

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

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| J.C., Appellant |) | |
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| and |) | Docket No. 21-1003 |
| |) | Issued: September 27, 2023 |
| U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, San Francisco, CA, |) | |
| Employer |) | |
| _____ |) | |

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
JANICE B. ASKIN, Judge

JURISDICTION

On June 21, 2021 appellant filed a timely appeal from a May 17, 2021 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.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the May 17, 2021 decision, OWCP received additional evidence and appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met his burden of proof to establish bilateral carpal tunnel syndrome causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On October 29, 2020 appellant, then a 61-year-old maintenance mechanic, filed an occupational disease claim (Form CA-2) alleging that he developed bilateral carpal tunnel syndrome due to factors of his federal employment, including daily use of power tools with repetitive movements. He noted that he first became aware of his condition and its relationship to his federal employment on August 26, 2020. Appellant did not stop work.

In a September 1, 2020 patient questionnaire, appellant contended that his work duties over the last four years, which required the use of power tools such as drills, hammer drills, grinders, and sledgehammers, caused his carpal tunnel syndrome. He explained that he used power tools for at least four hours a day. Appellant noted that he experienced numbness in the tip of his fingers and reduced grip strength, particularly at the end of his working day. He also had pain in his palms, as well as pain in his hands, and wrists. Appellant indicated that both hands were affected, his right worse than left.

In a September 1, 2020 work status report, Dr. Latifat T. Apatira, a physician Board-certified in internal medicine, noted appellant's date of injury as August 31, 2020 and provided work restrictions limiting repetitive and forceful gripping, grasping, and pinching activities, especially with the hands in awkward positions.

In September 15, 2020 work status reports, Dr. Apatira diagnosed bilateral hand pain and paresthesia and right forearm pain. She again provided work restrictions. In an after-visit summary of even date, Dr. Apatira reiterated her diagnoses.

In an October 15, 2020 work status report, Dr. Apatira diagnosed bilateral hand paresthesia and pain and provided work restrictions.

In an October 18, 2020 statement, appellant attributed his bilateral hand pain to daily work duties performed during the last four years. He noted that he experienced numbness in his hands as well as difficulty in using power tools. Appellant explained that his work duties required daily use of power tools, including hammer drills, reciprocate power saws, and power grinders. He asserted that the repetitive impact of hammering, grasping, and torquing eventually caused his condition. Appellant contended that both of his hands were affected by his employment and noted that he experienced numbness, tingling sensation, and pain in his fingers, as well as weakness and inability of grasping things.

On October 22, 2020 the employing establishment offered appellant light-duty assignment.

In an October 30, 2020 letter, the employing establishment controverted appellant's claim, asserting that his work duties since 2016 did not require daily use of power tools.

In a November 5, 2020 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a factual questionnaire for his completion. By separate development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor regarding his allegations. It afforded both parties 30 days to respond.

In an undated response, the employing establishment noted that appellant's duties included installing, repairing, and replacing locks for 5 to 10 work orders each day. It contended that most of these activities did not require repetitive actions. The employing establishment indicated that the equipment appellant used included wire cutters, drills, power grinders, and sledgehammers. It submitted a copy of his position description as a building equipment mechanic.

In a November 10, 2020 report, Dr. Apatira evaluated appellant for bilateral hand and forearm pain and numbness. She noted that he attributed his symptoms to the "chronic use of various vibratory power tools." Dr. Apatira indicated that appellant had a history of numbness in the tips of his right fingers when he underwent chemotherapy treatment from August to November 2019. She diagnosed bilateral carpal tunnel syndrome, paresthesia, and hand pain. Dr. Apatira asserted that appellant's symptoms were more consistent with carpal tunnel syndrome as opposed to "arm vibration syndrome on baseline nonindustrial drug-induced paresthesia." She related, "In my opinion, the underlying cause of [appellant's] symptoms is chronic drug-induced paresthesia, a nonindustrial condition. However, but for the stated mechanism, specifically [the] use of vibratory tools, this preexisting condition would not have become disabling or needed medical treatment..." Dr. Apatira also provided work restrictions. She provided similar findings in a progress report of even date.

