United States Department of Labor
Employees' Compensation Appeals Board

T.D., Appellant	)	
and	)	**Docket No. 23-0037**
	)	**Issued: August 23, 2023**
DEPARTMENT OF THE AIR FORCE, 482ND CIVIL ENGINEERING SQUADRON, HOMESTEAD AIR FORCE BASE, FL, 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 October 12, 2022 appellant filed a timely appeal from a June 3, 2022 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to accepted factors of his federal employment.

[1] 5 U.S.C. § 8101 *et seq*.

FACTUAL HISTORY

On December 3, 2019 appellant, then a 56-year-old environmental protection specialist, filed an occupational disease claim (Form CA-2) alleging that he developed osteoarthritis in both hands due to factors of his federal employment including repetitive handling and lifting of heavy materials. He noted that he first became aware of his condition on October 16, 2019, and first realized its relation to factors of his federal employment on November 8, 2019.[2] Appellant did not stop work.

In support of his claim, appellant submitted additional evidence, including a copy of his official position description, a January 6, 2019 notification of personnel action form, and a November 11, 2019 statement. He noted that prior to 2011, he had a staff of 10 workers who performed all manual labor necessary to process approximately 600 tons of bulk waste each year. The staffing program was cancelled in June 2011. From October 2011 through June 2013, appellant had three part-time assistants. Thereafter, he had intermittent part-time assistance. Appellant experienced the onset of symptoms in his left hand in approximately 2015 and in his right hand in 2017. In June 2018, he consulted Dr. Daniel T. Alfonso, a Board-certified orthopedic surgeon, who diagnosed severe basal joint arthritis bilaterally. Appellant noted that while on active military duty in 2003, he was involved in a motor vehicle accident and sustained a metacarpal fracture in his left hand. Dr. Alfonso advised appellant that while the fracture may have precipitated arthritis in his left hand, his "extreme manual labor" caused severe bilateral basal joint osteoarthritis.

In a May 29, 2019 report, Dr. Alfonso noted treating appellant in June 2018 for left carpometacarpal (CMC) joint symptoms. On examination, he observed swelling, tenderness, and restricted motion of the CMC joint bilaterally. Dr. Alfonso obtained x-rays of the right hand, which demonstrated severe CMC basal joint arthritis. He diagnosed pain in the left hand, primary osteoarthritis of the right hand, and unilateral primary osteoarthritis of the first CMC joint of the right hand. Dr. Alfonso also stated an impression of bilateral CMC/basal joint arthritis, with the left thumb likely "accelerated by same injury that caused second metacarpal fracture." He administered a cortisone injection.

In an October 16, 2019 report, Dr. Alfonso opined that appellant's bilateral hand condition would worsen over time and that "[a]ctivity under duress" would accelerate his symptoms. He restricted lifting to five pounds, with limited writing and keyboarding.

In a November 22, 2019 attending physician's report (Form CA-20), Dr. Alfonso noted a history of a 2003 motor vehicle accident "causing left second metacarpal fracture," and concurrent or preexisting severe basal joint arthritis. He diagnosed bilateral hand pain and arthritis. Dr. Alfonso answered a question by checking a box "Yes" indicating that the diagnosed condition was causally related to appellant's employment. He added that "[r]epetitive motion exacerbated arthritis." Dr. Alfonso found appellant partially disabled from work for the period November 22,

[2] Prior to the present claim, appellant filed a traumatic injury claim (Form CA-1) under OWCP File No. xxxxxx773 for a dislocated left middle finger. OWCP processed the claim as a short form closure.

2019 and continuing. He reiterated that appellant's arthritis would worsen with time. Dr. Alfonso limited lifting to five pounds.

In a December 16, 2019 development letter, OWCP informed appellant of the deficiencies in his claim. It advised him of the type of medical evidence necessary. In a development letter of even date, OWCP requested that the employing establishment provide comments from a knowledgeable supervisor on the accuracy of appellant's statements. It afforded both parties 30 days to respond.

In response, L.V., an employing establishment manager, confirmed that appellant's position in the recycling center required "a large degree of manual labor," including frequent lifting and grasping while collecting, unloading, and processing bulk materials. He noted that "manpower continually decreased throughout the years" until appellant had been left with only two assistants.

By decision dated January 31, 2020, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed conditions and the accepted factors of his federal employment.

Thereafter, OWCP received a May 29, 2019 work slip by Dr. Alfonso restricting lifting to five pounds.

In a March 15, 2020 statement, appellant clarified that he first became aware of his condition on May 29, 2019 and first reported the condition to his supervisor on May 30, 2019. He provided May 30 and October 16, 2019 e-mails to L.V. noting that a physician had limited lifting to five pounds due to osteoarthritis in both hands.

On January 27, 2021 appellant, through his then-counsel, requested reconsideration.

In support of the request, appellant's then-counsel submitted an October 22, 2020 report by Dr. David Weiss, an osteopath Board-certified in orthopedic surgery. Dr. Weiss recounted appellant's job duties of collecting, transporting, and processing recyclable materials. On examination, he noted tenderness to palpation of the CMC joint, abductor pollicis longus, and extensor pollicis brevis bilaterally, positive CMC grind and Finkelstein's tests bilaterally, resisted thumb abduction at 3/5 bilaterally, diminished grip and pinch key strength bilaterally, and a swan neck deformity of the right thumb. Dr. Weiss diagnosed cumulative and repetitive trauma disorder, occupational right and left wrist syndrome, aggravation of age-related bilateral CMC joint arthropathy, and bilateral de Quervain's tenosynovitis. He opined that appellant's occupational exposure "was the competent producing factor" for his subjective and objective findings. Dr. Weiss noted that appellant had reached maximum medical improvement (MMI).

