

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

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<b>K.M., Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 24-0752</b>
	)	<b>Issued: October 16, 2024</b>
<b>U.S. POSTAL SERVICE, PORT ALLEGANY, Port Allegany, PA, Employer</b>	)	
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*Appearances:* *Case Submitted on the Record*  
*Alan J. Shapiro, Esq., for the appellant<sup>1</sup>*  
*Office of Solicitor, for the Director*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge

**JURISDICTION**

On July 9, 2024 appellant, through counsel, filed a timely appeal from a June 17, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (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 left wrist condition causally related to the accepted factors of her federal employment.

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<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On January 31, 2023 appellant, then a 41-year-old rural delivery specialist, filed an occupational disease claim (Form CA-2) alleging that she developed a left elbow and wrist condition due to factors of her federal employment, including repetitive pushing, pulling, carrying, moving, and driving from the middle of her personally-owned vehicle over the course of 20 years. She noted that she first became aware of her condition on January 9, 2023, and realized its relation to her federal employment on January 10, 2023. Appellant did not stop work.

In a February 1, 2023 narrative statement, appellant described her employment duties which required repetitively casing and sorting mail, picking up packages, and opening and closing mailboxes to deliver mail in her postal vehicle.

In a February 9, 2024 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 questionnaire for her completion. OWCP afforded appellant 60 days to respond. By separate development letter of the same date, it requested additional information from the employing establishment, including comments from a knowledgeable supervisor. OWCP afforded the employing establishment 30 days to respond.

In a letter received on February 9, 2023, J.H., appellant's supervisor, asserted that while her employment duties involved using her wrists, she had never complained about her wrists bothering her while performing her work.

In a February 22, 2023 progress note, Dr. Terrance Lee Foust, an osteopath Board-certified in orthopedic surgery, evaluated appellant due to acute onset of and progressively worsening pain, paresthasias, and grip weakness involving the left wrist and hand. Appellant reported ongoing pain for approximately eight weeks with no specific mechanism of injury or trauma involving the left wrist and hand. Dr. Foust noted that appellant was employed as a mail courier, which entailed repetitive use of the upper extremities and driving her vehicle with her left hand while delivering mail. He reviewed January 26, 2023 left wrist x-rays, which revealed normal findings. Dr. Foust diagnosed acute left wrist pain and left carpal tunnel syndrome. He recommended an electromyogram and nerve conduction velocity (EMG/NCV) study to further evaluate appellant's left carpal tunnel condition.

In a February 27, 2023 response to OWCP's development questionnaire, appellant described the circumstances surrounding her injury. She discussed her upper extremity repetitive employment duties she attributed to her wrist injury, including pushing, pulling, carrying, and moving mail all while driving her postal vehicle for deliveries. Appellant reported no history of injury or activities, which would cause her condition other than her repetitive employment duties.

In a March 14, 2023 letter, the employing establishment controverted appellant's claim.

By decision dated April 11, 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 August 27, 2023 appellant requested reconsideration. In an accompanying statement, she asserted that diagnostic testing revealed a tear in her left wrist resulting in her need to take

leave through the Family and Medical Leave Act (FMLA) for her injury. Appellant reported that she was released for limited-duty work on May 8, 2024, but the employing establishment failed to provide her work within her restrictions as requested by her provider. She reported that she returned to full-duty work on August 21, 2023 outside of her medical limitations after the employing establishment issued a letter of warning for unsatisfactory attendance. In support of her assertions, appellant submitted May 8, 2023 emails from the employing establishment indicating that no light-duty work was available to rural carriers and she must be able to complete the full functions of her employment in order to return to work. She also provided an August 4, 2023 letter of warning from the employing establishment issued for unsatisfactory attendance while she was on FMLA leave.

In support of her claim, appellant also submitted additional medical evidence.

In a May 5, 2023 request for temporary light-duty assignment form, Breanna Burdick, a physician assistant, requested the employing establishment provide appellant a temporary light-duty assignment to accommodate her left carpal tunnel syndrome.

