

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

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<b>J.P., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 25-0028</b>
	)	<b>Issued: December 6, 2024</b>
<b>U.S. POSTAL SERVICE, GRETNA POST</b>	)	
<b>OFFICE, Gretna, NE, Employer</b>	)	
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*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 October 13, 2024 appellant filed a timely appeal from a July 19, 2024 merit decision and a September 23, 2024 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUES**

The issues are: (1) whether appellant has met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment; and (2) whether

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the September 23, 2024 decision, OWCP received additional evidence. 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.*

OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

### **FACTUAL HISTORY**

On April 17, 2024 appellant, then a 41-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome causally related to factors of her federal employment after she transitioned to a mail carrier position and was assigned a full-time route. She noted that she first became aware of her condition and realized its relationship to her federal employment on April 1, 2024. Appellant did not stop work. In a supplemental statement, she further alleged that heavy lifting, sorting mail, preparing mail, opening and closing mailboxes, and driving and delivering packages contributed to her condition. Appellant further related that the chronic pain symptoms associated with carpal tunnel syndrome aggravated her post-traumatic stress disorder (PTSD).

Appellant submitted reports signed solely by Fawn Field, a certified physician assistant dated June 20 and December 19, 2023. Ms. Field assessed bilateral carpal tunnel syndrome.

In a report dated September 8, 2023, Dr. Kayvon Izadi, a Board-certified orthopedic hand surgeon, examined appellant for complaints concerning the bilateral wrists. He diagnosed bilateral carpal tunnel syndrome and administered a therapeutic steroidal injection.

In a development letter dated May 1, 2024, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and afforded her 60 days to respond.

In a report dated April 12, 2024, Dr. Izadi followed up with appellant for bilateral carpal tunnel syndrome. She noted complaints of paresthesias in the thumb through the ring fingers, constant on the right and intermittent on the left. On physical examination, Dr. Izadi observed positive provocative tests for carpal tunnel syndrome with 4+/5 abductor pollicis brevis strength. Ultrasound testing of the bilateral wrists demonstrated a short axis cross-sectional area of 16 and 10 millimeters (mm) squared of the median nerve at the level of the pisiform and at the level of the proximal edge of the pronator quadratus muscles, respectively. Dr. Izadi diagnosed bilateral carpal tunnel syndrome and PTSD and recommended that appellant undergo a bilateral endoscopic carpal tunnel release procedure.

In an April 19, 2024 report, Dr. Izadi administered a repeat steroidal injection for treatment of bilateral carpal tunnel syndrome. On physical examination, he observed altered sensation to light touch throughout the thumbs to the ring fingers with 5/5 abductor pollicis brevis strength. Dr. Izadi diagnosed bilateral carpal tunnel syndrome and PTSD.

In a statement received on May 22, 2024, appellant responded to OWCP's inquiries. She alleged that repetitive activities of her federal employment caused and aggravated her bilateral carpal tunnel syndrome and that, while steroidal injections relieved her symptoms for one to three months, the symptoms returned and increased in severity after that period.

In a follow-up letter dated June 7, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had

60 days from the May 1, 2024 development letter to submit the requested supporting evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

By decision dated July 19, 2024, OWCP found that the alleged employment factors occurred as alleged, but denied appellant's occupational disease claim, as the evidence of record was insufficient to establish that her diagnosed conditions were causally related to the accepted factors of her federal employment.

On September 19, 2024 appellant requested reconsideration. No additional evidence or argument was received in support of her request for reconsideration.

By decision dated September 23, 2024, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

### **LEGAL PRECEDENT -- ISSUE 1**

An employee seeking benefits under FECA<sup>3</sup> 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.<sup>4</sup> 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) rationalized medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>5</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>6</sup> 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

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *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).

<sup>5</sup> *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).

<sup>6</sup> *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors.<sup>7</sup>

### **ANALYSIS -- ISSUE 1**

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.

In reports dated September 8, 2023 and April 12 and 19, 2024, Dr. Izadi diagnosed bilateral carpal tunnel syndrome and PTSD. However, he did not offer an opinion as to whether her diagnosed conditions were caused or aggravated by factors of her federal employment. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition disability is related to employment factors.<sup>8</sup> As such, this evidence is insufficient to establish appellant's claim.

Appellant also submitted reports that were signed solely by a certified physician assistant. Certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.<sup>9</sup> As such, these reports are also insufficient to establish the claim.

As the medical evidence of record is insufficient to establish causal relationship between appellant's claimed conditions 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.

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<sup>7</sup> *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

<sup>8</sup> *See H.D.*, Docket No. 22-0419 (issued February 22, 2023); *E.K.*, Docket 22-1130 (issued December 30, 2022); *L.K.*, Docket No. 21-1155 (issued March 23, 2022); *T.S.*, Docket No. 20-1229 (issued August 6, 2021); *J.M.*, Docket No. 19-1169 (issued February 7, 2020); *A.L.*, Docket No. 19-0285 (issued September 24, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>9</sup> 5 U.S.C. § 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. 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *A.C.*, Docket No. 24-0661 (issued September 11, 2024) (medical reports signed solely by a nurse, physician assistant, or physical therapist are of no probative value, as such healthcare providers are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

## LEGAL PRECEDENT -- ISSUE 2

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his or her own motion or on application.<sup>10</sup>

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.<sup>11</sup>

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.<sup>12</sup> If it chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>13</sup> If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.<sup>14</sup>

## ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

In a timely September 13, 2024 request for reconsideration, appellant did not argue that OWCP erroneously applied or interpreted a specific point of law or advance a relevant legal argument not previously considered by OWCP. Thus, she was not entitled to a review of the merits of her claim based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).<sup>15</sup>

The underlying issue in this case is medical in nature. Appellant did not submit any medical evidence on reconsideration. Because she did not provide relevant and pertinent new medical

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<sup>10</sup> 5 U.S.C. § 8128(a); *see T.K.*, Docket No. 19-1700 (issued April 30, 2020); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *W.C.*, 59 ECAB 372 (2008).

<sup>11</sup> 20 C.F.R. § 10.606(b)(3); *see L.D., id.*; *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

<sup>12</sup> *Id.* at § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. *Supra* note 9 at Chapter 2.1602.4 (September 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

<sup>13</sup> *Id.* at § 10.608(a); *F.V.*, Docket No. 18-0230 (issued May 8, 2020); *see also M.S.*, 59 ECAB 231 (2007).

<sup>14</sup> *Id.* at § 10.608(b); *B.S.*, Docket No. 20-0927 (issued January 29, 2021); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

<sup>15</sup> *See C.S.*, 19-0851 (issued November 18, 2019); *J.B.*, Docket No. 17-0628 (issued June 28, 2017).

evidence, she was not entitled to a review of the merits based on the third requirement under 20 C.F.R. § 10.606(b)(3).<sup>16</sup>

The Board, therefore, finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

**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. The Board further finds that OWCP properly denied her request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 19 and September 23, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 6, 2024  
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

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<sup>16</sup> See 20 C.F.R. § 10.606(b)(3)(iii).