwards of 70 pounds. The repetitive motion caused thickening of the transverse carpal ligament in the wrist causing pressure on the median nerve causing his carpal tunnel syndrome. With the occupational disease involving [appellant's] right shoulder, he became much more reliant on the use of his right wrist when lifting and pushing or pulling of objects. Therefore, it is my medical opinion [that] his conditions are a direct result of his work-related duties as a mail carrier and, therefore, [he should] undergo [authorized] surgical intervention to prevent any permanent irreversible progressive worsening of his right carpal tunnel syndrome."

In a development letter dated July 30, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In an August 25, 2021 report, Dr. Ellis noted that he was providing additional medical rationale and related that appellant's repetitive work for the employing establishment led to his

right shoulder sprain, bursitis, and osteoarthritis, and the January 21, 2004 right shoulder surgery. He reiterated his opinion that, because of the right shoulder surgery, appellant was unable to properly hold his right upper extremity, resulting in continued and prolonged awkward postures, including inability to elevate his right shoulder that led to abnormal increased biomechanical forces and stresses. Dr. Ellis opined that this posturing, along with the forced repetition of his occupation as a letter carrier, led to the inflammation and swelling, as well as symptoms of increased fluid retention within the transverse carpal ligament, leading to compression of the median nerve, causing pain and changes in sensation along the pathways of the median nerve. He explained that, when appellant went to work for the VA, the repetitive data entry and prolonged compression of the wrist while typing at the keyboard led to the hypertrophy of the transverse carpal ligament, causing further irritation and compression of the median nerve at the level of the wrist.

By decision dated September 8, 2021, OWCP denied expansion of the acceptance of the claim to include right CTS. It noted that appellant had not provided a factual response to the questions asked of him and that the requested expansion of his claim was inconsistent with the history of injury, as his accepted claim was based on a motor vehicle accident and not repetitive work factors.

On September 12, 2021 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

Appellant submitted additional evidence including February 4 and July 9, 2003 reports from Dr. Alfredo F. Hernandez, a Board-certified orthopedic surgeon. In his February 4, 2003 report, Dr. Hernandez noted that appellant sustained an impingement injury to his right shoulder from a motor vehicle accident at work on January 24, 2003. In his July 9, 2003 report, he opined that appellant would have a permanent disability.

By letter dated September 20, 2021, counsel notified OWCP that appellant wished to change the request from a review of the written record to a request for an oral hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on January 4, 2022.

In a January 13, 2022 supplemental report, Dr. Ellis noted that appellant was involved in a head-on motor vehicle accident on January 21, 2003. He related that the accident occurred while appellant was driving his long-life vehicle (LLV) and a vehicle flew around the corner and collided head-on into appellant's vehicle. Dr. Ellis opined that the accident contributed to the development and aggravation of right CTS, as the acute trauma to the right shoulder caused changes in the structure and biomechanics of the right upper extremity, which led to an increased cumulative repetitive stress at the right wrist, resulting in the right CTS. He further opined that had appellant not been involved in the motor vehicle accident, the right CTS would not have developed and progressed through a natural course to the current condition. Dr. Ellis opined that the repetitive use of appellant's right upper extremity led to the accepted condition of primary osteoarthritis of the right shoulder, as well as bursitis of the right shoulder and sprain of the right shoulder, for which appellant underwent surgery. He further opined that, because of the shoulder surgery, appellant was unable to properly hold his right upper extremity, resulting in continued and prolonged awkward postures during the course of his job and employment at the employing establishment, which led to abnormal increased biomechanical forces and stresses and subsequent

CTS. Dr. Ellis opined that the CTS symptoms began while working for the employing establishment as a consequence of the changes in appellant's extremity following the surgery, and that there was a strong correlation between the shoulder osteoarthritis and the nerve entrapment of the right wrist as a consequence of the right shoulder injury. He further opined that appellant's work at the VA caused additional aggravation of the right CTS. Dr. Ellis opined, "Due to his impaired physical condition following the right shoulder injury and subsequent surgery, [appellant] developed the consequential condition of compression of the median nerve. His previous work-related injury to his right upper extremity has hastened the development of the CTS causing an acceleration which would not have occurred in the ordinary course of the disease. The precipitation of symptoms itself would not have manifested on its own had it not been for the previous work-related injuries accepted under the [workers' compensation] claim for his right shoulder." He further opined, "Based upon the history provided by [appellant] and my examination, experience, diagnostic evidence, as well as medical training, it is my opinion within a reasonable degree of medical certainty that his injury to his wrist arose out of and is a direct result of the employee's previous work-related occupational disease of the right shoulder, along with the additional aggravating factors of work-related activities with the Department of Veterans Affairs. After reviewing all of the evidence, it remains my opinion [that] appellant's work-related activities performed in the course of his duty day as a letter carrier while employed at the employing establishment, along with the occupational disease of the right shoulder in combination with the aggravating factors of his employment while he worked in both roles of a clerk and field examiner for the Department of Veterans Affairs, are the major causes of his current injury resulting in the impingement and compression of the median nerve in the right wrist resulting in the diagnoses of carpal tunnel syndrome."

By decision dated March 9, 2022, OWCP's hearing representative affirmed the September 8, 2021 decision. It found that Dr. Ellis had not provided a reasoned and probative medical opinion establishing causal relationship between the accepted motor vehicle accident and the diagnosis of carpal tunnel syndrome, and ruling out as the cause of the condition the intervening 18 years of employment for other employers since the 2003 incident.

