

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

and trigger finger of the left middle finger as causally related to the accepted November 2, 2019 employment injury; and (2) whether OWCP properly denied authorization for left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, and left middle finger trigger digit release with tendon sheath incision.

### **FACTUAL HISTORY**

On November 2, 2019 appellant, then a 38-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that, on that date, she sustained back and right upper extremity injuries when the postal vehicle she was operating was rear ended while in the performance of duty. She stopped work on the date of the injury. OWCP accepted her claim for cervical strain, right shoulder strain/sprain, and right forearm strain/sprain. It paid appellant wage-loss compensation on the supplemental rolls, effective December 18, 2019, and on the periodic rolls, effective May 24, 2020.

A February 24, 2020 electromyogram and nerve conduction velocity (EMG/NCV) study of the right upper extremity demonstrated abnormal findings in the distribution of the right distal median nerve.

On May 15, 2020, OWCP expanded the acceptance of appellant's claim to include post-traumatic right carpal tunnel syndrome. On June 11, 2020, Mark L. Wang, a Board-certified orthopedic surgeon, performed an OWCP-authorized right carpal tunnel release.

A February 23, 2021 EMG/NCV study of the upper extremities revealed right C5 nerve cervical radiculopathy, right ulnar neuropathy at the elbow, right median nerve compression at the wrist, and asymptomatic left distal median nerve sensory neuropathy consistent with left carpal tunnel syndrome.

On June 24, 2021 Dr. Wang performed an OWCP-authorized right cubital tunnel release.

On November 1, 2021 appellant returned to full-duty work.

In a December 1, 2021 report, Dr. Wang related that appellant complained of numbness and tingling in all digits of her left hand, and triggering in the middle fingers of both hands. He reported that, upon physical examination, she had positive Tinel's, Durkan's, and Phalen's signs over the left carpal tunnel region, positive Tinel's sign over the cubital tunnel region without subluxation of the ulnar nerve, and triggering of both middle fingers. Dr. Wang diagnosed clinical left carpal tunnel syndrome, possible left cubital tunnel syndrome, and bilateral middle finger trigger digit, "overuse and work related."

A December 6, 2021 EMG/NCV study of the left upper extremity revealed left ulnar neuropathy at the elbow, left distal median sensory neuropathy consistent with carpal tunnel syndrome, and left low cervical dorsal nerve root irritation.

In a January 12, 2022 report, Dr. Wang noted that appellant presented with complaints of continuing numbness and tingling in all digits of her left hand, and triggering of her left middle finger. For the left upper extremity, he reported physical examination findings similar to those contained in his December 1, 2021 report. Dr. Wang opined that a recent EMG/NCV study

confirmed the diagnoses of left carpal tunnel syndrome and left cubital tunnel syndrome. He diagnosed left carpal tunnel syndrome, left cubital tunnel syndrome, lesions of the left and right ulnar nerves, and trigger finger of the left middle finger. Dr. Wang recommended that appellant undergo left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, and left middle finger trigger digit release with tendon sheath incision. He advised that she wished to proceed with the surgeries, and to forgo corticosteroid injections.

OWCP received appellant's request for authorization of left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, and left middle finger trigger digit release with tendon sheath incision. Appellant also requested that OWCP expand the acceptance of her claim to include left carpal tunnel syndrome, left cubital tunnel syndrome/ulnar nerve lesion, and trigger finger of the left middle finger.

In a January 28, 2022 letter, OWCP informed appellant of the deficiencies of her request for authorization of the requested surgical procedures and claim for expansion. It advised her of the type of medical evidence necessary, and afforded her 30 days to submit the necessary evidence.

On February 1, 2022 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Willie E. Thompson, a Board-certified orthopedic surgeon for a second opinion examination. It requested that he address the question of whether the acceptance of her claim should be expanded to include left carpal tunnel syndrome, left cubital tunnel syndrome/ulnar nerve lesion, and trigger finger of the left middle finger, as well as the question of whether authorization should be granted for left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, and left middle finger trigger digit release with tendon sheath incision. The referral letters were mailed to the last known addresses of record for appellant and her then-counsel.

