

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

B.A., Appellant)	
)	
and)	Docket No. 24-0406
)	Issued: May 24, 2024
DEPARTMENT OF THE ARMY, NEW)	
MEXICO NATIONAL GUARD, Santa Fe, NM,)	
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
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On March 7, 2024 appellant filed a timely appeal from a November 2, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 bilateral epicondylitis and/or bilateral cubital tunnel syndrome causally related to the accepted April 14, 2022 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On April 27, 2022 appellant, then a 40-year-old information technology (IT) manager, filed a traumatic injury claim (Form CA-1) alleging that on April 14, 2022 he developed bilateral wrist, hand, forearm, and elbow conditions when working on his computer while in the performance of duty. He stopped work on May 3, 2022.

In an April 14, 2022 primary care note, Dr. Stephen A. Vaughn, an internist, diagnosed bilateral medial epicondylitis. In a report dated April 19, 2022, he diagnosed epicondylitis, a repetitive motion strain, which might be work related. Dr. Vaughn recommended appellant avoid keyboard work for two to four weeks.

In discharge notes dated May 3, 2022, Lynn Devlin, a physician assistant, diagnosed bilateral wrist pain, bilateral hand swelling, right forearm repetitive injury, neck pain, and overexertion from repetitive work. In a work status note of even date, appellant was placed off work until June 18, 2022.

In a development letter dated May 19, 2022, OWCP informed appellant of the deficiencies in his claim. It advised him of the type of medical evidence necessary to establish his claim. OWCP afforded appellant 30 days to provide the necessary evidence.

OWCP subsequently received a May 3, 2022 chart note from Ms. Devlin who reported that appellant complained of bilateral wrist pain for the last three months. Appellant complained of hand swelling and right forearm pain with work. Ms. Devlin diagnosed bilateral wrist pain, bilateral hand swelling, right forearm repetitive injury, neck pain, and overexertion from repetitive movements.

By decision dated June 22, 2022, OWCP accepted that the April 14, 2022 employment incident occurred as alleged. However, it denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted April 14, 2022 employment incident. OWCP concluded, therefore, that the requirements have not been met to establish an injury as defined by FECA.

Following the denial of his claim, appellant submitted an authorization for examination and/or treatment (Form CA-16) the employing establishment signed on April 24, 2028 which authorized appellant to seek medical treatment. In Part B of the Form CA-16, attending physician's report, Dr. John B. Fuller, an orthopedic surgeon, diagnosed bilateral epicondylitis and bilateral cubital syndrome. He checked "Yes" in response to the question of whether the diagnosed conditions had been caused or aggravated by the employment activity described. Dr. Fuller noted the date of first examination was June 23, 2022. He provided work restrictions and opined that appellant was partially disabled beginning June 23, 2022.

Dr. Fuller completed a duty status form (Form CA-17) dated June 23, 2022 noting an April 14, 2022 date of injury. He described appellant's mechanism of injury as regular computer work causing bilateral hand, wrist, forearm, and elbow pain and swelling. Dr. Fuller listed appellant's diagnoses as bilateral epicondylitis and bilateral cubital syndrome.

A June 23, 2022 x-ray of appellant's right wrist revealed minimal first carpometacarpal (CMC) osteoarthritis and small radiopaque foreign body in the ulnar aspect of the first digit. An x-ray of appellant's left wrist related normal findings.

In outpatient notes dated June 23, 2022, and a June 27, 2022 clinic note, Dr. Fuller and Dr. Nathan T. Morrell, a Board-certified orthopedic surgeon, reported that appellant had experienced bilateral forearm and elbow pain since November/December 2021. Appellant had indicated a history of no specific event, but that his work aggravated his pain. Dr. Morrell assessed chronic bilateral forearm pain and likely combination of lateral epicondylitis, cubital tunnel syndrome, and forearm overuse injury.

On September 26, 2022 appellant requested reconsideration.

