

<sup>3</sup> The Board notes that, following the July 27, 2023 decision, appellant submitted additional evidence to OWCP. However, the Board’s *Rules of Procedures* 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.

## **ISSUE**

The issue is whether appellant has met her burden of proof to establish expansion of the acceptance of her claim to include bilateral wrist tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis as causally related to her accepted March 25, 2013 employment injury.

## **FACTUAL HISTORY**

This case has previously been before the Board on a different issue.<sup>4</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On March 25, 2013 appellant, then a 48-year-old secretary, filed a traumatic injury claim (Form CA-1) alleging that on that date she struck her head and elbow when she went to sit down on a stool and fell onto the floor while in the performance of duty. She stopped work on that date. OWCP accepted appellant's claim for neck sprain and left shoulder rotator cuff syndrome and allied disorders. On June 20, 2013 it expanded the acceptance of appellant's claim to include partial tear of the left rotator cuff. OWCP paid appellant wage-loss compensation on the supplemental rolls, effective May 10, 2013, and on the periodic rolls, effective July 28, 2013.

By decision dated August 5, 2014, OWCP expanded the acceptance of appellant's claim to include temporary aggravation of cervical degenerative disc disease.<sup>5</sup>

In a letter dated September 6, 2019, appellant, through counsel, requested the expansion of appellant's claim to include bilateral wrist tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis based on the August 2, 2018 report of Dr. John Ellis, a Board-certified family practitioner.

Appellant submitted an August 2, 2018 report, wherein Dr. Ellis reviewed appellant's job duties and her history of injury. On examination of appellant's elbows, he observed tenderness and hypertrophy over the medial epicondyle. Tinel's signs were positive over the bilateral cubital tunnel. Dr. Ellis indicated that examination of the wrists revealed positive Tinel's sign over the median nerve and mildly positive Tinel's sign over the ulnar nerve. Sensation was decreased to light touch and pin prick along the median and ulnar nerves. Dr. Ellis diagnosed bilateral wrist tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis. He cited OWCP regulations and opined that the injuries set forth in his diagnosis and findings "arose out of and in the course of the employee's employment and that employment factors and work duties contributed to, aggravated and/or caused this employee's said injuries, disabilities, and impairments set forth in this report." Dr. Ellis explained that appellant's repetitive data entry on a straight keyboard on a standard desk caused her wrists to be kept in "an ulnarly deviated position, which caused abnormal strains on the flexor and extensor tendons from the fingers attaching into the elbows causing tendinitis in the wrists, which caused hypertrophy of the

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<sup>4</sup> Docket No. 17-1614 (issued July 3, 2019).

<sup>5</sup> By decision dated September 29, 2016, OWCP terminated appellant's wage-loss compensation benefits, effective October 16, 2016, finding that the medical evidence of record established that appellant no longer had disability causally related to her March 25, 2013 employment injury.

tendons, which then caused impingement of the median nerve at the wrists, which is carpal tunnel syndrome.”

Dr. Ellis reported that the “ulnar deviation for prolonged periods” also caused strain on the tendons on the medial aspect of both elbows, causing hypertrophy and tendinitis of the elbows and impingement of the ulnar nerve at the elbows, which is cubital tunnel syndrome.

In a progress note dated September 3, 2019, Dr. Adam J. Vernadakis, a Board-certified plastic surgeon, indicated that appellant was evaluated for symptoms of right, greater than left, carpal tunnel syndrome. He described the March 25, 2013 employment injury and noted that appellant had worked as a secretary for 26+ years. On physical examination Dr. Vernadakis observed positive Tinel’s testing at the wrists and elbows, which was consistent with mild carpal and cubital tunnel syndrome. He diagnosed thoracic outlet syndrome (TOS) and bilateral carpal tunnel syndrome.

In a letter dated March 17, 2021, appellant, through counsel, again requested expansion of the acceptance of her claim.

On April 29, 2021 OWCP requested that a district medical adviser (DMA) review Dr. Ellis’ August 2, 2018 report and comment on whether they agreed with the opinion that appellant developed wrists tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis as a result of the accepted March 25, 2013 employment injury.

In an April 30, 2021 report, Dr. Michael Katz, a Board-certified orthopedic surgeon serving as a DMA, reviewed the medical record and statement of accepted facts (SOAF). He discussed Dr. Ellis’ August 2, 2018 report and indicated that he disagreed with Dr. Ellis’ opinion that the conditions of wrists tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis be accepted under appellant’s claim. Dr. Katz explained that each of these conditions were generally associated with occupational overuse, and not a traumatic injury. He noted that appellant had not worked for the past 4½ years. Dr. Katz also reported that the mechanism of injury as described in the SOAF would not be the competent cause of any of these conditions. He further noted that earlier examinations performed in 2015 and 2016 did not document the complaints as noted by Dr. Ellis.