In a February 28, 2022 report, Dr. Thompson discussed appellant's factual and medical history, including her present left upper extremity symptoms, and reported the findings of his physical examination. Upon examination of the left upper extremity, appellant exhibited a positive Tinel's sign at the cubital tunnel, resulting in pain with numbness/tingling radiating to the left ring and little fingers. Dr. Thompson advised that examination of the left wrist revealed negative Tinel's sign and Finkelstein's test. He noted that a February 24, 2020 EMG/NCV study evidenced positive findings for right carpal tunnel syndrome and a February 23, 2021 EMG/NCV study evidenced positive findings for left carpal tunnel syndrome. Dr. Thompson indicated that any treatment appellant needed for the left upper extremity was "not related to factors of her employment" and noted that "[t]he findings in the left upper extremity are not related whatsoever." In response to the question of whether a work injury/illness necessitated left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, and left middle finger trigger digit release with tendon sheath incision, he responded that OWCP had indicated in the referral questions that "the diagnosis of trigger finger of the left middle finger, as well as left carpal tunnel syndrome and lesions of the ulnar nerve to the right and left elbows are not accepted conditions." In response to the question of whether OWCP should expand the acceptance of appellant's claim to include left carpal tunnel syndrome, left cubital tunnel syndrome/ulnar nerve lesion, and trigger finger of the left middle finger as causally related to the accepted November 2, 2019 employment injury, Dr. Thompson responded that it was his opinion that "the trigger finger of the left middle finger,

as well as the left carpal tunnel syndrome and lesion of the ulnar nerve on the left side are not related and are not considered to be accepted conditions.”

On March 17, 2022, OWCP referred appellant’s case to Dr. David J. Slutsky, a Board-certified orthopedic surgeon serving as an OWCP district medical adviser (DMA), to review Dr. Thompson’s report, and comment on appellant’s expansion claim and request for surgery authorization.

In a March 30, 2022 report, Dr. Slutsky indicated that, before making a determination on these matters, more information was needed regarding what type of conservative medical treatment appellant underwent, and how long her left upper extremity symptoms were present.

By decision dated April 11, 2022, OWCP denied appellant’s request for authorization of left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, and left middle finger trigger digit release with tendon sheath incision.

OWCP subsequently received an April 13, 2022 report, wherein Dr. Wang opined that appellant’s left carpal tunnel, left ulnar nerve, and left middle finger injuries were “a result of her job.” Dr. Wang maintained that these conditions needed to be addressed by surgery. On April 18, 2022, OWCP received a report of even date, wherein he opined that appellant’s left carpal tunnel, left ulnar nerve, and left middle finger conditions were “a result from” the November 2, 2019 accident. Dr. Wang maintained that the conditions had worsened after her November 2021 return to work and now required surgery.

By decision dated May 20, 2022, OWCP denied expansion of the acceptance of the claim, finding that the medical evidence of record was insufficient to establish additional left upper extremity conditions as causally related to the accepted November 2, 2019 employment injury.

On July 5, 2022, a memorandum was entered into the case record memorializing an agreement between appellant and her present counsel, which authorized legal representation commencing that date. On July 14, 2022, OWCP sent a letter to appellant and her present counsel, which acknowledged this change in counsel.

On July 14, 2022, appellant, through counsel, requested reconsideration. Counsel contended that OWCP did not provide proper notification regarding the second opinion examination with Dr. Thompson.

By decision dated October 5, 2022, OWCP denied modification of its April 11, 2022 decision, finding that the medical evidence of record did not support appellant’s request for authorization of left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, and left middle finger trigger digit release with tendon sheath incision. In reaching this determination, it also made a finding that she did not meet her burden of proof to expand the acceptance of her claim to include additional left upper extremity conditions as causally related to the accepted November 2, 2019 employment injury. Prior to making the above-noted findings, OWCP found that Dr. Thompson’s February 28, 2022 second opinion report had no probative value, and would be excluded from consideration because counsel was not properly notified of the referral to Dr. Thompson prior to the February 28, 2022 examination date.

On October 14, 2022, appellant, through counsel, requested reconsideration of the October 5, 2022 decision.

On January 12, 2023, OWCP requested that Dr. Thompson provide a supplemental second opinion report regarding whether the acceptance of appellant's claim should be expanded to include trigger finger of the right middle finger, and whether authorization should be granted for right middle finger trigger digit release with tendon sheath incision.

In a January 26, 2023 report, Dr. Thompson opined that the diagnosed trigger finger of the right middle finger was not related to any accepted medical condition. He noted:

“In addition, there certainly is no indication for this individual to undergo a right trigger finger release as it relates to the injury occurring on November 2, 2019. There is no indication nor any information in the medical record to indicate that this request for an additional accepted finger condition to be related [sic] to the accepted conditions of November 2, 2019.”

By decision dated February 28, 2023, OWCP denied modification of its October 5, 2022 decision, based on the report of Dr. Thompson.

