

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

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J.B., Appellant)	
)	
and)	Docket No. 21-0211
)	Issued: March 21, 2023
U.S. POSTAL SERVICE, BLUE ISLAND POST)	
OFFICE, Blue Island, IL, Employer)	
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Appearances:
Wandra E. Evans, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 7, 2020 appellant, through counsel, filed a timely appeal from a November 4, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a left upper extremity condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On January 2, 2020 appellant, then a 46-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained an injury to her arm due to factors of her federal employment, including repetitive trauma. She noted that she first became aware of her condition on October 10, 2019 and first realized it was caused or aggravated by factors of her federal employment on October 17, 2019. On the reverse side of the claim form, the employing establishment noted that appellant did not stop work but that her work assignment had changed to preclude use of her left arm.

In support of her claim, appellant submitted a statement dated December 18, 2019 indicating that, on October 10, 2019, her left arm started to hurt and was swollen, and she noticed a knot the size of a grape that was very tender near the crease of her elbow. By October 17, 2019, the knot was excruciating to touch, and she observed a vein that had become raised and dark red, blue and purple. Appellant immediately sought medical care and was referred to the emergency room where she saw Dr. Bassel Atassi, a Board-certified hematologist and oncologist, who diagnosed an acute deep vein thrombosis (DVT). She further indicated that after questioning her at length about her daily life, Dr. Atassi advised that the clot was caused by her holding her left arm in the same position for 7 to 10 hours per day. At that point, appellant realized the condition was caused by factors of her federal employment, which she indicated included, among other things, carrying 10 pounds of letters, magazines, large envelopes, and newspapers on her left arm while in a bent position. She explained that the magazines' spines would usually press against the area where she developed the knot, and the worst of her symptoms occurred while she was carrying those items.

In an October 19, 2019 hospital discharge summary, Dr. Ahmad Alwakkaf, a Board-certified internist, noted that appellant had related a history of left arm pain, swelling, and skin changes for one to two weeks. Appellant underwent a venous doppler ultrasound which revealed DVT in one of the left brachial veins. Dr. Alwakkaf examined her and diagnosed an acute DVT of the left upper extremity. He recommended that appellant remain on anticoagulation medication for three months and follow up with Dr. Atassi on November 1, 2019.

In an undated work slip, Dr. Jerome Anthony, an internist, noted a diagnosis of DVT and recommended that appellant remain out of work on November 1, 2019 and return to work on November 2, 2019 with restrictions of no use of the left arm.

In a work slip dated December 12, 2019, Dr. Sheela Manaparambil, a Board-certified internist, recommended that appellant remain out of work through January 1, 2020, followed by light duty for three months.

In a development letter dated February 3, 2020, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It asked her to complete a questionnaire

to provide further details regarding the circumstances of her claimed injury and requested a narrative medical report from her treating physician, which contained a detailed description of findings and diagnoses, explaining how her work activities caused, contributed to, or aggravated her medical condition. OWCP afforded appellant 30 days to respond.

OWCP thereafter received a March 9, 2020 narrative report from Dr. Manaparambil, who noted that appellant had been treated in her office on October 17 and November 13, 2019 and February 27, 2020. Dr. Manaparambil diagnosed DVT of the left brachial vein and thrombophlebitis of the left basilica vein. She outlined appellant's treatment in the hospital, noting that while there, she was also diagnosed with a small pulmonary embolism. Dr. Manaparambil opined that the DVT was likely precipitated from prolonged immobilization of the arm while delivering mail at work.

By decision dated March 25, 2020, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish that her diagnosed medical conditions were causally related to the accepted factors of her federal employment.

OWCP continued to receive medical evidence, including hospital records dated October 17, 2019. Eileen Moriarity, an advanced practice registered nurse, noted that appellant related left arm pain for approximately two weeks with swelling at the medial elbow. Physical examination revealed mild swelling and ecchymosis at the medial elbow, tenderness to palpation of the medial proximal forearm, medial elbow, and distal upper arm, and an inability to fully extend the elbow. The October 17, 2019 hospital records also included a report from Dr. Atassi, who noted a history of swelling that started one and one-half weeks ago while appellant was working. Dr. Atassi further noted that she was a mail carrier and used her left arm to carry up to 30 pounds of letters and packages throughout the course of the day. He examined appellant and reviewed the venous doppler study. Dr. Atassi diagnosed a DVT of the left upper extremity, which he opined was provoked from trauma to the site while she was working. He recommended ongoing anticoagulation therapy for three months.

A report of left upper extremity venous doppler ultrasound dated October 17, 2019 revealed acute DVT in one of the left brachial veins and noncompressability of the left basilica vein, concerning for superficial thrombophlebitis.

