

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

J.L., Appellant)

and)

DEPARTMENT OF HEALTH & HUMAN)
SERVICES, NATIONAL DISASTER MEDICAL)
SYSTEM, Seattle, WA, Employer)
-----)

**Docket No. 23-0830
Issued: October 6, 2023**

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
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On May 24, 2023 appellant filed a timely appeal from a December 2, 2022 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 a medical condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On April 6, 2022 appellant, then a 56-year-old logistics manager, filed an occupational disease claim (Form CA-2) alleging that, while working as an autopsy technician, she developed wrist and arm pain, tingling, and numbness due to factors of her federal employment as an intermittent employee. She explained that her symptoms developed due to the evisceration of

¹ 5 U.S.C. § 8101 *et seq.*

organs, collecting biological sample and cleaning. Appellant noted that she first became aware of her conditions and realized their relationship to her federal employment on March 8, 2022.

On March 16, 2022 appellant sought treatment with Dr. Andrew M. Dym, a Board-certified internist. Dr. Dym related that she experienced bilateral hand numbness after “heavy work” performing repeated autopsies. He indicated carpal tunnel syndrome was likely and noted the need for a nerve conduction velocity (NCV) study.

In a development letter dated April 11, 2022, OWCP indicated that the evidence provided was insufficient to establish that appellant actually experienced the employment factors alleged to have caused injury. It requested that she provide a narrative report from a physician containing a detailed description of findings and a diagnosis, as well as a medical explanation from a physician as to how the employment factors caused or aggravated a medical condition. OWCP afforded appellant 30 days to respond. In a separate development letter of even date, it requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor.

In a completed questionnaire received on April 21, 2022, appellant indicated that she was deployed to Maryland to assist in autopsies under the National Disaster Medical System. Her duties included repetitive movements, such as drawing fluids, eviscerating organs, moving human remains, and cutting through the body and skull. Appellant performed 80 cases in a span of 12 days. She noted previously having de Quervain’s tendinitis in 1996 as part of a previous employment as an autopsy technician. Appellant further noted that she was currently employed as a community corrections officer outside of federal employment.

In a letter received on May 4, 2022, the employing establishment related that appellant was deployed on a 14-day mission to Baltimore, MD assisting the Office of Medical Examiner. It noted her duties of moving human remains, cutting, drawing fluids, and restocking supplies.

By decision dated May 24, 2022, OWCP denied appellant’s occupational disease claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition causally related to the accepted employment factors. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On June 13, 2022 appellant requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review regarding the May 24, 2022 decision. A hearing was held on October 20, 2022.

By decision dated December 2, 2022, OWCP’s hearing representative affirmed the May 24, 2022 decision.

LEGAL PRECEDENT

An employee 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, that an injury was sustained in the performance of duty as alleged, and that

² *Id.*

any disability or medical condition for which compensation is claimed is causally related to the employment injury.³ 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.⁴

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 by the claimant.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 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 or incidents is sufficient to establish causal relationship.⁸

ANALYSIS

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

Appellant was treated by Dr. Dym on March 16, 2022. Dr. Dym indicated that appellant likely had carpal tunnel syndrome and noted the need for an NCV test. However, he did not provide an opinion on causal relationship. 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 on the issue of causal relationship.⁹ These reports, therefore, are insufficient to establish appellant's claim.

Appellant also submitted narrative statements in support of her claim. As noted above, causal relationship is a medical question that requires rationalized medical opinion evidence to

³ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁴ *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁵ *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *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).

⁶ *D.S.*, Docket No. 21-1388 (issued May 12, 2022); *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.S. id.*; *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

⁸ *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *see also J.L.*, Docket No. 18-1804 (issued April 12, 2019).

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

resolve the issue.¹⁰ A lay opinion regarding causal relationship does not constitute probative medical evidence.¹¹ Appellant's statements are therefore also insufficient to establish the claim.

As the medical evidence of record is insufficient to establish causal relationship between a diagnosed medical condition and appellant's accepted employment factors, 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 medical condition causally related to the accepted factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 2, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 6, 2023
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

¹⁰ *Supra* note 6.

¹¹ *See E.H.*, Docket No. 19-0365 (issued March 17, 2021).