

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

V.T., Appellant)
and) Docket No. 25-0503
U.S. POSTAL SERVICE, SUNSET STATION,) Issued: June 4, 2025
Los Angeles, CA, Employer)
)

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 21, 2025 appellant filed a timely appeal from an October 23, 2024 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

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish disability from work commencing May 11, 2023, causally related to her accepted employment injury; and

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the October 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.*

(2) whether appellant has met her burden of proof to establish additional conditions as causally related to the accepted employment injury.

FACTUAL HISTORY

On June 2, 2020 appellant, then a 59-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she developed right hand pain due to factors of her federal employment including casing, fingering and delivering mail, opening gang boxes, and picking up and delivering parcels.³ She noted that she first became aware of her condition and realized its relationship to her federal employment on February 11, 2020. Appellant did not stop work.

By decision dated July 15, 2020, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a diagnosis in connection with the accepted employment factors. Therefore, the requirements had not been met to establish that she sustained an injury as defined by FECA.⁴

An April 16, 2020 electromyography/nerve conduction velocity (EMG/NCV) study revealed no evidence of compressive neuropathy, no indication of carpal tunnel syndrome (CTS), and no evidence of peripheral neuropathy.

In an April 28, 2020 medical report, Dr. Charles Herring, a Board-certified orthopedic surgeon, noted appellant's history and examination findings and diagnosed clinical right-sided CTS, right thumb carpometacarpal (CMC) arthrosis, and right wrist and hand tendinitis due to the September 14, 2019 assault and subsequent repetitive job duties.

In reports dated July 19 and November 14, 2022, Dr. Basimah Khulusi, a Board-certified physiatrist, noted appellant's subjective complaints and examination findings. She diagnosed right CTS, right thumb CMC arthrosis, and right wrist and hand tendinitis. In duty status reports (Form CA-17) of even date, Dr. Khulusi released appellant to return to work, with no lifting greater than 10 pounds on an intermittent basis, pulling/pushing of "desk items only," and no more than one hour per day of simple grasping and fine manipulation with the right hand. She noted that "with all her restrictions under all her claims, she has been working full time and tolerating doing her activities."

By decision dated February 17, 2021, OWCP vacated the July 15, 2020 initial denial, finding that appellant had established right CTS as causally related to the accepted employment factors. However, it denied expansion of the acceptance of the claim to include right thumb CMC arthrosis and tendinitis of the right wrist and hand as causally related to the accepted employment injury.

³ OWCP assigned the present claim OWCP File No. xxxxxx469. Appellant previously filed a September 14, 2019 traumatic injury claim (Form CA-1) due to an assault, which OWCP accepted for right hand and wrist sprain under OWCP File No. xxxxxx148. Under OWCP File No. xxxxxx148, she underwent treatment and diagnostic testing. OWCP administratively combined OWCP File Nos. xxxxxx469 and xxxxxx148, with the latter serving as the master file.

⁴ *Supra* note 1.

By separate decision also dated February 17, 2021, OWCP formally accepted the claim for right CTS. In a Form CA-17 dated May 1, 2023, Dr. Khulusi diagnosed right CTS and continued appellant's work restrictions.

On May 11, 2023 the employing establishment offered appellant a modified city carrier position, which included casing routes for up to two hours per day, which appellant accepted "pending doctor approval."

In a May 11, 2023 letter, Dr. Khulusi indicated that appellant's restriction of one hour per day of simple grasping and fine manipulation "gives her 7.5 minutes of use of her hands per hour. This means she cannot do [two] hours of casing per her CA-17 work restrictions."

On May 18, 2023 appellant began filing claims for compensation (Form CA-7) for disability from work, effective May 11, 2023.

In a development letter dated May 23, 2023, OWCP informed appellant of the deficiencies of her disability claim. It advised her of the type of medical evidence needed and afforded her 30 days to submit the necessary evidence.

In a prescription note dated July 26, 2023, Dr. Khulusi recommended physical therapy for appellant's right wrist.

By decision dated August 1, 2023, OWCP denied appellant's claim for compensation, finding that the medical evidence of record was insufficient to establish disability from work during the claimed period, causally related to the accepted employment injury.

OWCP continued to receive evidence, including a July 26, 2023 medical report by Dr. Khulusi, who related that appellant had not been working "because the job [had] not been able to accommodate her restrictions." She performed a physical examination, which revealed decreased flexion of the right wrist and positive Phalen's test. Dr. Khulusi diagnosed right CTS, right thumb CMC arthrosis, and right wrist and hand tendinitis.

