United States Department of Labor
Employees' Compensation Appeals Board

L.S., Appellant	)	
and	)	**Docket No. 18-0347**
	)	**Issued: May 19, 2020**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Martinez, CA, 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 December 7, 2017 appellant filed a timely appeal from a November 8, 2017 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.

ISSUE

The issue is whether appellant has met her burden of proof to establish a right upper extremity condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On November 15, 2016 appellant, then a 50-year-old voluntary services specialist, filed an occupational disease claim (Form CA-2) alleging that she sustained a right wrist and hand

[1] 5 U.S.C. § 8101 *et seq.*

condition causally related to factors of her federal employment. She advised that she had a history of carpal tunnel syndrome from repetitive motion. Appellant noted that she first became aware of her condition and its relationship to her federal employment on August 8, 2016. She specified that she had originally filed a recurrence of disability claim (Form CA-2a) of a January 2011 injury, but had been told to file a Form CA-2 as the claim was a new injury.[2] In OWCP File No. xxxxxx010 appellant filed a recurrence claim on August 11, 2016 alleging a worsening of her accepted right carpal tunnel syndrome condition due to repetitive motion in the performance of duty. After development of the claim, by decision dated November 22, 2016, OWCP denied her recurrence claim finding that the evidence of record was insufficient to establish a material change or worsening of her accepted right wrist condition.

In a development letter dated December 2, 2016, OWCP notified appellant of the type of evidence needed to establish her occupational disease claim, including a detailed description of the employment duties alleged to have caused her condition and medical evidence explaining how the identified employment activities resulted in a diagnosed medical condition. It attached a questionnaire for her completion. OWCP afforded appellant 30 days to submit the requested evidence.

OWCP subsequently received an October 11, 2016 work status report, wherein Dr. Wendy Ann Brody, Board-certified in occupational medicine, advised that appellant could perform her regular employment, but required an ergonomic desk, keyboard, and mouse. Dr. Brody asserted that appellant had sustained a new injury as she did not have an ergonomic work station.

Appellant attended physical therapy on October 7 and 20, 2016.

In a work status report dated October 25, 2016, Dr. Brody diagnosed a repetitive strain injury and right forearm muscle strain. She indicated that appellant could work full duty and again requested that she be provided with an ergonomic work station.

By decision dated January 11, 2017, OWCP denied appellant's occupational disease claim. It found that the medical evidence of record was insufficient to establish a diagnosed medical condition causally related to the accepted factors of her federal employment.

Subsequently, OWCP received an unsigned August 23, 2016 physician's first report of occupational injury or illness form from Dr. Brody, who noted that appellant's hand had cramped and gone numb while at work. Dr. Brody diagnosed a repetitive strain injury, muscle strains of the right wrist and forearms, and right lateral epicondylitis. She advised that appellant's current condition was the "most recent of several repetitive strain injury claims" and attributed her repetitive strain injury to her employment duties.

Appellant underwent physical therapy on in September and October 2016.

[2] OWCP previously accepted that appellant sustained right carpal tunnel syndrome under OWCP File No. xxxxxx010. It administratively combined the current claim, assigned OWCP File No. xxxxxx241, with OWCP File No. xxxxxx010. OWCP File No. xxxxxx010 is the master file. Appellant has eight OWCP claims combined into Master OWCP File No. xxxxxx010.

In unsigned progress report dated September 12 and 26, 2016, Dr. Brody advised that appellant's condition had improved with physical therapy. She diagnosed a repetitive strain injury, a right wrist and forearm muscle strain, and right lateral epicondylitis. In work status reports of even date, Dr. Brody found that appellant could work without limitations, but reiterated her need for ergonomic corrections at work. In an unsigned report dated October 11, 2016, she indicated that appellant had sustained a new injury from working in a "nonergonomic set up."

In an unsigned progress report dated October 25, 2016, Dr. Brody noted that appellant was in the process of requesting reasonable accommodation for an ergonomic work station. She provided the same diagnoses and related:

> "Again, [appellant] has been told to use her old claim number for this injury, stating [that] this is a reoccurrence. Medically, this is a new injury, not a reoccurrence, as she has new areas of tenderness, and the primary issue of the last injury was her carpal tunnel syndrome, which she no longer has after having a carpal tunnel release, which is why she was released from care with no permanent impairment."

In a work status report of even date, Dr. Brody diagnosed a repetitive strain injury and right forearm muscle strain. She advised that appellant could perform her usual duties, but required a new desk and mousepad, and a keyboard tray at the proper height.

In a November 15, 2016 statement, appellant related that she performed administrative duties, including repetitive typing and filing. She advised that she had begun experiencing problems with her right hand, arm, and wrist in January 2011 with increased computer usage. Appellant submitted medical evidence that she had previously submitted under OWCP File No. xxxxxx010.

On August 14, 2017 appellant requested reconsideration.[3]

By decision dated November 8, 2017, OWCP denied modification of its January 11, 2017 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[4] has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation period of FECA,[5] that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to

[3] Appellant subsequently submitted a November 23, 2016 work status report from Dr. Ziule Tang, a specialist in preventative medicine. However, that report pertained to a right knee condition and did not mention a right upper extremity condition.

[4] *Supra* note 1.

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

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]

In an occupational disease claim, appellant's burden requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.[8]

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.[9] The opinion of the physician must be based on a complete factual and medical background, 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.[10]

In a case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right upper extremity condition causally related to the accepted factors of her federal employment.

In work status reports dated September 26 through October 25, 2016, Dr. Brody found that appellant could perform her usual employment, but required an ergonomic changes to her desk, keyboard, and mousepad. In a work status report dated October 25, 2016, she diagnosed a repetitive strain injury and right forearm muscle strain. In these reports, Dr. Brody did not offer an opinion or explanation regarding the cause of any diagnosed condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[12]

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[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] *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

[9] *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

[10] *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

[11] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

[12] *M.D.*, Docket No. 18-0563 (issued February 12, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

Appellant submitted unsigned reports from Dr. Brody dated August 23, September 12 and 26, and October 11 and 25, 2016. The Board, however, has held that reports that are unsigned or bear an illegible signature lack proper identification and thus have no probative value.[13]

OWCP also received physical therapy reports in support of appellant's claim. The Board has held, however, that physical therapists are not considered "physician[s]" as defined under FECA.[14] As such, these reports lack probative value and are insufficient to establish appellant's claim.[15]

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 a right upper extremity condition causally related to the accepted factors of her federal employment.

[13] *K.D.*, Docket No. 19-1405 (issued April 9, 2020); *Z.G.*, Docket No. 19-0967 (issued October 21, 2019).

[14] *See* 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); 20 C.F.R. § 10.5(t); *D.H.*, Docket No. 18-0072 (issued January 21, 2020) (physical therapists are not considered physicians under FECA); *T.G.*, Docket No. 19-0904 (issued November 25, 2019); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

[15] *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *R.G.*, Docket No. 18-0236 (issued December 17, 2019).

ORDER

IT IS HEREBY ORDERED THAT the November 8, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 19, 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