

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

_____)	
L.B., Appellant)	
)	
and)	Docket No. 22-0339
)	Issued: June 21, 2023
DEPARTMENT OF VETERANS AFFAIRS,)	
MARION VA MEDICAL CENTER, Marion, IL,)	
Employer)	
_____)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On January 6, 2022 appellant filed a timely appeal from a December 29, 2021 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.

ISSUE

The issue is whether appellant has met her burden of proof to establish bilateral carpal tunnel syndrome causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On September 29, 2021 appellant, then a 56-year-old licensed practical nurse, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel

¹ 5 U.S.C. § 8101 *et seq.*

syndrome due to factors of her federal employment including extensive work on computers. She noted that she first became aware of her condition and realized its relation to her federal employment on September 16, 2021. Appellant did not stop work.

An electromyogram (EMG) and nerve conduction velocity (NCV) study dated September 16, 2021 revealed evidence of moderate-to-severe right median neuropathy at the wrist and moderate left median neuropathy at the wrist.

In an October 1, 2021 narrative statement, appellant indicated that she had worked full time at the employing establishment as a licensed practical nurse since 2002. She reported having no previous injuries to her hands and wrist. Appellant noted a gradual onset of numbness and tingling in her hands, and a September 16, 2021 EMG/NCV study revealed bilateral carpal tunnel syndrome.

In an October 7, 2021 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. By separate development letter of even date, OWCP requested additional information from the employing establishment. It afforded both parties 30 days to respond.

In an undated response, appellant described the factors of employment that caused her condition. She explained that over a 19-year period of direct patient care she gave hundreds of injections, typed documentation on thousands of patients, opened up hundreds of packages of surgical instruments, and took hundreds of manual blood pressures. Appellant noted that these repetitive duties required fine motor skills and the use of her wrists and hands. She further indicated that she did not have an ergonomic workstation.

On October 22, 2021 the employing establishment concurred with appellant's allegations that repetitive hand and arm motions were part of the daily workflow for its licensed practical nurses. The duties that appellant performed that involved repetitive hand and wrist movements included documenting the electronic health record using computers and telephones to communicate and care for patients. The employing establishment indicated that her workspace included a stationary desktop that was recently replaced with a sit-to-stand desktop with a rolling adjustable chair. It also submitted a job description for a licensed practical nurse.

OWCP subsequently received an October 26, 2021 report, wherein Dr. Steven Young, a Board-certified orthopedist, noted his treatment of appellant for numbness and tingling in both her hands, which she attributed to performing repetitive duties including patient care, injections, and typing. Appellant reported radiating pain and weakness in her arms that wakes her up at night. Dr. Young noted findings on physical examination of bilateral positive median nerve compression tests and positive Tinel's sign on the right. He noted an EMG/NCV study revealed moderate-to-severe right median neuropathy at the wrist and moderate left median neuropathy at the wrist. Dr. Young diagnosed bilateral carpal tunnel syndrome and recommended bilateral carpal tunnel releases. In an attending physician's report (Form CA-20) dated November 3, 2021, he recounted a history of repetitive motion for two years. Dr. Young diagnosed bilateral carpal tunnel syndrome and recommended surgery. He checked a box marked "Yes," indicating that the diagnosed conditions were caused or aggravated by the described employment activity.

On October 26, 2021 Michelle Steh, a nurse practitioner, recommended bilateral carpal tunnel release and returned appellant to work without restrictions.

By decision dated December 29, 2021, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish that her bilateral hand and wrist conditions were causally related to the accepted factors of her federal employment.

LEGAL PRECEDENT

A claimant seeking benefits under FECA² 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,³ 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.⁴ 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.⁵

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 identified employment factors.

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁶ The opinion of the physician must be based upon a complete factual and medical background, 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 the specific employment factors.⁷ Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors, is sufficient to establish causal relationship.⁸

² *Id.*

³ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁷ *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *E.W.*, Docket No. 19-1393 (issued January 29, 2020); *Gary L. Fowler*, 45 ECAB 365 (1994).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish bilateral carpal tunnel syndrome causally related to the accepted factors of her federal employment.

On October 26, 2021 Dr. Young treated appellant for numbness and tingling in both her hands, which she attributed to performing repetitive duties including patient care, injections, and typing. He diagnosed bilateral carpal tunnel syndrome and recommended bilateral carpal tunnel releases. Dr. Young, however, did not provide an opinion on causal relationship. The Board has held that medical evidence that does not provide an opinion regarding causal relationship is of no probative value and, thus, is insufficient to establish a claim.⁹

In a November 3, 2021 Form CA-20, Dr. Young diagnosed bilateral carpal tunnel syndrome. He checked a box marked “Yes” indicating that the diagnosed conditions were caused or aggravated by the described employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking a box marked “Yes” in response to a form question regarding whether the claimant’s condition or disability is related to the history given is of little probative value.¹⁰ Dr. Young did not provide any rationale for his opinion. This report is, therefore, of diminished probative value and insufficient to establish that the conditions should be accepted as employment related.¹¹

OWCP received an October 26, 2021 report from Ms. Steh, a physician assistant. Certain healthcare providers, such as physician assistants, are not considered “physician[s]” as defined under FECA.¹² Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

OWCP also received an EMG/NCV study dated September 16, 2021. The Board has held that diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not address the relationship between the accepted employment factors, and a diagnosed condition.¹³ For this reason, this report is insufficient to meet appellant’s burden of proof.

⁹ *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁰ *C.T.*, Docket No. 20-0020 (issued April 29, 2020); *M.R.*, Docket No. 17-1388 (issued November 2, 2017); *Gary J. Watling*, 52 ECAB 278 (2001).

¹¹ *Id.*

¹² Section 8101(2) of FECA provides that 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. at § 8101(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 *E.T.*, Docket No. 21-0014 (issued May 20, 2021); *K.W.*, 59 ECAB 271, 279 (2007).

¹³ See *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

As the medical evidence of record is insufficient to establish causal relationship between appellant's diagnosed conditions and the accepted employment factors, 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 bilateral carpal tunnel syndrome causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 29, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 21, 2023
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board