In Forms CA-17 dated July 26 and September 20, 2023, Dr. Khulusi continued appellant's previous full-time restrictions of intermittent lifting up to 10 pounds and simple grasping and fine manipulation with the right hand for up to one hour per day.

On October 19, 2023 appellant requested reconsideration. In support thereof, she submitted an October 17, 2023 narrative report, wherein Dr. Khulusi, requested expansion of appellant's claim to include right thumb CMC arthrosis and right wrist tendinosis. Dr. Khulusi explained that repetitive traumatic events of gripping and grasping, which required generating force with the right thumb, caused damage to the tendons, ligaments, cartilage, and bones of the structures of the right thumb and wrist.

By decision dated October 24, 2023, OWCP denied modification of the August 1, 2023 decision, noting that the evidence of record was insufficient to establish disability from work during the claimed period causally related to the accepted employment injury. It also noted that the evidence of record was insufficient to modify its February 17, 2021 denial of expansion of the acceptance of the claim to include right thumb CMC arthrosis or right wrist and hand tendinitis as causally related to the employment injury.

OWCP thereafter received a September 20, 2023 medical report by Dr. Khulusi who related that appellant had been working since August 2023, casing for two hours per day while alternating the use of her right and left hands.

In a Form CA-17 dated November 27, 2023, Dr. Khulusi continued appellant's restrictions.

On January 2, 2024 appellant underwent an EMG/NCV study of the bilateral upper extremities, which indicated possible early onset or mild right-sided CTS affecting sensory fibers, very mild or early onset bilateral ulnar sensory neuropathy, increased insertional activity in the right C7 and C8 myotomes, and no evidence of peripheral neuropathy or brachial plexopathy.

A February 7, 2024 MRI scan of the right hand revealed osteoarthritis and degenerative changes.

On March 20, 2024 appellant requested reconsideration of OWCP's October 24, 2023 decision. In support thereof, she submitted a March 19, 2024 narrative report wherein Dr. Khulusi noted that the January 4, 2024 EMG/NCV study revealed a worsening of conduction of her median nerve across the right wrist. Dr. Khulusi opined that the diagnostic testing results established appellant's need for work restrictions.

A March 9, 2024 MRI scan of the right wrist revealed a partial tear of the triangular fibrocartilage complex (TFCC) and subchondral cystic change involving the lunate.

By decision dated April 2, 2024, OWCP denied modification of the October 24, 2023 decision.

OWCP continued to receive evidence, including a May 20, 2024 medical report and Form CA-17 by Dr. Khulusi, who continued to release appellant to return to work with restrictions of intermittent lifting up to 10 pounds and up to one hour per day of simple grasping and fine manipulation with the right hand.

A functional capacity evaluation (FCE) dated June 26, 2024 indicated that in an eight-hour workday, appellant could use the right hand and arm for power, simple, and precision grasping, fingering, and reaching forward and overhead for 15 minutes continuously for up to a total of 2 hours; could push and pull up to 20 pounds occasionally; could lift to the floor, knee, or waist up to 10 pounds occasionally and to the shoulder up to 5 pounds occasionally; and should avoid overhead lifting.

On August 15, 2024 appellant requested reconsideration of OWCP's April 2, 2024 decision. In support thereof, she submitted an August 12, 2024 medical report by Dr. Khulusi, who noted the results of the June 26, 2024 FCE and diagnosed right wrist sprain, partial tearing of the TFCC, traumatic aggravation of right CTS, and reflex sympathetic dystrophy on the right. Dr. Khulusi revised appellant's work restrictions based upon the FCE and opined that in an 8-hour day, appellant could lift up to 10 pounds for 2.66 hours, push/pull up to 20 pounds for 2.66 hours, grasp/manipulate/reach on the right for 15 minutes continuously and up to 2 hours intermittently, and drive a vehicle for 2 hours intermittently. She indicated that these restrictions were consistent with sedentary work. Dr. Khulusi further indicated that "with the restrictions that I had been giving [appellant], she was given work to do for eight hours per day at a desk and was tolerating doing

these activities because the nature of these activities was intermittent.” She also indicated that appellant was not able to perform continuous activities.

In an August 16, 2024 development letter, OWCP requested that the employing establishment provide answers to a series of questions regarding appellant’s claims for total and partial disability from May 13, 2023 through July 31, 2024.

On September 5, 2024 OWCP received the employing establishment’s response to its development letter, which indicated that a “2-hour job offer” was available to appellant from May 13 through October 6, 2023; appellant worked 8 hours per day from October 7 through November 6, 2023; a “2-hour job offer” was available for the period November 7 through 30, 2023; appellant used paid leave from December 1 through 10, 2023; appellant worked “partial days” from December 11, 2023 through March 6, 2024; appellant worked 8 hours per day from March 7 through July 31, 2024 with the exception of use of annual leave for vacation from June 10 through 22 and July 8 through 18, 2024; and that 8 hours of work was available from August 1 through 9, 2024.