In a January 16, 2020 letter, Dr. Manaparambil diagnosed DVT of the left upper extremity with associated pulmonary embolism. She opined that these conditions likely resulted from prolonged immobilization of the arm while appellant delivered mail at work.

On August 11, 2020 appellant, through counsel, requested reconsideration of OWCP's March 25, 2020 decision.

With the request, appellant submitted an additional narrative letter from Dr. Manaparambil dated July 27, 2020, which provided responses to various questions posed. Dr. Manaparambil again noted a diagnosis of DVT of the left upper extremity and that appellant may need long-term anticoagulation therapy. When asked how this condition may have been affected by appellant's federal work duties, she opined that prolonged immobilization of the left upper arm while working was a provocative factor for developing DVT. Dr. Manaparambil further noted that appellant's

symptoms are relieved any time she stops prolonged immobilization, and therefore, she would benefit from a job that does not involve holding the arm in one position for a prolonged period of time.

By decision dated November 4, 2020, OWCP denied modification of its March 25, 2020 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 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,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 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.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁸ 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 incident.⁹

³ *Supra* note 1.

⁴ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *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).

⁶ *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).

⁷ *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

⁸ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

ANALYSIS

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

Appellant initially sought care at an emergency department with Dr. Atassi, who diagnosed an acute DVT. Dr. Atassi advised that the clot was caused by appellant holding her left arm in the same position for 7 to 10 hours per day. However, she did not explain, with sufficient rationale, how appellant's disability was causally related to the accepted employment factors. As noted above, the Board has held that reports which lack rationale are of limited probative value on the issue of causal relationship.¹⁰ Dr. Atassi's opinion is, therefore, insufficient to establish appellant's claim.

In an October 19, 2019 hospital discharge summary, Dr. Alwakkaf examined appellant and diagnosed an acute DVT of the left upper extremity. As well, Dr. Anthony, in an undated note, provided a diagnosis of DVT and recommended that appellant remain out of work for a period of time and advised that she return with restrictions of no use of the left arm.

Dr. Alwakkaf and Dr. Anthony, however, did not provide an opinion on causal relationship between appellant's claimed disability and the accepted employment injury. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹¹ These reports, therefore, are insufficient to establish appellant's disability claim.

In her January 6, 2020 letter and subsequent supplemental letter dated March 9, 2020, Dr. Manaparambil provided a diagnosis of DVT of the left upper extremity and opined that appellant's condition "likely" resulted from prolonged immobilization of the arm while she delivered mail throughout the day. In a medical narrative dated July 27, 2020, she further explained that appellant's federal work duties, including prolonged immobilization of the left upper arm while delivering mail, is a provocative factor for developing DVT. The Board finds that Dr. Manaparambil's opinion that appellant's employment diagnosed conditions were "most likely" caused by the accepted factors of her federal employment is speculative in nature.¹² Medical opinions that are speculative or equivocal in character are of diminished probative value.¹³ Accordingly, Dr. Manaparambil's opinion is insufficient to establish appellant's claim.

Appellant also submitted records from a nurse practitioner. These reports, however, do not constitute competent medical evidence because physician assistants, nurse practitioners, and

¹⁰ See *K.T.*, Docket No. 17-1717 (issued March 27, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹¹ See *T.S.*, Docket No. 20-1229 (issued August 6, 2021); *J.M.*, Docket No. 19-1169 (issued February 7, 2020); *A.L.*, Docket No. 19-0285 (issued September 24, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² See *P.D.*, Docket No. 18-1461 (issued July 2, 2019); *E.B.*, Docket No. 18-1060 (issued November 1, 2018); *Leonard J. O'Keefe*, 14 ECAB 42 (1962).

¹³ *D.B.*, Docket No. 18-1359 (issued May 14, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001).

physical therapists are not considered physicians as defined under FECA.¹⁴ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to compensation benefits.¹⁵

As appellant has not submitted rationalized medical evidence sufficient to establish a left upper extremity condition causally related to the accepted factors of her federal employment, the Board finds that she has not met her burden of proof.¹⁶

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 left upper extremity condition causally related to the accepted factors of her federal employment.

¹⁴ 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. § 8101(2); 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *R.L.*, Docket No. 19-0440 (issued July 8, 2019); *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); *R.L., id.* (nurse practitioners and physical therapists are not considered physicians under FECA).

¹⁵ *Id.*

¹⁶ *See T.J.*, Docket No. 19-1339 (issued March 4, 2020); *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *D.N.*, Docket No. 19-0070 (issued May 10, 2019); *R.B.*, Docket No. 18-1327 (issued December 31, 2018).

ORDER

IT IS HEREBY ORDERED THAT the November 4, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 21, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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