



## **FACTUAL HISTORY**

This case has previously been before the Board.<sup>2</sup> The facts and circumstances outlined in the prior Board decision are incorporated herein by reference. The relevant facts are as follows.

On November 7, 2013 appellant, a 56-year-old customer service representative, filed an occupational disease claim (Form CA-2) alleging that she developed a right hand injury that allegedly arose on or about October 25, 2013. She indicated that, during the course of an 8-hour workday, she spent 7.2 hours keyboarding and using a mouse, and at least 2 hours stapling and/or paper clipping documents. Appellant's duties included such activities as handling 35 to 40 telephone calls from taxpayers, processing tax returns, sending documents to central processing, and corresponding with taxpayers *via* letters. Initially, she did not submit any medical evidence with her claim.

In a November 27, 2013 development letter, OWCP requested a more detailed description of the employment duties appellant believed caused her right hand/wrist condition. It also advised her to submit appropriate medical evidence in support of her claim.

OWCP subsequently received a November 20, 2013 narrative report and a November 27, 2013 attending physician's report (Form CA-20) from Dr. Warwick Green, a Board-certified orthopedic surgeon. In his November 20, 2013 report, Dr. Green noted that appellant reported a sudden onset of sharp pain in her right thumb, with swelling at the base of the thumb, occurring at work on October 25, 2013. He indicated that November 20, 2013 x-ray testing showed mild osteoarthritis of the first CMC joint of the right hand, and he provided a diagnosis of osteoarthritis and sprain/strain of the right hand. In his November 27, 2013 attending physician's report, Dr. Green again noted that appellant reported a sudden pain and swelling in her right thumb occurring at work on October 25, 2013. He diagnosed sprain/strain of the right thumb and osteoarthritis of the hand. Dr. Green checked a box marked "Yes" to denote that these conditions were employment related, and added the notation "Complaints represent exacerbation of preexisting conditions due to work." He advised that appellant could return to work, but was unable to use her right hand. Dr. Green also submitted a duty status report (Form CA-17) that contained a diagnosis of osteoarthritis of the first CMC joint of the right hand. In December 23, 2013 and January 22, 2014 reports, he further discussed appellant's right thumb condition.

By decision dated February 4, 2014, OWCP denied appellant's claim, finding that she failed to establish fact of injury as she had not submitted a detailed description of her work-related activities as requested by OWCP on November 27, 2013. It also found the medical evidence of record was insufficient to establish an employment-related diagnosis.

Appellant, through counsel, timely requested reconsideration on June 12, 2014. In support of the request, counsel submitted February 12 and April 23, 2014 reports from Dr. Sang H. Song, a Board-certified psychiatrist. In the April 23, 2014 report, Dr. Song noted that it was his medical opinion that appellant's right carpal tunnel syndrome condition was causally related to her

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<sup>2</sup> Docket No. 15-0089 (issued February 20, 2015).

repetitive work activities, including keyboarding (7 hours daily), operating a computer mouse (7 hours daily), stapling (4.5 hours daily), and grasping paper clips (4.5 hours daily).

By decision dated June 18, 2014, OWCP denied appellant's request for reconsideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a), finding the submitted evidence to be immaterial.

On June 26, 2014 counsel again requested reconsideration. He submitted a June 23, 2014 statement from appellant regarding her employment duties. Appellant indicated that she was a customer service worker whose duties consisted of reconciling taxpayers' accounts *via* correspondence and/or telephone. During the course of an eight-hour workday, she was responsible for processing tax returns, sending documents to central processing, and corresponding with taxpayers *via* letters. Appellant was also responsible for stapling and/or paper clipping documents. She performed this activity at least two hours per day, as needed. Appellant also stated that she was responsible for documenting each telephone conversation with a taxpayer. On any given day, she documented between 35 and 40 calls. Both paper and telephone communications were documented *via* computer. Appellant worked a 40-hour week, and each day she spent 7.2 hours keyboarding and using a mouse.<sup>3</sup>

By decision dated September 24, 2014, OWCP modified its prior decision to find that fact of injury had been established, but denied appellant's claim because the medical evidence of record was insufficient to establish causal relationship between her diagnosed right carpal tunnel syndrome and her described duties as a customer service representative.<sup>4</sup>

On February 10, 2016 counsel, requested reconsideration of OWCP's denial of appellant's claim. He argued that her claim for occupational injury was established by an enclosed January 13, 2016 report of Dr. Neil Allen, an attending Board-certified internist and neurologist.

