

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

N.F., Appellant)	
)	
and)	Docket No. 24-0644
)	Issued: August 23, 2024
U.S. POSTAL SERVICE, THREE FORKS POST)	
OFFICE, Three Forks, MT, Employer)	
)	

Appearances: *Case Submitted on the Record*
*Alan J. Shapiro, Esq., for the appellant*¹
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On May 29, 2024 appellant, through counsel, filed a timely appeal from an April 19, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (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 medical condition causally related to the accepted factors of her federal employment

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on an appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On August 7, 2023 appellant, then a 58-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed carpal tunnel syndrome due to factors of her federal employment including daily repetitive motions while casing and delivering mail, which caused wear and tear to her joints. She noted that she first became aware of her condition on March 15, 2017, and realized its relation to her federal employment on April 1, 2017.³ On the reverse side of the form, the employing establishment controverted the claim on the grounds that it was a duplicate claim previously filed, which was denied under OWCP File No. xxxxxx028.

Along with the claim form, OWCP also received appellant's undated statement, an April 12, 2023 off work slip containing an illegible signature, and office assessment notes dated June 2 through July 27, 2023.

In a June 2, 2023 work status note, Dr. Elba Maldonado, Board-certified in neuromuscular medicine, restricted appellant to light-duty work for approximately one month with no driving, twisting, or lifting over 10 pounds until her magnetic resonance imaging (MRI) scan was completed.

In a June 30, 2023 work status note, Sean Simmons, a physician assistant, reported that appellant was released to full-duty work on July 5, 2023.

In a July 17, 2023 operative report, Dr. Justin Schwartzenberger, a Board-certified orthopedic surgeon, diagnosed appellant with left carpal tunnel syndrome and performed left endoscopic carpal tunnel release.

In a statement received on July 28, 2023, appellant reported that on or about March 15, 2017, she began to experience numbness, tingling, and swelling in both hands with pain in wrists. She further reported that on April 1, 2017 she noticed that with increased work hours, the pain and numbness in her fingers became more pronounced and notified her direct supervisor of the issue but continued to work. Appellant described her employment duties as a rural mail carrier for 18 years, up to six days per week. She explained that the repetitive motions contributed to the wear and tear of her ligaments and joints as a result of lifting up to 75 pounds, cross body pulling, bending, stooping, sitting for long durations, and twisting and turning during deliveries.

In an August 14, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required and provided a

³ OWCP assigned the current claim OWCP File No. xxxxxx867. The record reflects that appellant previously filed a Form CA-2 on October 31, 2022 for injuries sustained to her hands and wrists due to factors of her federal employment involving repetitive employment duties casing mail, to which OWCP assigned OWCP File No. xxxxxx098. By decision dated January 5, 2023, OWCP denied appellant's claim, finding that she did not file a timely claim for compensation within the requisite three-year time limit provided under 5 U.S.C. § 8122. Appellant also filed a subsequent Form CA-2 on April 18, 2023 claiming injuries sustained to her hands and wrists due to factors of her federal employment involving repetitive motions while casing mail under OWCP File No. xxxxxx028. By decision dated July 5, 2023, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record did not contain a medical diagnosis in connection with the accepted employment factors. OWCP administratively combined the aforementioned claims, with OWCP File No. xxxxxx098 serving as the master file.

questionnaire for her completion. OWCP afforded appellant 60 days to submit the requested evidence. No evidence was received.

In a follow-up letter dated September 14, 2023, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the August 14, 2023 letter to submit the requested supporting evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No additional evidence was received.

By decision dated November 6, 2023, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted factors of her federal employment.

On November 28, 2023 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review, which was held on March 5, 2024.

Following the hearing, appellant submitted additional medical documentation in support of her claim. A May 24, 2023 electromyography (EMG) study of the upper extremities revealed an impression of mild chronic denervation changes linked to the median nerve supplied abductor pollicis brevis (APB) muscles.

In a November 3, 2023 report, Mr. Simmons diagnosed bilateral carpal tunnel syndrome and recommended work restrictions to be provided over the course of 18 months.

