

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

_____)	
D.L., Appellant)	
)	
and)	Docket No. 23-0872
)	Issued: November 13, 2023
U.S. POSTAL SERVICE, POST OFFICE,)	
Cleveland, OH, Employer)	
_____)	

Appearances:

Michael J. Watson, for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On June 14, 2023 appellant, through her representative, filed a timely appeal from a June 1, 2023 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 medical condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On January 4, 2023 appellant, then a 58-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained bilateral carpal tunnel syndrome and arthritis causally related to factors of her federal employment. She noted that she first became aware of her condition and realized its relationship to her federal employment on December 20, 2022. Appellant stopped work on December 28, 2022.

The employing establishment issued an authorization for examination and/or treatment (Form CA-16) on December 29, 2022.

Appellant submitted an attending physician's report, Part B of the Form CA-16, on which a nurse practitioner, noted a diagnosis of carpal tunnel syndrome and indicated by check mark that the diagnosed condition was aggravated by the alleged factors of appellant's federal employment. OWCP also received a duty status report (Form CA-17) with an illegible signature dated December 29, 2022, which indicated that appellant could resume regular work duties.³

In a development letter dated January 11, 2023, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of evidence needed, and afforded her 30 days to respond.

In a statement dated January 18, 2023, appellant explained duties of her federal employment which required the use of her hands including pushing, pulling, lifting, sorting, marking parcels, driving, loading and unloading her postal vehicle, scanning mail, gripping, grasping, and fine manipulation. She stated that by the end of her workday her fingers were numb. Appellant further noted that on December 20, 2022 she noticed a lump in her wrist and thought that she had pulled a muscle.

Appellant submitted Form CA-17 reports signed by a nurse practitioner dated February 14 and 23, 2023.

In a report dated January 25, 2023, Dr. Robert Dawson, an orthopedic surgeon, examined appellant to follow up for right carpal tunnel syndrome and a mass on the volar aspect of the wrist. On physical examination of the right hand and wrist, he observed a large volar ganglion, tender to the touch. An x-ray demonstrated early basal joint arthritis. Dr. Dawson diagnosed right carpal tunnel syndrome and a right volar ganglion, left small finger swelling, and right-hand underlying arthritis, particularly of the basal joint.

³ Appellant accepted an offer of modified assignment as a limited-duty rural carrier on January 10, 2023.

On February 9, 2023 appellant underwent procedures of decompression and transposition of the right median nerve and excision of a right wrist ganglion cyst.

In progress notes dated February 23, 2023, Laurie A. Cullen, a physician assistant, noted that appellant was progressing well two weeks' status post right carpal tunnel release and ganglion cyst excision.

In a note dated February 23, 2023, Dr. Dawson requested that appellant be excused from work from February 9 through March 23, 2023.

Appellant submitted medical reports signed by nurse practitioners dated December 29, 2022 through February 23, 2023.

Appellant submitted a report from Brooke Dicus, a certified nurse practitioner, dated March 1, 2023. Ms. Dicus noted that appellant was seen in follow up for bilateral carpal tunnel syndrome for which she had a positive electromyogram (EMG) study five years prior, followed by a January 2020 fall at work. She also noted that appellant had related her current factors of employment which she believed caused her carpal tunnel syndrome.

By decision dated March 23, 2023, denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted factors of her federal employment.

In a note dated March 22, 2023, Dr. Dawson requested that appellant be excused from work until April 20, 2023. Appellant also submitted a Form CA-17 signed by a nurse practitioner dated March 22, 2023.

Appellant submitted medical reports from Ms. Dicus dated March 14 and 22, 2023, which related that appellant's right wrist ganglion cyst and bilateral carpal tunnel syndrome were causally related to her work activities.

On May 28, 2023 appellant requested reconsideration and submitted an undated narrative report, wherein Dr. Dawson reviewed the history of appellant's diagnosed bilateral carpal tunnel syndrome and right wrist ganglion. He noted that she had undergone surgery on February 9, 2023 for right carpal tunnel release and excision of the right wrist ganglion. Dr. Dawson further noted that appellant had undergone an electromyogram/nerve conduction velocity (EMG/NCV) study on May 27, 2014, which demonstrated severe right carpal tunnel syndrome and moderate left carpal tunnel syndrome. He opined that her federal employment contributed to and aggravated her carpal tunnel syndrome, noting that her duties included repetitively handling and sorting of mail and lifting and carrying items.

By decision dated June 1, 2023, OWCP denied modification of its March 23, 2023 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including the fact 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, 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.

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.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ The opinion of the physician must be based on 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.⁸

ANALYSIS

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

In support of her claim, appellant submitted an undated narrative report from Dr. Dawson, wherein he reviewed the history of appellant's diagnosed bilateral carpal tunnel syndrome and right wrist ganglion. He further noted that she had undergone an EMG/NCV study on May 27, 2014, which demonstrated severe right carpal tunnel syndrome and moderate left carpal tunnel syndrome. Dr. Dawson opined that appellant's federal employment contributed to and aggravated her carpal tunnel syndrome, noting that her duties included repetitively handling and sorting mail, and lifting and carrying items. However, his opinion was conclusory, as he did not provide medical

⁴ *Supra* note 2.

⁵ *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

rationale explaining how her work duties caused or contributed to her claimed condition. This evidence is, therefore, of limited probative value and insufficient to establish the claim.⁹

Appellant submitted a January 25, 2023 report and work excuse notes from Dr. Dawson. This evidence, however, did not contain an opinion as to the cause of appellant's diagnosed conditions. 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.¹⁰

Appellant also submitted reports signed by nurse practitioners and by a physician assistant. The Board, however, has held that medical reports signed solely by nurse practitioners or physician assistants are of no probative value, as they are not considered physicians as defined under FECA. As such, they are not competent to provide medical opinions under FECA.¹¹

Appellant also submitted reports containing illegible signatures. However, the Board has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence as the author cannot be identified as a physician.¹²

As the medical evidence of record is insufficient to establish causal relationship between appellant's claimed bilateral carpal tunnel syndrome and the accepted factors of her federal employment, the Board finds that appellant has not met her burden of proof.¹³

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.

⁹ See *T.F.*, Docket No. 20-0260 (issued June 12, 2020); *D.J.*, Docket No. 18-0694 (issued March 16, 2020); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *K.O.*, Docket No. 18-1422 (issued March 19, 2019).

¹⁰ *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ Section 8102(2) of FECA provides as follows: (2) 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. § 8102(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.H.*, Docket No. 23-0373 (issued July 7, 2023) (nurse practitioners are not considered physicians as defined under FECA); *H.S.*, Docket No. 20-0939 (issued February 12, 2021) (physician assistants are not considered physicians as defined under FECA).

¹² *R.N.*, Docket No. 21-1178 (issued January 18, 2022); *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹³ The Board notes that the employing establishment issued a Form CA-16, dated December 29, 2022. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *V.S.*, Docket No. 20-1034 (issued November 25, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the June 1, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 13, 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