In a September 10, 2024 Form CA-17, Dr. Khulusi continued appellant’s prior restrictions per the FCE.

By decision dated October 23, 2024, OWCP denied modification of the April 2, 2024 decision.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ Under FECA, the term “disability” means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.⁶ Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.⁷ An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.⁸ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.⁹

⁵ *S.F.*, Docket No. 20-0347 (issued March 31, 2023); *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *J.F.*, Docket No. 09-1061 (issued November 17, 2009) *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ 20 C.F.R. § 10.5(f).

⁷ See *H.B.*, Docket No. 20-0587 (issued June 28, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

⁸ See *H.B.*, *id.*; *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

⁹ See *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

The medical evidence required to establish causal relationship between a claimed period of disability and an 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 claimed disability and the accepted employment injury.¹⁰

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹¹

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish disability from work commencing May 11, 2023, causally related to her accepted February 11, 2020 employment injury.

In support of her claim for compensation, appellant submitted medical reports and Forms CA-17 dated July 19, 2022 through May 20, 2024 by Dr. Khulusi, who released appellant to return to work lifting up to 10 pounds intermittently, pushing/pulling “desk items only,” and up to one hour per day of simple grasping and fine manipulation with the right hand. As of August 15, 2024, she amended the work restrictions based upon a June 26, 2024 FCE. However, in her reports and forms dated July 19, 2022 through August 15, 2024, Dr. Khulusi did not provide an opinion on causal relationship between the claimed disability and the accepted employment injury. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee’s condition or disability is of no probative value on the issue of causal relationship.¹² As such, Dr. Khulusi’s reports are insufficient to establish appellant’s disability claim.

The remainder of the evidence of record consisted of diagnostic study reports. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injury caused the claimed disability.¹³

As the medical evidence of record is insufficient to establish disability from work commencing May 11, 2023, causally related to the accepted employment injury, 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.

¹⁰ *F.B.*, Docket No. 22-0679 (issued January 23, 2024); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

¹¹ *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

¹² See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

LEGAL PRECEDENT -- ISSUE 2

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.¹⁴ 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 accepted employment injury.¹⁵

ANALYSIS -- ISSUE 2

The Board finds that this case is not in posture for decision.

In support of her claim, appellant submitted several reports from Dr. Khulusi. In an October 17, 2023 narrative report, Dr. Khulusi requested expansion of the acceptance of appellant's claim to include right thumb CMC arthrosis and right wrist tendinosis. She explained that repetitive traumatic events of gripping required generating force with the right thumb. Dr. Khulusi noted that this caused damage to the tendons, ligaments, cartilage, and bones of the structures of the right thumb and wrist. While the October 17, 2023 narrative report from Dr. Khulusi is insufficient to establish appellant's expansion claim, is sufficient to require further development of the medical evidence.¹⁶

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹⁷ OWCP has an obligation to see that justice is done.¹⁸

This case must, therefore, be remanded for further development. On remand, OWCP shall refer appellant, along with the medical record and a statement of accepted facts, to a specialist in the appropriate field of medicine for a second opinion examination and report regarding whether appellant sustained additional medical conditions as causally related to the accepted employment injury.¹⁹ If the referral physician disagrees with the opinion of Dr. Khulusi, he/she must provide

¹⁴ *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).

¹⁵ See *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

¹⁶ See *Z.S.*, Docket No. 25-0138 (issued January 22, 2025); *R.B.*, Docket No. 20-0498 (issued August 27, 2020); *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *John J. Carlone*, 41 ECAB 354 (1989); *William J. Cantrell*, 34 ECAB 1223 (1983).

¹⁷ *Id.* See also *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹⁸ See *B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, *supra* note 15.

¹⁹ See *R.B.*, *supra* note 16; *C.C.*, Docket No. 19-1631 (issued February 12, 2020).

a fully-rationalized opinion explaining why the accepted employment injury was insufficient to have caused additional medical conditions. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision with respect to appellant's expansion claim.

CONCLUSION

The Board finds that appellant has not met her burden of proof establish disability from work commencing May 11, 2023, causally related to her accepted employment injury. The Board finds that this case is not in posture for decision with respect to appellant's expansion claim.

ORDER

IT IS HEREBY ORDERED THAT the October 23, 2024 decision of the Office of Workers' Compensation Programs is affirmed, in part, and set aside, in part; and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 4, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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