

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

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V.R., Appellant)	
)	
and)	Docket No. 23-0817
)	Issued: October 31, 2023
U.S. POSTAL SERVICE, LOS BANOS POST)	
OFFICE, Los Banos, CA, Employer)	
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On May 5, 2023 appellant filed a timely appeal from a November 18, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ 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 Pursuant to the Board's *Rules of Procedure*, an appeal is considered filed when received by the Clerk of the Appellate Boards. 20 C.F.R. § 501.3(f). However, when the date of receipt would result in a loss of appeal rights, the appeal will be considered to have been filed as of the date of the U.S. Postal Service postmark or other carriers date markings. *Id.* at § 501.3(f)(1). The 180th day following OWCP's November 18, 2022 decision was Wednesday, May 17, 2023. Because using May 18, 2023, the date the appeal was received by the Clerk of the Appellate Boards, would result in the loss of appeal rights, the date of the postmark is considered the date of filing. The date of the U.S. Postal Service postmark is May 5, 2023, rendering the appeal timely filed. *Id.*

² 5 U.S.C. § 8101 *et seq.*

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 May 19, 2021 appellant, then a 39-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained bilateral carpal tunnel syndrome causally related to factors of her federal employment including repetitive reaching, twisting, bending, stretching, pushing, pulling, and turning the steering wheel of her postal vehicle. She indicated that she first became aware of her condition on February 1, 2019 and its relationship to her federal employment on April 14, 2021. Appellant did not stop work.

In a development letter dated May 25, 2021, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of medical evidence needed, including a report containing a medical diagnosis and a comprehensive narrative report from a qualified physician explaining how factors of her federal employment caused, contributed to, or aggravated a diagnosed condition. OWCP afforded appellant 30 days to respond and submit additional evidence.

By decision dated August 4, 2021, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish a diagnosed condition in connection with accepted factors of her federal employment.

OWCP thereafter received medical evidence, including an April 3, 2019 electromyogram/nerve conduction velocity (EMG/NCV) study, which indicated left moderate-to-several carpal tunnel syndrome and right moderate carpal tunnel syndrome.

In a November 23, 2020 report, Dr. Abner Ward, a Board-certified hand surgeon, examined appellant for complaints of bilateral hand numbness and tingling. On physical examination of the bilateral hands, Dr. Ward observed a positive Tinel's sign for carpal tunnel syndrome. He noted that an x-ray of the bilateral hands obtained on November 18, 2020 demonstrated no significant degenerative changes. Dr. Ward diagnosed bilateral carpal tunnel syndrome and recommended bilateral carpal tunnel release.

On December 11, 2020 Dr. Ward recommended that appellant would not be able to work from December 10, 2020 through January 4, 2021.

On December 23, 2020 Dr. Ward followed up with appellant after a left carpal tunnel release on December 10, 2020. Appellant stated that her pain was well controlled. On physical examination, Dr. Ward observed local bruising at the region of the distal forearm fascia. He diagnosed left carpal tunnel syndrome.

In a February 3, 2021 report, Dr. Ward related that, post-left carpal tunnel release, appellant did not have pain or tingling of the left hand. On physical examination, he observed a well-healed left palm incision site with trace residual swelling. Dr. Ward diagnosed left carpal tunnel syndrome.

On March 31, 2021 Dr. Ward related that appellant had begun to have problems with her right hand. On physical examination, he noted that a Tinel's sign for carpal tunnel syndrome was not present in the right hand. Dr. Ward diagnosed bilateral carpal tunnel syndrome. He recommended that appellant undergo right open carpal tunnel release after her left hand had fully healed.

OWCP also received a series of reports from Juliette Tamagni, a physician assistant dated October 26, 2020 and April 27, 2021; Kheng Xiong, a physician assistant, dated November 9, 2020; and Daniel Eustace, a physician assistant, dated November 12 and 29, 2020, which noted diagnoses of carpal tunnel syndrome.

On October 7, 2021 appellant requested reconsideration.