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

When 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>3</sup> The medical evidence required to establish causal relationship between a specific condition, and the employment injury is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.<sup>4</sup>

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

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include left carpal tunnel syndrome, left cubital tunnel syndrome/ulnar nerve lesion, and trigger finger of the left middle finger as causally related to the accepted November 2, 2019 employment injury.

Dr. Thompson discussed appellant's factual and medical history, including the nature of her present left upper extremity symptoms. He indicated that “[t]he findings in the left upper extremity are not related whatsoever” to factors of employment. In response to the question of whether OWCP should expand the acceptance of the claim to include the conditions of left carpal

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<sup>3</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>4</sup> *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

tunnel syndrome, left cubital tunnel syndrome/ulnar nerve lesion, and trigger finger of the left middle finger as causally related to the accepted November 2, 2019 employment injury, Dr. Thompson opined that “the trigger finger of the left middle finger, as well as the left carpal tunnel syndrome and lesion of the ulnar nerve on the left side are not related and are not considered to be accepted conditions.”

The Board has reviewed the opinion of Dr. Thompson and finds that it has reliability, probative value, and convincing quality with respect to its conclusions regarding appellant’s expansion request.<sup>5</sup> The Board thus finds that the weight of the medical opinion evidence with respect to appellant’s request that the expansion of the acceptance of the claim include several left upper extremity conditions is represented by the well-rationalized opinion of Dr. Thompson, the OWCP referral physician.

As the medical evidence of record is insufficient to establish expansion of the acceptance of the claim, the Board finds that appellant has not met her burden of proof.

### **LEGAL PRECEDENT -- ISSUE 2**

Section 8103(a) of FECA states in pertinent part: “The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.”<sup>6</sup> The Board has found that OWCP has great discretion in determining whether a particular type of treatment is likely to cure or give relief.<sup>7</sup> The only limitation on OWCP’s authority is that of reasonableness.<sup>8</sup> Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.<sup>9</sup> In order to be entitled to reimbursement of medical expenses, it must be shown that the expenditures were incurred for treatment of the effects of an employment-related injury or condition.<sup>10</sup> Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.<sup>11</sup>

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<sup>5</sup> See *P.G.*, Docket No. 24-0437 (issued June 26, 2024); *S.V.*, Docket No. 23-0474 (issued August 1, 2023).

<sup>6</sup> 5 U.S.C. § 8103.

<sup>7</sup> *R.C.*, Docket No. 18-0612 (issued October 19, 2018); *Vicky C. Randall*, 51 ECAB 357 (2000).

<sup>8</sup> *B.L.*, Docket No. 17-1813 (issued May 23, 2018); *Lecil E. Stevens*, 49 ECAB 673, 675 (1998).

<sup>9</sup> *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *Rosa Lee Jones*, 36 ECAB 679 (1985).

<sup>10</sup> *J.R.*, Docket No. 17-1523 (issued April 3, 2018); *Bertha L. Arnold*, 38 ECAB 282, 284 (1986); *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981).

<sup>11</sup> *Zane H. Cassell, id.*; *John E. Benton*, 15 ECAB 48, 49 (1963).

## **ANALYSIS -- ISSUE 2**

The Board finds that OWCP properly denied authorization for left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, left middle finger trigger digit release with tendon sheath incision, and right middle finger trigger digit release with tendon sheath incision.

As noted above, Dr. Thompson discussed appellant's factual and medical history. He indicated that any treatment appellant needed for the left upper extremity was "not related to factors of her employment." Regarding whether a work injury/illness necessitated left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, and left middle finger trigger digit release with tendon sheath incision, Dr. Thompson opined that such requested treatment of the left upper extremity would not be related to employment factors as the diagnoses of trigger finger of the left middle finger, left carpal tunnel syndrome, and lesions of the ulnar nerve of the left elbow were not work-related conditions.

The Board has reviewed the opinion of Dr. Thompson and finds that it has reliability, probative value, and convincing quality with respect to its conclusions regarding appellant's surgery request. OWCP therefore properly denied appellant's request for authorization.<sup>12</sup>

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 appellant has not met her burden of proof to expand the acceptance of her claim to include left carpal tunnel syndrome, left cubital tunnel syndrome/ulnar nerve lesion, and trigger finger of the left middle finger as causally related to the accepted November 2, 2019 employment injury. The Board further finds that OWCP properly denied authorization for left carpal tunnel release, left cubital tunnel release with ulnar nerve revision, and left middle finger trigger digit release with tendon sheath incision.

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<sup>12</sup> See *supra* note 8.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 28, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 7, 2025  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board