In his January 13, 2016 report, Dr. Allen indicated that he had reviewed appellant's medical records "in order to establish a causal relationship between the patient's right hand injury and work-related trauma sustained prior to and on October 25, 2013."<sup>5</sup> He noted that appellant reported being required to engage in constant writing, typing, use of a mouse, stapling, and paper-clipping documents for seven hours per day (eight-hour shift with a one-half hour break and two 15-minute breaks). Dr. Allen discussed appellant's reported right upper extremity conditions and summarized medical reports of Dr. Green and Dr. Song. He asserted that appellant's right wrist injury was employment related and that her case should be accepted under the diagnosis of right carpal tunnel syndrome. Dr. Allen referenced several passages in the Merck Manual (14<sup>th</sup> edition) which described the symptoms, physical examination/diagnostic test findings, and causes of carpal

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<sup>3</sup> Appellant had a half-hour lunch break and two 15-minute breaks each workday.

<sup>4</sup> Appellant appealed OWCP's September 24, 2014 decision to the Board and, by decision dated February 20, 2015, the Board affirmed the September 24, 2014 decision. *Supra* note 2.

<sup>5</sup> Counsel later confirmed during a December 15, 2016 hearing before an OWCP hearing representative that Dr. Allen, whose office was located in Chicago, IL, did not physically examine appellant. Rather, Dr. Allen based his report on a review of the case record and a telephone conversation with appellant.

tunnel syndrome, and he indicated that appellant's symptoms, physical examination/diagnostic test findings, and work duties showed that she had employment-related right carpal tunnel syndrome

Dr. Allen further asserted that appellant's claim should also be accepted for the diagnosis of osteoarthritis of the first CMC joint of the right hand. While acknowledging that this condition likely existed prior to appellant's federal employment, he opined that the duties required by her position resulted in an aggravation of this condition. Dr. Allen noted that, per the Merck Manual (14<sup>th</sup> edition), biomechanical stress might lead to chondrocyte damage and proteolytic enzyme release resulting in articular cartilage degeneration, and that osteoarthritis developed when cartilage repair did not keep pace with degeneration. He posited that appellant's excessive typing, mouse usage, and writing caused degradation of the cartilage within her right CMC, resulting in an aggravation of her osteoarthritic condition. Dr. Allen noted that the Merck Manual provides that onset of CMC osteoarthritis is gradual and localized to one or a few joints and that pain, generally the earliest symptom, was greatest after exercise. He opined that the exercise in appellant's case was her work duties which affected the first CMC joint of her right hand. Dr. Allen felt that appellant's subjective complaints of right thumb pain/swelling and her objective findings of tenderness over the right CMC joint with digit weakness mirrored the symptoms that the Merck Manual associated with CMC joint osteoarthritis. He opined that appellant's work duties of repetitive grasping, pinching, and typing for seven hours per day "precipitated the symptoms of an underlying osteoarthritis condition."

By decision dated April 25, 2016, OWCP accepted appellant's claim for right carpal tunnel syndrome. It based its determination on the January 13, 2016 opinion of Dr. Allen.

By separate decision dated April 25, 2016, OWCP denied appellant's claim for osteoarthritis of the first CMC joint of her right hand. It found that the medical evidence of record, including Dr. Allen's January 13, 2016 report, failed to establish that her right thumb condition was causally related to her accepted employment factors.

On May 9, 2016 counsel requested a hearing before a representative of OWCP's Branch of Hearings and Review with respect to OWCP's April 25, 2016 decision denying appellant's claim for osteoarthritis of the first CMC joint of her right hand. During the hearing, held on December 15, 2016, counsel argued that Dr. Allen's January 13, 2016 report established appellant's claim for employment-related osteoarthritis of the first CMC joint of her right hand. He also acknowledged that Dr. Allen did not physically examine appellant and that his report was based on a review of the evidence in the case record and a telephone conversation with appellant.

