

ISSUE

The issue is whether appellant has met her burden of proof to establish cubital tunnel syndrome and ulnar neuropathy causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On January 25, 2022 appellant, then a 51-year-old asylum officer, filed an occupational disease claim (Form CA-2) alleging that she developed cubital tunnel syndrome and ulnar neuropathy due to factors of her federal employment including repetitive typing 8 to 10 hours a day. She noted that she first became aware of her condition and realized its relation to her federal employment on August 11, 2021. Appellant did not immediately stop work.

On August 11, 2021 Dr. Jessica Zarndt, a Board-certified orthopedic surgeon, diagnosed cubital tunnel syndrome on the left side and referred appellant for occupational therapy. In an after-visit summary of even date, she noted treating appellant for left hand pain and cubital tunnel syndrome on the left side. Dr. Zarndt provided instructions for ulnar neuropathy.

In a September 6, 2021 report, Dr. Kodi Azari, a Board-certified orthopedist, treated appellant for compression neuropathy. He noted that she was undergoing a nerve conduction study in October and thereafter she would be scheduled for nerve decompression surgery for her left hand and wrist. Dr. Azari recommended speech-to-text software for her job. He provided a consent form for left elbow ulnar nerve decompression with possible transposition.

In a March 8, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary 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.

On March 23, 2022 appellant responded to the development letter, and indicated that her job required typing 8 to 10 hours a day and she worked a condensed schedule of 4- to 10-hour days a week. She reported that her job required that she perform four telephonic interviews a day and record the interviews by typing verbatim the questions asked and the answers given by the applicant, interpreter, and attorney. Appellant indicated that by August 11, 2021, she experienced tightening in her elbow, tingling in her fingers, numbness, and clawing of the left pinkie and index fingers. She indicated that her outside activities included running and yoga five to six times a week; however, these activities were decreased significantly in August 2021 when her elbow began to hurt. Appellant advised that her nonwork computer use was minimal and she had no other employment, volunteer activities, or recreational activities.

On April 21, 2022 E.B., appellant's supervisor, concurred with appellant's allegations regarding her work duties that required repetitive hand and wrist movements including typing 8 to 10 hours a day and using a mouse. He noted that appellant was assigned between two and four cases a day, and the amount of typing varied depending on the number of cases appellant was able to actually interview and complete. E.B. indicated each employee working a full shift was

provided at least a 30-minute lunch and was at their liberty to set the pace for their interview and when they chose to take a break.

By decision dated April 22, 2022, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On December 1, 2022 appellant, through counsel, requested reconsideration.

OWCP received additional evidence. In an October 4, 2022 report, Dr. John B. Dorsey, a Board-certified orthopedist, noted that appellant sustained continuous trauma to the left upper extremity at the hand, wrist, and elbow as a result of repetitive typing 8 to 10 hours a day from June 14, 2021 through March 9, 2022. Appellant indicated that she conducted four telephonic interviews a day and recorded the interviews by typing the questions and responses from the applicant, interpreter, and attorney. On August 11, 2021 she lost control of some of her fingers and sought medical treatment. Dr. Dorsey noted findings on physical examination of positive two-point discrimination at fingertips four and five on the left, decreased sensation with the Wartenberg pinwheel test, positive Tinel's test over the cubital tunnel on the left elbow, pain on palpation over the dorsum of both wrists, and pain in the left wrist. He noted an electromyogram and nerve conduction velocity (EMG/NCV) study dated October 11, 2021 revealed left acute to subacute ulnar neuropathy with conduction block at the elbow and suggestive of axonal injury. Similarly, a December 13, 2021 EMG/NCV study revealed moderate left cubital tunnel syndrome, demyelinating greater than axonal. Dr. Dorsey diagnosed left cubital tunnel syndrome at the elbow and recommended left elbow ulnar nerve decompression and possible transposition surgery. He opined that following evaluation and the review of the available medical records, appellant "may in fact" satisfy the missing element OWCP required under FECA to establish her claim.

By decision dated December 14, 2022, OWCP modified its April 22, 2022 decision to reflect that appellant had established the medical component of fact of injury. However, the claim remained denied, because the medical evidence of record was insufficient to establish a medical condition causally related to the accepted factors of her federal employment. Consequently, OWCP concluded that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

A claimant 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

³ *Id.*

⁴ *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).

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.

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 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.⁸

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish left cubital tunnel syndrome and ulnar neuropathy causally related to the accepted factors of her federal employment.

On August 11, 2021 Dr. Zarndt diagnosed cubital tunnel syndrome on the left side and referred appellant for occupational therapy. In an after-visit summary, she treated appellant for left hand pain and cubital tunnel syndrome. Similarly, on September 6, 2021, Dr. Azari treated appellant for compression neuropathy and recommended left elbow ulnar nerve decompression with possible transposition. However, these reports failed to provide an opinion regarding the cause of appellant's cubital tunnel syndrome and ulnar neuropathy.⁹ The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value.¹⁰ Therefore these reports are insufficient to establish causal relationship.

On October 4, 2022 Dr. Dorsey noted that appellant reported continuous trauma to the left upper extremity at the hand, wrist, and elbow as a result of repetitive typing 8 to 10 hours a day

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

⁹ *L.D.*, Docket No. 18-1468 (issued February 11, 2019).

¹⁰ *See L.B.*, *supra* note 8; *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

while conducting telephonic interviews from June 14, 2021 through March 9, 2022. He diagnosed left cubital tunnel syndrome at the elbow confirmed by an EMG/NCV study and recommended left elbow ulnar nerve decompression and transposition surgery. Dr. Dorsey opined that following evaluation and review of the available medical records appellant “may in fact” satisfy the missing element OWCP required under FECA to establish her claim. While he attributed appellant’s medical condition to her employment, the Board has held that medical opinions that suggest that a condition “may” be caused by work activities are speculative or equivocal in character and have limited probative value.¹¹ As such, this report by Dr. Dorsey is insufficient to meet appellant’s burden of proof.

As the medical evidence of record is insufficient to establish causal relationship between a medical condition and the accepted factors of her federal employment, the Board finds that appellant 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 a cubital tunnel syndrome and ulnar neuropathy causally related to the accepted factors of her federal employment.

¹¹ *J.W.*, Docket No. 18-0678 (issued March 3, 2020).

ORDER

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

Issued: October 31, 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