By decision dated April 16, 2021, OWCP denied modification of its prior decision.

On November 1, 2021 appellant, through his then-counsel, requested reconsideration.

In support of the request, counsel submitted a February 12, 2021 report by Dr. Weiss, who noted that appellant's position as an environmental protection specialist entailed repetitive lifting, sorting, and cutting of recyclable materials. Dr. Weiss explained that according to the American

Medical Association, *Guides to the Evaluation of Permanent Impairment*,[3] prolonged repetitive stress and "wear and tear" were occupational risk factors for CMC osteoarthritis, and that there was some evidence that repetitive, forceful work was an occupational risk factor for de Quervain's disease. He opined that appellant's work duties aggravated and accelerated bilateral CMC joint arthropathy and caused de Quervain's tenosynovitis.

By decision dated January 28, 2022, OWCP denied modification of its prior decision.

On March 14, 2022 appellant, through his then-counsel, requested reconsideration.

In support of the request, appellant's then-counsel submitted a November 12, 2021 report by Dr. Weiss, who opined that the 2003 left second metacarpal fracture was unrelated to appellant's severe left CMC joint arthritis and bilateral de Quervain's tenosynovitis. Dr. Weiss noted that the May 29, 2019 bilateral hand x-rays obtained by Dr. Alfonso demonstrated severe CMC joint arthritis in the right thumb. He explained that regardless of when appellant experienced the onset of symptoms, there was "no doubt that wear and tear factors and repetitive stress for long periods" were "contributing factors and caused aggravation and acceleration of osteoarthritis." Dr. Weiss also opined that appellant's work duties as an environmental protection specialist commencing in 2008, which required repetitive handling activities, would accelerate and aggravate bilateral CMC joint arthropathy.

By decision dated June 3, 2022, OWCP denied modification of its prior 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 timely filed within the applicable time limitation 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 establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) a factual statement identifying

[3] A.M.A., *Guides* (6th ed. 2009).

[4] *Supra* note 1.

[5] *See J.K.*, Docket No. 20-0527 (issued May 24, 2022); *J.C.*, Docket No. 20-0882 (issued June 23, 2021); *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.K., id.*; *J.C., id.; 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] *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *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).

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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.[8]

The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors.[9] The opinion of the physician must be based on a complete factual and medical background of the claim, 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 specific employment activity or factors identified by the claimant.[10]

In any 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 his burden of proof to establish a medical condition causally related to accepted factors of his federal employment.

Dr. Alfonso, in a May 29, 2019 report, opined that appellant's left CMC/basal joint arthritis was likely accelerated by the 2003 metacarpal fracture. The Board has held that medical opinions that suggests a condition was likely or possibly caused by work activities are speculative and equivocal and have limited probative value.[12] Therefore, this report is insufficient to establish appellant's claim.

In an October 16, 2019 report, Dr. Alfonso noted that activity under duress would accelerate the worsening of appellant's symptoms. Similarly, in a November 22, 2019 Form CA-20 report, he indicated that the diagnosed condition was causally related to appellant's condition.

[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 4, 2019); *T.H.*, 59 ECAB 388 (2008).

[10] *C.A.*, Docket No. 22-0764 (issued November 30, 2022); *M.T.*, Docket No. 20-0184 (issued June 24, 2022); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *A.D.*, 58 ECAB 149 (2006).

[11] *L.B.*, Docket No. 20-0462 (issued August 18, 2020).

[12] *B.B.*, Docket No. 21-0284 (issued October 5, 2022); *J.W.*, Docket No. 18-0678 (issued March 3, 2020).

The Board has held, however, that a medical opinion is of limited probative value if it is conclusory in nature.[13] Therefore, this report is insufficient to establish appellant's claim.

Dr. Weiss, in reports dated October 22, 2020 and February 12, 2021, opined that appellant's work duties were competent to cause cumulative trauma disorder, bilateral occupational wrist syndrome, aggravation of age-related bilateral CMC joint arthropathy, and bilateral de Quervain's tenosynovitis. In a November 12, 2021 report, he elaborated that wear and tear and prolonged repetitive stress while performing the duties of an environmental protection specialist aggravated and accelerated appellant's osteoarthritis and bilateral CMC joint arthropathy. Although Dr. Weiss provided consistent support for causal relationship between the accepted work factors and bilateral hand and wrist conditions, he did not explain how or why appellant's duties would cause, aggravate, or accelerate the diagnosed conditions. The Board has held that generalized statements unsupported by adequate medical rationale explaining the pathophysiologic mechanism by which the accepted employment duties caused, aggravated, or accelerated the employee's diagnosed conditions are insufficient to establish causal relationship.[14] As such, Dr. Weiss' reports are insufficient to meet appellant's burden of proof.[15]

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted employment incident, the Board finds that he has not met his burden of proof to establish his 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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to accepted factors of his federal employment.

[13] *B.B.*, *id*., *C.M.*, Docket No. 19-0360 (issued February 25, 2020).

[14] *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *see S.O.*, Docket No. 21-0002 (issued April 29, 2021); *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

[15] *L.B.*, *id*.

ORDER

IT IS HEREBY ORDERED THAT the June 3, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 23, 2023
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