Appellant submitted additional evidence in support of her claim for employment-related osteoarthritis of the first CMC joint of her right hand. In a July 26, 2016 report, Dr. Bennett H. Brown, an attending Board-certified orthopedic surgeon, noted that appellant reported that her right hand/wrist condition was due to an unspecified injury at work on October 25, 2013, as well as due to the repetitive typing required by her job. Upon physical examination, he observed mild swelling of the first CMC joint of appellant's right hand. In the portion of the report entitled "assessment," Dr. Brown diagnosed right carpal tunnel syndrome, extensor tenosynovitis of the right wrist, and other secondary osteoarthritis of the first CMC joint of the right hand, and provided the notation, "According to the patient's history and repetitive typing at work, her [osteoarthritis] and extensor tendinitis are causally related to her activities at work." In the portion of the report

entitled “plan,” he opined that appellant’s right carpal tunnel syndrome, thumb CMC osteoarthritis, and wrist tendinitis were directly due to repetitive use of her right hand at work, noting that appellant did an excessive amount of typing at work and had been performing her job for years.<sup>6</sup>

In reports dated December 20, 2016 and January 17, 2017, Dr. Brown diagnosed other secondary osteoarthritis of the first CMC joint of the right hand and several other right upper extremity conditions. He indicated that the osteoarthritis of the first CMC joint was causally related to appellant’s October 25, 2013 workers’ compensation injury and noted that the repetitive nature of appellant’s work “can cause the [osteoarthritis] of her wrist....”

By decision dated February 13, 2017, OWCP’s hearing representative affirmed the April 25, 2016 decision denying appellant’s claim for osteoarthritis of the first CMC joint of her right hand. He found that the medical reports of record, including Dr. Allen’s January 13, 2016 report and those of Dr. Brown, did not contain a rationalized medical opinion relating the osteoarthritis of the first CMC joint of appellant’s right hand to the accepted factors of her federal employment. The hearing representative found that Dr. Allen’s January 13, 2016 report was of limited probative value on this issue because he did not physically examine appellant. He indicated that, because the acceptance of appellant’s claim for right carpal tunnel syndrome was based on Dr. Allen’s January 13, 2016 report, OWCP should undertake further review of its acceptance of appellant’s claim for that condition.

On October 6, 2017 counsel requested reconsideration of the February 13, 2017 decision. He indicated that he was submitting additional reports of Dr. Brown on behalf of appellant.<sup>7</sup>

In February 28 and April 11, 2017 reports, Dr. Brown diagnosed other secondary osteoarthritis of the first CMC joint of the right hand and several other right upper extremity conditions. He indicated that the osteoarthritis of the first CMC joint was causally related to appellant’s “[workers’ compensation] injury on October 25, 2013” and noted that the repetitive nature of appellant’s work “can cause the [osteoarthritis] of her wrist....”

By decision dated February 27, 2018, OWCP denied modification of its February 13, 2017 decision. It found that the newly submitted medical evidence did not contain a rationalized medical opinion relating the osteoarthritis of the first CMC joint of appellant’s right hand to her work duties.

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<sup>6</sup> The Board notes that the present case only concerns appellant’s claim for osteoarthritis of the first CMC joint of her right hand. As noted, OWCP accepted appellant’s claim on April 25, 2016 for right carpal tunnel syndrome, and appellant has not claimed an additional employment-related right upper extremity condition other than right thumb osteoarthritis. After the issuance of OWCP’s April 25, 2016 decisions, appellant submitted a number of reports of Dr. Brown and other providers, dated from mid-2016 to early-2017, which concerned her right carpal tunnel syndrome, right wrist tenosynovitis, and/or right epicondylitis conditions. The latter condition was first diagnosed on a regular basis in late-2016.

<sup>7</sup> A number of the submitted reports had previously been submitted to OWCP. Several reports were newly submitted, but only discussed appellant’s bilateral knee condition in 2015 and 2016.

