United States Department of Labor
Employees' Compensation Appeals Board

M.G., Appellant	)	
and	)	**Docket No. 18-1616**
	)	**Issued: April 9, 2020**
U.S. POSTAL SERVICE, POST OFFICE, Seaford, NY, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On August 21, 2018 appellant filed a timely appeal from a May 8, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish a right wrist condition causally related to the accepted March 11, 2017 employment incident.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the May 8, 2018 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 evidence for the first time on appeal. *Id*.

FACTUAL HISTORY

On March 13, 2017 appellant, then a 42-year-old sales, services, and distribution associate, filed a traumatic injury claim (Form CA-1) alleging that she injured her right wrist on March 11, 2017 when pulling a "beamer" with mail while in the performance of duty. She did not stop work.

The record contains the first page of an authorization for examination and/or treatment (Form CA-16) completed by the employing establishment on March 13, 2017 indicating that appellant was authorized to seek medical treatment.

In a report dated March 13, 2017, Dr. Scott Flashner, an emergency medicine specialist, examined appellant for complaints of wrist pain that had begun two days earlier at work when she "pushed" a heavy object. On examination he noted swelling, tenderness, and pain with extension, flexion, and radial bending of the right wrist. Dr. Flashner diagnosed wrist sprain and strain and prescribed medication.[3]

In a report dated March 15, 2017, Dr. Ronald Light, a Board-certified orthopedic surgeon, evaluated appellant for right wrist pain after "pulling" a heavy machine at work a few days earlier. On examination he found tenderness to palpation over the first dorsal extensor compartment and a positive Finkelstein's test. Dr. Light diagnosed right wrist de Quervain's tendinitis and administered a cortisone injection.

In a duty status report (Form CA-17) dated March 22, 2017, Dr. Light diagnosed de Quervain's tendinitis of the right wrist and found that appellant was unable to work. In an accompanying work exemption request of even date, he found that she should not return to work until April 5, 2017.

In a follow-up report dated March 22, 2017, Dr. Light noted that appellant had reported improvement after the injection. On examination of the right wrist he noted tenderness to palpation over the first dorsal extensor compartment with a positive Finkelstein's test. Dr. Light recommended continued observation and physical therapy.

In a Form CA-17 report dated April 5, 2017, Dr. Light diagnosed tendinitis of the right wrist and found that appellant was totally disabled from work. In an accompanying work exemption request of even date, he advised that she should not return to work until April 27, 2017.

In a development letter dated April 11, 2017, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of factual and medical evidence necessary to establish her claim. OWCP afforded appellant 30 days to submit additional evidence and respond to its inquiries.

In a Form CA-17 report dated April 26, 2017, Dr. Light diagnosed de Quervain's tendinitis of the right wrist and found that appellant was totally disabled. In an accompanying work

[3] X-rays of appellant's right wrist taken on March 13, 2017 were unremarkable.

exemption request of even date, he advised that she not return to work until May 10, 2017. On May 2, 2017 Dr. Light extended the work exemption request to May 24, 2017.

In an attending physician's report (Form CA-20) dated May 3, 2017, Dr. Light diagnosed tendinitis and noted a history of appellant injuring her right hand pushing a bulk mail carrier through double doors. He checked a box marked "yes" indicating that her condition was caused or aggravated by an employment activity, noting that she had severe pain, swelling, stiffness, and inability to lift.

Appellant submitted reports from physical therapists dated from March 27 through May 3, 2017.

By decision dated May 12, 2017, OWCP denied appellant's traumatic injury claim finding that the medical evidence of record was insufficient to establish a right wrist condition causally related to the accepted March 11, 2017 employment incident as she had not submitted a physician's well-reasoned opinion supported by objective findings explaining how the work incident of March 11, 2017 caused or aggravated her diagnosed right wrist conditions.