By decision dated December 16, 2022, OWCP modified the decision dated June 22, 2022 to reflect that appellant had established a medical diagnosis in connection with the accepted April 14, 2022 employment incident. However, the claim remained denied as appellant had not submitted rationalized medical evidence establishing that the diagnosed medical condition was causally related to the accepted April 14, 2022 employment incident.

In a report dated April 12, 2023, Dr. Rebecca Dutton, a Board-certified physiatrist, stated that appellant was seen for electrodiagnostic testing of his bilateral upper extremities due to pain. Appellant related that his pain began in November 2021, but only became an issue in April 2022. Dr. Dutton recounted that appellant's position required a lot of time on computers which caused pain, numbness, and intermittent swelling. She diagnosed bilateral cubital tunnel syndrome and mild right carpal tunnel syndrome.

In an April 25, 2023 return to work form, Dr. Morrell diagnosed bilateral carpal tunnel syndrome and cubital tunnel syndrome. He reported that appellant was scheduled for surgery.

In a report also dated April 25, 2023, Pamela Anne Burks, a physician assistant, noted appellant's work duties and recounted a history of bilateral upper extremity and hand pain beginning in November 2021 and worsening in April 2022. She reviewed an April 12, 2023 electromyograph (EMG) study and diagnosed bilateral carpal tunnel syndrome and cubital tunnel syndrome. Ms. Burks opined that the diagnosed conditions were work related as appellant was asymptomatic prior to working in his current IT job requiring 10 hours of keyboard use.

Dr. Morrell related appellant's diagnoses of bilateral carpal tunnel syndrome and cubital tunnel syndrome in an April 27, 2023 report. He attributed the diagnosed conditions to appellant's employment. In support of this conclusion, he explained that appellant did not have these conditions prior to working in his current IT job which required 10 hours of keyboard use.

On May 12, 2023 appellant requested reconsideration.

By decision dated July 10, 2023, OWCP denied modification.

On August 7, 2023 appellant requested reconsideration and submitted an August 2, 2023 report from Ms. Burks, who related that carpal tunnel could stem from repetitive motion and that appellant's normal work duties placed a large amount of stress on his wrist, hands, and fingers.

Ms. Burks also noted that appellant did not have an ergonomic workstation available. She concluded that the combination of work factors led to appellant's bilateral upper extremity carpal and cubital tunnel conditions.

By decision dated November 2, 2023, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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,³ 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.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.

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.⁵

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁶ 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 incident.⁷ 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.⁸

² *Id.*

³ *C.G.*, Docket No. 12-1270 (issued December 20, 2023); *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).

⁴ *C.G., id.*; *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).

⁵ *C.G., id.*; *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *C.G., id.*; *T.H.*, 59 ECAB 388, 393-94 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁷ *C.G., id.*; *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *C.G., id.*; *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish bilateral epicondylitis and/or bilateral cubital tunnel syndrome causally related to the accepted April 14, 2022 employment incident.

The record contains an April 27, 2023 report from Dr. Morrell diagnosing bilateral carpal tunnel syndrome and cubital syndrome, which he attributed to appellant's employment. In support of this conclusion, he noted that appellant did not have these conditions prior to work in his current position which required 10 hours of keyboard use. Dr. Morrell did not provide a rationalized medical opinion explaining a pathophysiological process of how the accepted employment incident of keyboard use caused or contributed to the diagnosed conditions. The Board has held that the physician must offer a rationalized explanation of how the specific employment incident or work factors physiologically caused injury.⁹ This evidence is, therefore, insufficient to establish the claim.

In his April 19, 2022 report, Dr. Vaughn opined that appellant's diagnosed epicondylitis, which was a repetitive motion strain, might be work related. While he explained that epicondylitis might be work related, his opinion is speculative in nature. The Board has held that medical opinions that are speculative or equivocal are of diminished probative value.¹⁰ Therefore, this evidence is insufficient to establish the claim.

