United States Department of Labor
Employees' Compensation Appeals Board

T.L., Appellant	)	
and	)	**Docket No. 24-0496**
	)	**Issued: June 21, 2024**
U.S. POSTAL SERVICE, LAKE WORTH POST OFFICE, Lake Worth, FL, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 4, 2024 appellant filed a timely appeal from a March 4, 2024 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 diagnosed medical condition in connection with the accepted employment factors.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the March 4, 2024 decision, appellant submitted additional evidence to OWCP, and on appeal. 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 additional evidence for the first time on appeal. *Id*.

FACTUAL HISTORY

On December 18, 2023 appellant, then a 47-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome and trigger fingers in the hands due to factors of her federal employment, including an August 15, 2020 employment injury where she fell in a mail truck and a large box fell on top of her. She asserted that her bilateral hand symptoms worsened during physical therapy, and she sought treatment from a hand specialist. Appellant noted that she first became aware of her conditions and realized their relation to factors of her federal employment on November 29, 2023. She stopped work on August 1, 2023.

In support of her claim, appellant submitted a December 18, 2023 report signed by Nicholas DeMarco, a physician assistant, wherein he recounted appellant's history of bilateral trigger thumbs. Mr. DeMarco noted that appellant underwent an intra-articular injection to the right thumb on October 19, 2023.

In a development letter dated January 3, 2024, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and afforded her 60 days to respond. By separate development letter of the same date, OWCP requested additional information from the employing establishment, including comments from a knowledgeable supervisor. It afforded the employing establishment 30 days to respond.

In response, appellant submitted a January 4, 2024 statement, wherein she described an August 21, 2020 employment injury to the upper extremities when she fell, landing on her left shoulder. She also attributed her bilateral shoulder, arm, and hand pain to casing and delivering mail. Appellant noted that she had sought treatment from a hand specialist who referred her to a neurologist, and that the neurologist made unspecified findings.

In a follow-up letter dated January 30, 2024, 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 January 3, 2024 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 March 4, 2024, OWCP denied appellant's claim, finding that the medical evidence of record did not contain a valid medical diagnosis in connection with the accepted employment factors. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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, 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

[3] *Supra* note 1.

employment injury.[4] 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.[5]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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 identified employment factors by the claimant.[6]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[7] 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.[8] 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.[9]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted employment factors.

In support of her claim, appellant submitted a December 18, 2023 report signed by Mr. DeMarco, a physician assistant. However, the Board has held that medical reports signed solely by a physician assistant are of no probative value, as such healthcare providers are not

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

[5] *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *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).

[6] *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

[7] *D.S.*, Docket No. 21-1388 (issued May 12, 2022); *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[8] *D.S. id.; K.A.*, Docket No. 23-0613 (issued April 22, 2024); *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

[9] *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *see also J.L.*, Docket No. 18-1804 (issued April 12, 2019).

considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion.[10] Thus, Mr. DeMarco's report is insufficient to establish the claim.

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted employment factors, 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 diagnosed medical condition in connection with the accepted employment factors.

[10] Section 8101(2) of FECA provides that physician includes 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 also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a (January 2013); *C.G.*, Docket No. 20-0957 (issued January 27, 2021) (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).

ORDER

IT IS HEREBY ORDERED THAT the March 4, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 21, 2024
Washington, DC

Alec J. Koromilas, 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