Appellant underwent physical therapy treatment on November 12, 2020.

In a November 24, 2020 response to OWCP's development questionnaire, appellant described his employment activities in detail, including the use of a power hammer drill, a short sledgehammer, a socket, and a power screwdriver, for hours each week. He contended that the use of his both hands to hold, grip, and torque while using power tools with vibrating and reciprocating movements ultimately caused his conditions in his fingers, hands, and wrists. Appellant acknowledged that his duties varied, but that he still used power tools to perform his daily maintenance tasks. He submitted a position description of his duties as a letter box mechanic which required use of power tools.

In December 22, 2020 reports, Dr. Apatira reiterated appellant's history and her prior findings. She again diagnosed bilateral carpal tunnel syndrome and chronic paresthesia, and again opined that his symptoms were due to chronic use of various vibratory power tools. Dr. Apatira opined that the use of vibratory tools aggravated appellant's underlying condition.

By decision dated January 26, 2021, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed bilateral carpal tunnel syndrome and the accepted factors of his federal employment.

OWCP subsequently received a September 15, 2020 progress report from Dr. Apatira, who again reported that appellant felt that his symptoms were due to chronic use of various vibratory power tools. Dr. Apatira diagnosed bilateral carpal tunnel syndrome and paresthesia and reiterated her opinion that the use of vibratory tools aggravated his underlying chronic nonindustrial and drug-induced paresthesia.

In an October 22, 2020 report, Dr. Apatira diagnosed bilateral hand pain and paresthesia and right forearm pain. She again opined that the use of vibratory tools aggravated appellant's underlying chronic nonindustrial and drug-induced paresthesia.

In a December 3, 2020 report, Dr. Apatira reiterated the history of injury and indicated that appellant had numbness previously associated with chemotherapy treatment from August to November 2019. She diagnosed bilateral carpal tunnel syndrome, bilateral hand pain, and paresthesia and again opined that the use of vibratory tools aggravated his underlying condition. In a December 22, 2020 report, Dr. Apatira reiterated her prior findings and diagnosed bilateral carpal tunnel syndrome and paresthesia.

In January 12, 2021 reports, Dr. Apatira reiterated her prior findings and diagnoses. She again opined that the use of vibratory tools aggravated appellant's underlying chronic nonindustrial and drug-induced paresthesia.

In a January 21, 2021 form report, Dr. Apatira noted that electrodiagnostic testing performed on January 15, 2021 had demonstrated mild-to-severe bilateral carpal tunnel syndrome. She again diagnosed bilateral carpal tunnel syndrome and paresthesia.

In a February 1, 2021 progress report, Dr. Apatira reiterated her findings and diagnoses. She again opined that appellant felt that his symptoms were due to chronic use of various vibratory power tools. In a February 2, 2021 form report, Dr. Apatira diagnosed paresthesia.

In a form report dated February 4, 2021, Dr. Apatira provided appellant's history of injury, her prior findings and diagnoses. She noted that he felt that his symptoms were due to chronic use of various vibratory power tools. In her narrative report, Dr. Apatira again opined that the use of vibratory tools aggravated appellant's underlying condition. She recommended carpal tunnel release.

On March 2, 2021 appellant requested reconsideration of OWCP's January 26, 2021 decision.

In March 16, 2021 reports, Dr. Apatira reiterated appellant's history of injury, her findings, her diagnoses, and her opinion that the use of vibratory tools aggravated his underlying condition.

In a March 18, 2021 medical report, Dr. Varun K. Gajendran, an orthopedic surgeon, diagnosed right carpal tunnel syndrome and indicated that appellant underwent right carpal tunnel release on that date.

In a March 31, 2021 report, a physician assistant noted that appellant returned for follow up after his surgery on March 18, 2021.

In March 31 and April 20, 2021 reports, Dr. Apatira reiterated appellant's history of injury, findings, diagnoses, and opinion. She noted that he underwent a right carpal tunnel release on March 18, 2021 and was waiting for authorization for postoperative therapy.

In April 20, 2021 reports, Dr. Apatira reiterated her findings, diagnoses, and opinion.