On May 24, 2017 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

In a Form CA-17 report dated May 24, 2017, Dr. Light diagnosed de Quervain's tendinitis of the right wrist and found that appellant was disabled from employment. In an accompanying work exemption request of even date, he advised that she should not return to work until June 27, 2017. In a follow-up report dated May 24, 2017, Dr. Light noted that appellant had experienced relief from her right wrist de Quervain's tendinitis for one week after her injection. On examination he noted tenderness to palpation along the first dorsal extensor compartment and a positive Finkelstein's test. Dr. Light opined, "Since [appellant] works at a job where there is repetitive motions involving her right wrist, she was told that this condition is causally related to her work activity and will not likely improve, without further therapeutic intervention." He noted that, as her condition was employment related, he would seek authorization from OWCP for a de Quervain's release of the right wrist's first extensor compartment, which he considered a medical necessity.

Appellant submitted reports from physical therapists dated from May 22 through June 23, 2017.

In a Form CA-17 report dated June 26, 2017, Dr. Vincent Leddy, a Board-certified internist, diagnosed tendinitis of the right wrist and found that appellant could not return to work.

A magnetic resonance imaging (MRI) scan of appellant's right wrist dated August 10, 2017 demonstrated a prominent bifid median nerve within the carpal tunnel, to be correlated clinically for carpal tunnel syndrome.

In a Form CA-17 report dated August 28, 2017, Dr. Light diagnosed right carpal tunnel syndrome and advised that appellant was disabled from employment.

By decision dated September 5, 2017, the hearing representative affirmed OWCP's May 12, 2017 decision finding that appellant had not submitted medical evidence addressing causal relationship between the accepted March 11, 2017 employment incident and the diagnosed condition.

On October 2, 2017 appellant requested reconsideration of OWCP's September 5, 2017 decision.

Appellant submitted a July 7, 2017 report from Dr. Joseph Stubel, a Board-certified orthopedic surgeon. Dr. Stubel noted that she complained of right wrist pain. He obtained a history of appellant injuring her wrist at work on March 11, 2017 while "pushing" a "beamer" through double doors that rolled back. On examination of the right wrist, Dr. Stubel noted tenderness to palpation and a positive Finkelstein's test at the first dorsal compartment, reduced dorsiflexion strength, reduced volar flexion strength, a weak pinch, and a weak grip. He diagnosed wrist pain and recommended a right wrist MRI scan.[4] In an accompanying Form CA-17 report of even date, Dr. Stubel diagnosed carpal tunnel syndrome and found appellant disabled from employment. He reiterated this diagnosis and disability determination in Form CA-17 reports dated August 22 and September 26, 2017.

In an August 22, 2017 report, Dr. Stubel noted his findings on examination of the right wrist, including tenderness to palpation at the volar aspect of the wrist, a positive Tinel's test, and a positive Phalen's sign. He noted that the MRI scan suggested possible carpal tunnel syndrome.

In a report dated September 26, 2017, Dr. Stubel provided a history of appellant experiencing a right wrist injury at work in March 2017 that continued to cause pain and numbness. He noted the examination findings and diagnosed carpal tunnel syndrome and wrist pain. Dr. Stubel opined that appellant's accident in March 2017 caused her carpal tunnel syndrome.

In a Form CA-17 reports dated September 4 and 26, 2017, Dr. Stubel diagnosed carpal tunnel syndrome and found that appellant was unable to work.

In a report dated October 4, 2017, Dr. Farshad D. Hannanian, a neurologist, discussed appellant's complaints of increased right wrist pain, weakness, and numbness radiating into the fingers of her right hand. He noted that she attributed her symptoms to a March 13, 2017 injury at work. Dr. Hannanian diagnosed carpal tunnel syndrome and wrist pain. He opined that appellant's symptoms were causally related to the March 13, 2017 employment incident.

Appellant submitted a Form CA-17 report signed by a physician assistant dated October 19, 2017.

In a report dated October 20, 2017, Dr. Stubel examined appellant and noted that she could resume her usual work. In an accompanying Form CA-17 report of even date, he found that she could resume work at full duty on October 23, 2017.

[4] The Board notes that this MRI scan report had been included as a part of the case record prior to the September 5, 2017 decision.

By decision dated January 11, 2018, OWCP denied modification of its September 5, 2017decision.

On February 13, 2018 appellant requested reconsideration of OWCP's January 11, 2018 decision.

Thereafter, OWCP received a January 30, 2018 report by Dr. Stubel, who noted that the right wrist pain and carpal tunnel syndrome were "secondary to [appellant's] work at the [employing establishment], which included repetitive moving of packages, and then it [was] aggravated by an injury in which her right hand and wrist were hit with a beam at work."