## LEGAL PRECEDENT

An employee seeking benefits under FECA 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 period of FECA, that an injury was sustained in the performance of duty as alleged, and that any specific condition or disability for which compensation is claimed is causally related to the employment injury.<sup>8</sup>

The medical evidence required to establish causal relationship between a claimed specific condition or 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 diagnosed condition and the specific employment factors identified by the claimant.<sup>9</sup>

The Board has held that where the medical evidence supports an aggravation or acceleration of an underlying condition precipitated by working conditions or injuries, such disability is compensable.<sup>10</sup> However, the normal progression of untreated disease cannot be found to constitute an “aggravation” of a condition merely because the performance of normal work duties reveals the underlying condition.<sup>11</sup>

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he/she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>12</sup>

## ANALYSIS

The Board finds that appellant has not met her burden of proof to expand the acceptance of the claim to include the additional condition of osteoarthritis of the first CMC joint of her right hand due to factors of her federal employment.

On November 7, 2013 appellant filed an occupational disease claim for a right hand/wrist injury that allegedly arose on or about October 25, 2013. She attributed her condition to working on a computer and other repetitive hand/wrist/arm motions. In an April 25, 2016 decision, OWCP initially denied appellant’s claim for osteoarthritis of the first CMC joint of her right hand because she failed to submit sufficient medical evidence to establish her claim. On February 13, 2017 and

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<sup>8</sup> *J.F.*, Docket No. 09-1061 (issued November 17, 2009). *See also J.T.*, Docket No. 17-0578 (issued December 6, 2017).

<sup>9</sup> *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

<sup>10</sup> *C.H.*, Docket No. 17-0488 (issued September 12, 2017).

<sup>11</sup> *Id.*

<sup>12</sup> *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

February 27, 2018 OWCP also found that appellant failed to establish employment-related osteoarthritis of the first CMC joint of her right hand.

Appellant submitted a November 27, 2013 attending physician's report from Dr. Green who noted that appellant reported a sudden pain and swelling in her right thumb occurring at work on October 25, 2013. Dr. Green diagnosed sprain/strain of the right thumb and osteoarthritis of the hand. He checked a box marked "Yes" to denote that these conditions were employment related, and added the notation "Complaints represent exacerbation of preexisting conditions due to work."

The Board finds that this report fails to establish appellant's claim for osteoarthritis of the first CMC joint of her right hand because Dr. Green has not provided adequate medical rationale in support of his opinion on causal relationship. The Board has held that when a physician's opinion on causal relationship consists only of checking "Yes" to a form question, without more by the way of medical rationale, that opinion has little probative value and is insufficient to establish causal relationship. Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports his or her conclusion with sound medical reasoning.<sup>13</sup> Dr. Green did not describe appellant's work duties in any detail or explain how they would have been competent to cause or aggravate the osteoarthritis of the first CMC joint of her right hand.<sup>14</sup> As Dr. Green did no more than check "Yes" to a form question, his opinion on causal relationship is of little probative value and is insufficient to discharge appellant's burden of proof.

In a January 13, 2016 report, Dr. Allen asserted that appellant's claim should also be accepted for the diagnosis of osteoarthritis of the first CMC joint of the right hand. While acknowledging that this condition likely existed prior to appellant's federal employment, he opined that the duties required by her position resulted in an aggravation of this condition. Dr. Allen noted that, per the Merck Manual (14<sup>th</sup> edition), biomechanical stress might lead to chondrocyte damage and proteolytic enzyme release resulting in articular cartilage degeneration, and that osteoarthritis developed when cartilage repair did not keep pace with degeneration. He posited that appellant's excessive typing, mouse usage, and writing caused degradation of the cartilage within her right CMC, resulting in an aggravation of her osteoarthritic condition. Dr. Allen felt that appellant's subjective complaints of right thumb pain/swelling and her objective findings of tenderness over the right CMC joint with digit weakness mirrored those symptoms that the Merck Manual associated with CMC joint osteoarthritis. He opined that appellant's work duties of repetitive grasping, pinching and typing for seven hours per day "precipitated the symptoms of an underlying osteoarthritis condition."