By decision dated May 17, 2021, OWCP denied modification of its January 26, 2021 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 employment factors identified by the claimant.⁷

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁸ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical

³ *Supra* note 1.

⁴ *S.M.*, Docket No. 21-0937 (issued December 21, 2021); *J.W.*, Docket No. 18-0678 (issued March 3, 2020); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.S.*, Docket No. 18-0657 (issued February 26, 2020); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *M.T.*, Docket No. 20-1814 (issued June 24, 2022); *L.J.*, Docket No. 19-1343 (issued February 26, 2020); *R.R.*, Docket No. 18-0914 (issued February 24, 2020); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

⁸ *J.L.*, Docket No. 21-1373 (issued March 27, 2023); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.⁹

In a case in which a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁰

ANALYSIS

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

In a September 1, 2020 work status report, Dr. Apatira noted appellant's date of injury as August 31, 2020 and provided work restrictions limiting repetitive and forceful gripping, grasping, and pinching activities, especially with the hands in awkward positions. In September 15, 2020 work status reports, she diagnosed bilateral hand pain and paresthesia and right forearm pain. Dr. Apatira again provided work restrictions. In an after-visit summary of even date, she reiterated her diagnoses. In subsequent reports dated October 15 and December 3 and 22, 2020 and January 21, 2021, Dr. Apatira repeated her findings and diagnoses. However, none of these reports included 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.¹¹ This evidence is, therefore, insufficient to establish appellant's claim.

In a November 10, 2020 report, Dr. Apatira evaluated appellant for bilateral hand and forearm pain and numbness. She noted that he attributed his symptoms to the "chronic use of various vibratory power tools." Dr. Apatira indicated that appellant had a history of numbness in the tips of his right fingers when he underwent chemotherapy treatment from August to November 2019. She diagnosed bilateral carpal tunnel syndrome, paresthesia, and hand pain. Dr. Apatira asserted that appellant's symptoms were more consistent with carpal tunnel syndrome as opposed to "arm vibration syndrome on baseline nonindustrial drug-induced paresthesia." She related, "In my opinion, the underlying cause of [appellant's] symptoms is chronic drug-induced paresthesia, a nonindustrial condition. However, but for the stated mechanism, specifically [the] use of vibratory tools, this preexisting condition would not have become disabling or needed medical treatment...." Dr. Apatira also provided work restrictions. In subsequent reports dated November 10, 2020 through April 20, 2021, she reiterated her opinion that appellant's use of power tools aggravated his underlying condition. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining

⁹ *R.G.*, Docket No. 18-0792 (issued March 11, 2020); *D.J.*, Docket No. 19-1301 (issued January 29, 2020); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁰ *A.O.*, Docket No. 20-0038 (issued August 26, 2020); *B.H.*, Docket No. 18-1693 (issued July 20, 2020); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

¹¹ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

how a given medical condition/disability was related to employment factors.¹² Therefore, this evidence is also insufficient to establish appellant's claim.

In a March 18, 2021 medical report, Dr. Gajendran diagnosed right carpal tunnel syndrome and indicated that appellant underwent right carpal tunnel release on that date. However, he did not provide an opinion on causal relationship. As explained above, 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.¹³ This evidence is, therefore, insufficient to establish appellant's claim.

OWCP also received notes from a physical therapist and a physician assistant. The Board has held that certain healthcare providers such as physician assistants and physical therapists are not considered physicians as defined under FECA and, thus, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁴ As such, this evidence is insufficient to establish appellant's claim.

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 his burden of proof to establish bilateral carpal tunnel syndrome causally related to the accepted factors of his federal employment.

¹² See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017) (a report is of limited probative value regarding causal relationship if it does not contain medical rationale describing the relation between work factors and a diagnosed condition/disability).

¹³ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁴ Section 8101(2) 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 Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (September 2020); *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 *M.M.*, Docket No. 20-1649 (issued January 4, 2023) (physician assistants are not considered physicians as defined by FECA); *A.F.*, Docket No. 22-1221 (issued December 8, 2022) (physical therapists are not considered physicians as defined by FECA).

ORDER

IT IS HEREBY ORDERED THAT the May 17, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 27, 2023
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board