In a report dated January 31, 2018, Dr. Hannanian opined that appellant's diagnosed carpal tunnel syndrome resulted from repetitive use of her upper extremity at the employing establishment, but had been exacerbated when her wrist was struck by a beam.

By decision dated May 8, 2018, OWCP denied modification of its January 11, 2018 decision.

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,[5] 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.[6] 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.[7]

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.[8] The second component is whether the employment incident caused a personal injury.[9]

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, must be

[5] *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.,* 59 ECAB 178 (2007); *Joe D. Cameron,* 41 ECAB 153 (1989).

[6] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.,* 59 ECAB 427 (2008); *James E. Chadden, Sr.,* 40 ECAB 312 (1988).

[7] *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett,* 41 ECAB 992 (1990).

[8] *B.P.,* Docket No. 16-1549 (issued January 18, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[9] *M.H.,* Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

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 incident.[10] Neither the mere fact that, a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right wrist condition causally related to the accepted March 11, 2017 employment incident.

In reports dated October 4, 2017 and January 31, 2018, Dr. Hannanian noted that he had evaluated appellant for continued right carpal tunnel syndrome and pain and weakness in the right hand. He attributed the carpal tunnel syndrome to her repetitive work activities at the employing establishment and indicated that her condition had been exacerbated when a beam had struck her wrist. While Dr. Hannanian provided an opinion as to causal relationship in his reports, he failed to provide rationale for his conclusion that being struck by a beam aggravated appellant's carpal tunnel syndrome.[12] 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 is causally related to an employment incident.[13] This report is therefore insufficient to establish appellant's claim.

In support of her claim appellant also submitted a series of medical reports by Dr. Stubel. Dr. Stubel consistently noted examination findings and diagnosed right wrist pain and carpal tunnel syndrome. He opined that appellant's conditions were causally related to performing repetitive employment duties, including moving packages, and that the conditions were aggravated at work when a beam struck her right hand and wrist. In his September 26, 2017 report, Dr. Stubel concluded that the diagnosed conditions were due to her "employment incident." He did not, however, explain in any of his reports how the accepted employment incident was sufficient to have caused or aggravated the diagnosed conditions. As noted above, a medical opinion lacking medical rationale is of limited probative value on the issue of causal relationship and is insufficient to establish appellant's claim.[14]

In a series of medical reports on May 24, 2017, Dr. Light diagnosed right wrist de Quervain's tendinitis and related appellant's condition to repetitive motion at work. He indicated that he would request authorization from OWCP for a de Quervain's release of the first

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[10] *S.S.,* Docket No. 18-1488 (issued March 11, 2019).

[11] *J.L.,* Docket No. 18-1804 (issued April 12, 2019).

[12] The Board notes that the accepted mechanism of injury is that appellant was "pulling a beamer with mail." The Board has held that medical opinions based on an incomplete or inaccurate history are of limited probative value. *See G.E.*, Docket No. 19-1190 (issued November 26, 2019); *T.O.*, Docket No. 17-0093 (issued March 22, 2018).

[13] *D.L.,* Docket No. 19-0900 (issued October 28, 2019); *Y.D.,* Docket No. 16-1896 (issued February 10, 2017); *C.M.,* Docket No. 14-0088 (issued April 18, 2014).

[14] *Id*.

extensor compartment of the right wrist. Dr. Light failed to attribute the diagnosed condition of de Quervain's tendinitis to the accepted employment incident. Instead, he attributed it to the repetitive nature of appellant's federal employment which is not the accepted incident in this claim.[15] Therefore, these May 24, 2017 reports are of diminished probative value on the issue of causal relationship and are insufficient to establish her claim.