The Board first notes that Dr. Allen did not personally conduct a physical examination of appellant. Rather, Dr. Allen based his report on a review of the case record and a telephone conversation with appellant. The Board has indicated that the absence of a physical examination by a physician may affect the weight to be given a medical report, but does not necessarily render it

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<sup>13</sup> *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

<sup>14</sup> The Board notes that appellant reported experiencing right thumb and other symptoms while using the computer at work on October 23, 2013, but she also implicated other repetitive right hand/wrist work over an extended period as contributing to her claimed condition.

incompetent as medical evidence.<sup>15</sup> However, a physician's report still must contain adequate medical rationale to establish causal relationship between employment factors and a given claimed condition.<sup>16</sup> The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.<sup>17</sup>

The Board finds that Dr. Allen's January 13, 2016 report is of limited probative value on the relevant issue of this case because he failed to provide adequate medical rationale in support of his opinion that appellant sustained employment-related osteoarthritis of the first CMC joint of her right hand. In his January 13, 2016 report, Dr. Allen made general references to the Merck Manual about how activities such as typing can cause CMC osteoarthritis, but he did not adequately explain how appellant's specific work duties could have caused or aggravated her own right thumb osteoarthritis condition. He highlighted appellant's reporting of right thumb symptoms while performing such duties as typing and stapling, but the Board has held that the fact that a condition manifests itself or worsens during a period of employment<sup>18</sup> or that work activities produce symptoms revelatory of an underlying condition<sup>19</sup> does not raise an inference of causal relationship between a claimed condition and employment factors. While Dr. Allen provided some discussion of appellant's work duties, he did not provide sufficient explanation of how these specific duties could have caused or aggravated the diagnosed right thumb condition. Related to the fact that he did not physically examine appellant, he did not adequately detail findings on physical examination which supported his opinion on causal relationship. Dr. Allen opined that appellant's right thumb condition was preexisting, but he did not explain why appellant's right thumb problems were not solely due to the natural progression of the underlying condition.

In a July 26, 2016 report, Dr. Brown noted that appellant reported that her right hand/wrist condition was due to an unspecified injury at work on October 25, 2013, as well as due to the repetitive typing required by her job. He diagnosed other secondary osteoarthritis of the first CMC joint of the right hand and several other right upper extremity conditions, and he indicated that, according to appellant's history and repetitive typing at work, her osteoarthritis was causally related to her activities at work. Dr. Brown also noted that appellant's right thumb CMC osteoarthritis was directly due to repetitive use of her right hand at work, noting that appellant did an excessive amount of typing at work and had been performing her job for years. In reports dated December 20, 2016, January 17, February 28, and April 11, 2017, he diagnosed other secondary osteoarthritis of the first CMC joint of the right hand and several other right upper extremity conditions. Dr. Brown indicated that the osteoarthritis of the first CMC joint was causally related to appellant's October 25, 2013 workers' compensation injury and noted that the repetitive nature of appellant's work "can cause the [osteoarthritis] of her wrist...."

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<sup>15</sup> See *M.M.*, Docket No. 17-0438 (issued March 13, 2018). See also *Melvina Jackson*, 38 ECAB 443 (1987).

<sup>16</sup> See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

<sup>17</sup> *Id.*

<sup>18</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>19</sup> *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).



The Board finds that these reports are insufficient to establish appellant's claim for osteoarthritis of the first CMC joint of her right hand because Dr. Brown has not provided adequate medical rationale in support of his opinion on causal relationship. Dr. Brown did not describe the implicated employment factors in any significant detail or explain how they could have caused or aggravated osteoarthritis of the first CMC joint of appellant's right hand. He did not adequately detail findings on physical examination and diagnostic testing which supported his opinion on causal relationship. As noted, the Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.<sup>20</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 that appellant has not met her burden of proof to expand the acceptance of the claim to include the additional condition of osteoarthritis of the first CMC joint of her right hand due to factors of her federal employment.

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<sup>20</sup> See *supra* note 17.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 27, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 20, 2018  
Washington, DC

Christopher J. Godfrey, 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