Appellant also submitted reports dated April 14, 2022 from Dr. Vaughn noting appellant's diagnosis of bilateral medial epicondylitis; a June 23, 2022 report from Dr. Fuller diagnosing bilateral epicondylitis and bilateral cubital syndrome; an outpatient note dated June 23, 2022 and a June 27, 2022 clinic note from Dr. Fuller and Dr. Morrell diagnosing lateral epicondylitis, cubital tunnel syndrome, and forearm overuse injury; a report dated April 12, 2023 and signed on April 21, 2023 from Dr. Dutton diagnosing bilateral cubital tunnel syndrome and mild right carpal tunnel syndrome; and an April 25, 2023 return to work form from Dr. Morrell diagnosing bilateral carpal tunnel syndrome and cubital tunnel syndrome. However, none of these reports offered any opinion on the issue of causal relationship. The Board has held that a medical report that does not contain a rationalized medical opinion addressing causal relationship is of no probative value.¹¹ Thus, the opinions of these physicians are insufficient to establish appellant's claim.

⁹ *D.S.*, Docket No. 23-0218 (issued June 26, 2021); *G.R.*, Docket No. 21-1196 (issued March 16, 2022); *K.J.*, Docket No. 21-0020 (issued October 22, 2021); *L.R.*, Docket No. 16-0736 (issued September 2, 2016); *J.R.*, Docket No. 12-1099 (issued November 7, 2012); *Douglas M. McQuaid*, 52 ECAB 382 (2001).

¹⁰ See *L.B.*, Docket No. 23-0099 (issued July 26, 2023); *C.C.*, Docket No. 22-0609 (issued October 25, 2022); *H.A.*, Docket No. 18-1455 (issued August 23, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

¹¹ *W.O.*, Docket No. 22-0418 (issued February 15, 2023); *L.E.*, Docket No. 19-0470 (issued August 12, 2019); *M.J.*, Docket No. 18-1114 (issued February 5, 2019); see also *J.B.*, Docket No. 22-0872 (issued August 22, 2022); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

The undated Form CA-16 report from Dr. Fuller addressed appellant's bilateral lateral epicondylitis and bilateral cubital tunnel syndrome. He noted with a checkmark "Yes" that the diagnosed condition was caused by employment factors. However, the Board has held that an opinion on causal relationship with an affirmative check mark, without more by way of medical rationale, is insufficient to establish the claim.¹² As such, this report is insufficient to establish appellant's claim.

The record also contains reports from physician assistants. However, the Board has held that certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered physicians as defined under FECA.¹³ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁴

OWCP also received diagnostic studies. However, diagnostic studies standing alone, lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.¹⁵

As the medical evidence of record is insufficient to establish bilateral epicondylitis and/or bilateral cubital tunnel syndrome causally related to the accepted April 14, 2022 employment incident, the Board finds that appellant has not met his 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.

¹² See *F.M.*, Docket No. 23-0977 (issued February 6, 2024); *J.H.*, Docket No. 23-0159 (issued August 1, 2023); *C.S.*, Docket No. 18-1633 (issued December 30, 2019); *D.S.*, Docket No. 17-1566 (issued December 31, 2018); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

¹³ 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 Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *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).

¹⁴ *M.B.*, Docket No. 23-0758 (issued October 12, 2023); *D.P.*, Docket No. 19-1295 (issued March 16, 2020); *G.S.*, Docket No. 18-1696 (issued March 26, 2019); see *M.M.*, Docket No. 17-1641 (issued February 15, 2018); *K.J.*, Docket No. 16-1805 (issued February 23, 2018); *David P. Sawchuk*, *id.*

¹⁵ *C.C.*, Docket No. 22-1311 (issued April 7, 2023); *A.O.*, Docket No. 21-0968 (issued March 18, 2022); see *M.S.*, Docket No. 19-0587 (issued July 22, 2019).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish bilateral epicondylitis and/or bilateral cubital tunnel syndrome causally related to the accepted April 14, 2022 employment incident.¹⁶

ORDER

IT IS HEREBY ORDERED THAT the November 2, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 24, 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

¹⁶ The Board notes that the employing establishment executed a Form CA-16. A completed Form CA-16 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); *T.H.*, Docket No. 23-0811 (issued February 13, 2024); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).