In a report dated March 15, 2017, Dr. Light examined appellant for complaints of pain in the right wrist after she had injured her right wrist a work a few days earlier pulling a heavy machine. He diagnosed right wrist de Quervain's tendinitis. On March 13, 2017 Dr. Flashner examined appellant for complaints of wrist pain that had begun two days earlier at work when she had "pushed" a "beamer" of mail at work. He diagnosed right wrist sprain and strain. In a report dated July 7, 2017, Dr. Stubel examined appellant for complaints of right wrist pain and obtained a history of her injury of her right wrist at work on March 11, 2017 when a "beamer" that she was pushing through double doors at work had rolled back. He diagnosed right wrist pain. These reports are found to contain an incorrect history of injury and thus are of limited probative value.[16] Moreover, without explaining physiologically how the accepted employment incident caused or contributed to the diagnosed condition, these reports are of limited probative value.[17]

In a Form CA-20 report dated May 3, 2017, Dr. Light diagnosed de Quervain's tendinitis of the right wrist, noting that the injury occurred on March 11, 2017 when appellant was pushing a "bulk mail carrier" through double doors, which pushed her right hand back. He checked a box marked "yes" indicating that her condition was caused or aggravated by an employment activity, noting that she had severe pain, swelling, stiffness, and inability to lift. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value.[18] Consequently, the report of May 3, 2017 is insufficient to establish appellant's claim.

In a March 22, 2017 progress report, Dr. Light provided examination findings and noted that appellant's condition had improved following an injection. He recommended continued observation and physical therapy. In a report dated August 22, 2017, Dr. Stubel reviewed the results of an MRI scan which he advised showed possible carpal tunnel syndrome. In a report dated October 20, 2017, he found a positive Tinel's sign of the right wrist. Dr. Stubel diagnosed carpal tunnel syndrome and opined that appellant could return to her usual work. Neither physician, however, addressed causation. The Board has held that medical evidence that does not

[15] *See J.M.*, Docket No. 17-1002 (issued August 22, 2017) (a medical opinion must reflect a correct history and offer a medically sound explanation by the physician of how the specific employment incident physiologically caused or aggravated the diagnosed conditions).

[16] *Id*.

[17] *Supra* note 13.

[18] *See D.P.,* Docket No. 19-1716 (issued March 11, 2020); *M.O.*, Docket No. 18-1056 (issued November 6, 2018); *Deborah L. Beatty,* 54 ECAB 3234 (2003).

include an opinion regarding the cause of a diagnosed condition is of limited probative value on the issue of causal relationship.[19]

Appellant submitted Form CA-17 reports and work exemption requests dated from March 22 through October 20, 2017 from Dr. Light, Dr. Stubel, Dr. Leddy, and Dr. Hannanian. She also submitted diagnostic reports dated March 13 and August 10, 2017. These reports did not provide an opinion regarding the cause of her diagnosed right wrist conditions. As noted, medical evidence offering no opinion about the cause of an employee's condition is of limited probative value on the issue of causal relationship.[20] These reports do not contain opinions regarding the cause of appellant's carpal tunnel syndrome and thus are insufficient to meet her burden of proof.

The record contains reports authored by physical therapists and physician assistants. The Board has held that medical reports signed solely by a physical therapist or a physician assistant are of no probative value as such health care providers are not considered "physician[s]" as defined under FECA and are therefore not competent to provide medical opinions.[21] Consequently, this evidence is also insufficient to establish appellant's claim.

The Board finds that appellant has not submitted rationalized medical evidence establishing a right wrist condition causally related to the accepted March 11, 2017 employment incident and therefore has not met her burden of proof to establish 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.[22]

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a right wrist condition causally related to the accepted March 11, 2017 employment incident.

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[19] *See J.H.*, Docket No. 19-0838 (issued October 1, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.,* Docket No. 17-1549 (issued July 6, 2018); *S.G.*, Docket No. 19-0041 (issued May 2, 2019).

[20] *Id*.

[21] *See T.T.*, Docket No. 19-1121 (issued November 29, 2019); *David P. Sawchuk,* 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law). *E.T.,* Docket No. 17-0265 (issued May 25, 2018) (physician assistants are not considered physicians under FECA); *J.M.,* 58 ECAB 448 (2007) (physical therapists are not considered physicians under FECA).

[22] The Board notes that the employing establishment issued a Form CA-16. A properly completed CA-16 form authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *M.C.,* Docket No. 18-0951, n.20 (issued January 7, 2019); *Tracy P. Spillane,* 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the May 8, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 9, 2020
Washington, DC

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

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board