By decision dated January 4, 2022, OWCP reviewed the merits of appellant's claim and found that she had submitted sufficient evidence to establish the diagnosis of bilateral carpal tunnel syndrome. However, it denied her claim on the basis that she had not submitted sufficient medical evidence to establish causal relationship between the diagnosed bilateral carpal tunnel syndrome and the accepted factors of her federal employment.

On August 26, 2022 appellant again requested reconsideration. With her request she submitted a February 12, 2019 report from Dr. Karthikeya Devireddy, an internal medicine specialist. Dr. Devireddy examined appellant for complaints of pain and numbness of the bilateral arms. On physical examination of the extremities, he observed normal tone, motor strength, and movement without tenderness. Dr. Devireddy diagnosed peripheral nerve disease and referred appellant for an EMG/NCV study.

Appellant resubmitted the April 3, 2019 EMG/NCV study, indicating left moderate-to-severe carpal tunnel syndrome and right moderate carpal tunnel syndrome.

In an April 18, 2019 report, Dr. Devireddy reviewed the results of the EMG/NCV study. He diagnosed peripheral nerve disease. On October 25, 2020 Dr. Devireddy examined appellant for pain, tingling, and periods of numbness of the bilateral arms. On physical examination of the extremities, he observed normal tone, motor strength, and movement, further noting bilateral wrist tenderness with radiation. Dr. Devireddy diagnosed carpal tunnel syndrome. On October 28, 2020 he diagnosed left carpal tunnel syndrome and peripheral nerve disease. Dr. Devireddy referred appellant for hand surgery. In a report dated November 9, 2020, he again followed up with her for carpal tunnel syndrome. On physical examination, Dr. Devireddy observed tingling and numbness radiating proximally, positive Tinel's and Phalen's tests, and full range of motion of the bilateral wrists and hands. He diagnosed bilateral carpal tunnel syndrome. On November 17, 2020 Dr. Devireddy diagnosed left carpal tunnel syndrome and peripheral nerve disease, again referring appellant for hand surgery.

In a report dated May 6, 2022, Dr. Ward noted appellant's right hand experienced numbness and that it was a work-related injury. Appellant underwent left carpal tunnel release on December 10, 2020. On physical examination, Dr. Ward observed a positive Tinel's sign for carpal tunnel syndrome. He diagnosed bilateral carpal tunnel syndrome. Dr. Ward recommended physical therapy.

By decision dated November 18, 2022, OWCP denied modification of its January 4, 2022 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 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.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.

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.⁵

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 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.⁷

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.

In support of her claim, appellant submitted a May 6, 2022 report from Dr. Ward. Dr. Ward noted that her right hand experienced numbness and that it was a work-related injury. He diagnosed bilateral carpal tunnel syndrome. Dr. Ward's statement that appellant's condition was work-related was conclusory, and he did not provide medical rationale explaining how her work duties caused her claimed condition. Without explaining physiologically how the specific

³ *Id.*

⁴ *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).

⁵ *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).

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

movements involved in appellant's job caused, contributed to, or aggravated the specific diagnosed conditions, his opinion is of limited probative value and insufficient to establish the claim.⁸

Appellant submitted further reports from Drs. Ward and Devireddy dated from February 12, 2019 through March 31, 2021, which diagnosed bilateral carpal tunnel syndrome. These reports did not contain an opinion as to the cause of her bilateral carpal tunnel syndrome. 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.⁹ This evidence is therefore insufficient to establish appellant's claim.

Appellant also submitted multiple documents from physician assistants. The Board has held that certain healthcare providers such as physician assistants, are not considered physicians as defined under FECA.¹⁰ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

The record also contains diagnostic studies. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship, as they do not provide an opinion as to whether the employment incident caused any of the diagnosed conditions.¹¹ Accordingly, these diagnostic studies are insufficient to establish appellant's claim.

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

⁸ 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).

⁹ *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).

¹⁰ 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); *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); *C.P.*, Docket No. 19-1716 (issued March 11, 2020) (physician assistants are not considered physicians as defined under FECA).

¹¹ See *K.C.*, Docket No. 20-1325 (issued May 5, 2021); *C.B.*, Docket No. 20-0464 (issued July 21, 2020).

ORDER

IT IS HEREBY ORDERED THAT the November 18, 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