In a March 21, 2024 report, Dr. Gayle Sacry, a family medicine specialist, reported that appellant's bilateral carpal tunnel surgery was not healing well resulting in stiffness and soreness. He also noted complaints to her shoulders, particularly on the right side with pain radiating down into the right arm, as well as issues involving anxiety and depression. Dr. Sacry opined that appellant was unable to return to work due to her pain and should consider applying for Social Security disability.

By decision dated April 19, 2024, OWCP's hearing representative affirmed the November 6, 2023 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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

⁴ *Supra* note 2.

⁵ *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

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, an employee must submit 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 question that requires rationalized medical opinion evidence to resolve the issue.⁹ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.¹⁰ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).¹¹

ANALYSIS

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

In support of her claim, appellant submitted a March 21, 2024 report from Dr. Sacry who reported that appellant's bilateral carpal tunnel syndrome surgery was not healing well resulting in stiffness and soreness. The Board has held that a physician must provide a narrative description of the identified employment exposure and a reasoned opinion on whether the described exposure caused or contributed to a diagnosed medical condition.¹² Lacking these elements, this report is insufficient to establish appellant's claim.¹³

⁶ *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *see also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁹ *S.M.*, Docket No. 22-0075 (issued May 6, 2022); *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁰ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

¹¹ *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, *supra* note 8.

¹² *K.B.*, Docket No. 19-0398 (issued December 18, 2019).

¹³ *Id.*; *T.G.*, Docket No. 19-1441 (issued January 28, 2020).

In a July 17, 2023 report, Dr. Schwartzenberger diagnosed left carpal tunnel syndrome and performed left endoscopic carpal tunnel release. His report, however, is of limited probative value as he did not provide any diagnosis or medical explanation pertaining to how the accepted factors of her federal employment caused or contributed to her diagnosed condition.¹⁴ The Board has held that medical opinion evidence must offer a rationalized explanation of how the specific employment incident or work factors, physiologically caused injury.¹⁵ Dr. Schwartzenberger's medical report is, therefore, of limited probative value.¹⁶

Dr. Maldonado's June 2, 2023 work status note is also insufficient to establish appellant's claim as the physician failed to provide a diagnosed medical condition when discussing appellant's work restrictions. The Board has held that medical reports lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship are of no probative value.¹⁷ Therefore, this evidence is insufficient to establish appellant's claim.

OWCP also received an April 12, 2023 off work slip containing an illegible signature. However, the Board has long held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence because the author cannot be identified as a physician.¹⁸ Therefore this report is insufficient to satisfy appellant's burden of proof.

Appellant also submitted reports dated June 30 through November 3, 2023 signed by Mr. Simmons, a physician assistant. The Board has held, however, that medical reports signed solely by a physician assistant, registered nurse, or medical assistant are of no probative value as such healthcare providers are not considered physicians as defined under FECA and are, therefore, not competent to provide medical opinions.¹⁹ Consequently, their medical findings and/or opinions will not suffice for the purpose of establishing entitlement to FECA benefits.²⁰ Accordingly, these reports are insufficient to satisfy appellant's burden of proof.

¹⁴ *R.O.*, Docket No. 23-0834 (issued December 18, 2023).

¹⁵ *F.C.*, Docket No. 23-0132 (issued May 25, 2023); *G.R.*, Docket No. 21-1196 (issued March 16, 2022); *L.R.*, Docket No. 16-0736 (issued September 2, 2016); *Douglas M. McQuaid*, 52 ECAB 382 (2001).

¹⁶ *Id.*

¹⁷ *See A.C.*, Docket No. 20-1510 (issued April 23, 2021); *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020); *see also L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁸ *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁹ Section 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); 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *see also K.M.*, Docket No. 22-0299 (issued September 1, 2022) (physician assistants are not considered physicians as defined under FECA); *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).

²⁰ *Id.*; *N.B.*, Docket No. 19-0221 (issued July 15, 2019).

The diagnostic test results submitted by appellant, including the May 24, 2023 EMG study of the bilateral upper extremities, also fail to establish her claim. The Board has held that diagnostic studies, standing alone, lack probative value as they do not address whether the employment factors caused any of the diagnosed conditions.²¹ Such reports are therefore insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish causal relationship between a medical condition and the accepted factors of federal employment, 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.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the April 19, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 23, 2024
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

²¹ *F.D.*, Docket No. 19-0932 (issued October 3, 2019).