LEGAL PRECEDENT

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.⁴

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁵ A physician's opinion on whether there is causal relationship between the diagnosed condition and an accepted injury must be based on a complete factual and

⁴ See *D.W.*, Docket No. 22-0109 (issued May 17, 2022); *A.A.*, Docket No. 19-1165 (issued December 16, 2019); *M.B.*, Docket No. 19-0485 (issued August 22, 2019); *R.J.*, Docket No. 17-1365 (issued May 8, 2019); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁵ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

medical background.⁶ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, which explains the nature of the relationship between the diagnosed condition and the accepted employment injury.⁷

With respect to consequential injuries, the Board has held that, where an injury is sustained as a consequence of an impairment residual to an employment injury, the new or second injury, even though nonemployment related, is deemed, because of the chain of causation, to arise out of and in the course of employment and is compensable.⁸

A claimant bears the burden of proof to establish a claim for a consequential injury.⁹ As part of this burden, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, establishing causal relationship. The opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the accepted employment injury.¹⁰

ANALYSIS

The Board finds that this case is not in posture for decision.

In his June 16, 2021 report, Dr. Ellis related that following the injury involving his right shoulder, appellant became much more reliant on the use of his right wrist when lifting and pushing or pulling of objects. In his August 25, 2021 report, Dr. Ellis further added that following appellant's accepted January 21, 2004 right shoulder surgery, he was unable to properly hold his right upper extremity, resulting in continued and prolonged awkward postures, including inability to elevate his right shoulder, that led to abnormal increased biomechanical forces and stresses. Dr. Ellis opined that this posturing, along with the forced repetition as a letter carrier, led to the inflammation and swelling, as well as symptoms of increased fluid retention within the transverse carpal ligament, leading to compression of the median nerve, causing pain and changes in sensation along the pathways of the median nerve.

In his January 13, 2022 supplemental report, Dr. Ellis further attempted to explain the mechanism of a consequential injury. He related that during the January 21, 2003 incident, appellant's vehicle was hit head on while appellant was driving his LLV and a vehicle flew around a corner and collided into appellant's vehicle. Dr. Ellis opined that the accident contributed to the development and aggravation of right CTS, because the acute trauma to the right shoulder caused changes in the structure and biomechanics of the right upper extremity, which led to an increased

⁶ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

⁸ *See L.M.*, Docket No. 21-0644 (issued March 15, 2022); *see also S.S.*, 59 ECAB 315 (2008).

⁹ *L.M., id.*; *C.H.*, Docket No. 20-0228 (issued October 7, 2020); *P.P.*, Docket No. 19-1359 (issued April 30, 2020).

¹⁰ *See T.S.*, Docket No. 20-0968 (issued August 17, 2021); *K.W.*, Docket No. 18-0991 (issued December 11, 2018); *P.M.*, Docket No. 18-0287 (issued October 11, 2018).

cumulative repetitive stress at the right wrist, resulting in the right CTS. Dr. Ellis again explained that appellant's authorized right shoulder surgery left appellant unable to properly hold his right extremity, placing his right upper extremity in awkward positions and posturing during the course of his employment with the employing establishment and subsequent employers. He further explained that due to his impaired physical condition following the right shoulder injury and subsequent surgery, appellant developed the consequential condition of compression of the median nerve. His previous work-related injury to his right upper extremity has hastened the development of the CTS causing an acceleration which would not have occurred in the ordinary course of the disease.

The Board finds that the reports from Dr. Ellis are sufficient to require further development of the medical evidence.¹¹ Dr. Ellis explained that appellant's accepted 2003 motor vehicle accident required right shoulder surgery in January 2004, which then resulted in awkward positioning of the right shoulder and additional pressure on the right wrist, which together with appellant's continued employment activities led to progression of his CTS. The Board finds that Dr. Ellis provided a pathophysiologic explanation explaining the mechanism of injury causing the current condition.¹²

The Board notes that proceedings under FECA are not adversarial in nature, and OWCP is not a disinterested arbiter.¹³ The Board finds that while Dr. Ellis' reports are insufficient to meet appellant's burden of proof, they raise an uncontroverted inference of causal relation between appellant's right CTS and the accepted January 21, 2003 employment injury. Further development of appellant's claim is therefore required.¹⁴

On remand OWCP shall prepare a statement of accepted facts and refer appellant to a specialist in the appropriate field of medicine for a second opinion examination and an evaluation regarding whether he sustained CTS as causally related to the accepted January 21, 2003 employment injury. If the second opinion physician disagrees with the opinion of Dr. Ellis, he or she must provide a fully-rationalized explanation of why the accepted employment injury was insufficient to have caused appellant's CTS condition. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

¹¹ *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

¹² *See B.H.*, Docket No. 19-0950 (issued October 24, 2019).

¹³ *See L.D.*, Docket No. 22-0039 (issued July 11, 2022); *see B.B.*, Docket No. 18-1321 (issued April 5, 2019).

¹⁴ *See C.M.*, Docket No. 17-1977 (issued January 29, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

ORDER

IT IS HEREBY ORDERED THAT the March 9, 2022 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: January 17, 2023
Washington, DC

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

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

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