By decision dated May 27, 2021, OWCP denied expansion of the acceptance of the claim to include bilateral wrist tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis causally related to the accepted March 25, 2013 employment injury.

Appellant submitted hospital records dated September 24, 2019, which demonstrated that appellant was evaluated for complaints of numbness in her hands. She was diagnosed with other lesions of bilateral median nerve, anesthesia of skin, and bilateral carpal tunnel syndrome.

On June 26, 2023, appellant, through counsel, requested reconsideration.

By decision dated July 27, 2023, OWCP denied modification of the May 27, 2021 OWCP decision.

## **LEGAL PRECEDENT**

Where an employee claims that, a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>6</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> A physician's opinion on whether there is a causal relationship between the diagnosed condition and the employment injury must be based on a complete factual and medical background.<sup>8</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's employment injury.<sup>9</sup>

## **ANALYSIS**

The Board finds that appellant has not met her burden of proof to establish expansion of the acceptance of her claim to include bilateral wrist tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis as causally related to her accepted March 25, 2013 employment injury.

In an August 2, 2018 report, Dr. Ellis reviewed appellant's position description as a secretary and provided examination findings. He diagnosed bilateral wrist tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis. Dr. Ellis opined that these injuries were a result of appellant's employment factors. He did not, however, attribute the diagnosed conditions to the March 25, 2013 employment injury. As Dr. Ellis did not provide a reasoned explanation of how the March 25, 2013 employment incident caused appellant's bilateral arm, wrist, and hand conditions, his opinion is insufficient to expand the acceptance of appellant's claim.<sup>10</sup>

The record also contains a September 3, 2019 progress note by Dr. Vernadakis who noted the March 25, 2013 employment injury and conducted an examination. Dr. Vernadakis diagnosed TOS and bilateral carpal tunnel syndrome. He did not, however, provide an opinion on the cause of appellant's conditions. The Board has held that medical evidence that does not offer an opinion

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<sup>6</sup> *J.R.*, Docket No. 20-0292 (issued June 26, 2020); *W.L.*, Docket No. 17-1965 (issued September 12, 2018); *V.B.*, Docket No. 12-0599 (issued October 2, 2012); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

<sup>7</sup> *W.N.*, Docket No. 21-0123 (issued December 29, 2021); *T.C.*, Docket No. 19-1043 (issued November 8, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>8</sup> *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>10</sup> Medical opinion evidence should reflect a correct history and offer a medically sound explanation of how the specific employment incident or work factors caused an injury. *J.W.*, Docket No. 18-0678 (issued March 3, 2020); *V.T.*, Docket No. 18-0881 (issued November 19, 2018); *L.R.*, Docket No. 16-0736 (issued September 2, 2016); *B.T.*, Docket No. 13-138 (issued March 20, 2013).

regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>11</sup> Accordingly, this report is insufficient to establish expansion of the claim.

In an April 30, 2021 report, Dr. Katz, the DMA, noted the history of injury and his review of the SOAF. He discussed Dr. Ellis' August 2, 2018 report and explained that each of the diagnosed conditions were generally associated with occupational overuse, and not a traumatic injury. Dr. Katz explained that the mechanism of injury as described in the SOAF would not be the competent cause of wrists tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis conditions. He also noted that appellant had not worked for the past 4½ years. Dr. Katz provided a detailed report based on a proper factual history and findings on examination and provided a rationalized medical opinion as to why appellant's claim should not be expanded to include the additional conditions. Dr. Katz' report is therefore sufficient to carry the weight of the medical evidence.<sup>12</sup>

As the medical evidence of record is insufficient to establish causal relationship between the additional diagnosed conditions and the accepted March 25, 2013 employment injury, the Board finds that appellant has not met her burden of proof to expand the acceptance of her 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 her burden of proof to establish expansion of the acceptance of the claim to include bilateral wrist tendinitis, bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis as causally related to her accepted March 25, 2013 employment injury.

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<sup>11</sup> *J.M.*, Docket No. 19-1926 (issued March 19, 2021); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *See V.A.*, Docket No. 21-1023 (issued March 6, 2023).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 27, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 20, 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