In a May 5, 2023 return-to-duty medical certification, David Charles Brown, III, a physician assistant, provided work restrictions and reported that she could return to light-duty work from May 8 through July 8, 2023.

A July 25, 2023 magnetic resonance imaging (MRI) scan of the left wrist demonstrated an impression of mild degenerative changes about the tricompartment cartilage with an otherwise unremarkable examination.

In an August 18, 2023 progress note, Ms. Burdick discussed appellant's history of injury and examination findings. She diagnosed left wrist pain and degenerative tear of the triangular fibrocartilage complex (TFCC) of the left wrist. Ms. Burdick discussed appellant's medication management and continued course of therapy, noting that appellant requested to be released to return to work.

In an August 18, 2023 return-to-duty medical certification, Ms. Burdick reported that appellant could return to full-duty work on August 21, 2023.

In an August 22, 2023 attending physician's report (Form CA-20), Ms. Burdick indicated that she evaluated appellant for left wrist pain and diagnosed degenerative changes and tear of the TFCC of the left wrist. She checked the box marked "Yes" indicating the condition was caused or aggravated by the employment activity and noted that repetitive activity could cause this condition. Ms. Burdick further reported that appellant was totally disabled from January 26 through May 8, 2023 as a result of her injury and could return to light-duty work on May 8, 2023.

By decision dated November 21, 2023, OWCP denied modification of its April 11, 2023 decision.

On April 11, 2024 appellant requested reconsideration.

In support of her claim, appellant submitted a May 3, 2023 report from Dr. Bradley F. Giannotti, a Board-certified orthopedic surgeon, who documented left wrist examination findings

due to complaints of ongoing pain. Dr. Giannotti diagnosed left wrist pain and left carpal tunnel syndrome.

In a July 12, 2023 progress note, Dr. Foust documented appellant's left wrist examination findings due to complaints of ongoing pain. Appellant continued modified-duty work.

Appellant resubmitted the August 18, 2023 report of Ms. Burdick which was countersigned by Dr. Foust.

In an April 9, 2024 Form CA-20 report, Ms. Burdick diagnosed degenerative TFCC tear of the left wrist. She checked the box marked "Yes" indicating the condition was caused or aggravated by the employment activity and noted that repetitive activity could cause this condition.

On June 12, 2024 appellant, through counsel, again requested reconsideration.

By decision dated June 17, 2024, OWCP denied modification of its November 21, 2023 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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,<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> *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).

<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *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).

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> 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.<sup>9</sup> 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).<sup>10</sup>

### ANALYSIS

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

In support of her claim, appellant submitted reports from Drs. Foust and Giannotti dated February 22, May 3, July 12, and August 18, 2023. However, these doctors did not offer an opinion on causal relationship. 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.<sup>11</sup> As such, these reports are of no probative value, and are insufficient to establish appellant's claim. Appellant submitted reports by physician assistants. 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.<sup>12</sup> Consequently, their medical findings and/or opinions will not suffice for the purpose of establishing entitlement to FECA benefits.<sup>13</sup> Accordingly, these reports are insufficient to establish the claim.

Appellant also submitted diagnostic test results, including the July 25, 2023 left wrist MRI scan. The Board has held that diagnostic studies, standing alone, lack probative value as they do

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<sup>8</sup> *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).

<sup>9</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

<sup>10</sup> *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 7.

<sup>11</sup> *G.M.*, Docket No. 24-0388 (issued May 28, 2024); *C.R.*, Docket No. 23-0330 (issued July 28, 2023); *K.K.*, Docket No. 22-0270 (issued February 14, 2023); *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> 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) (May 2023); *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).

<sup>13</sup> *Id.*; *N.B.*, Docket No. 19-0221 (issued July 15, 2019).

not address whether the employment factors caused any of the diagnosed conditions.<sup>14</sup> Such reports are therefore insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish causal relationship between appellant's left wrist 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 left wrist condition causally related to the accepted factors of her federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 17, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 16, 2024  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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<sup>14</sup> *F.D.*, Docket No. 19-0932 (issued October 3, 2019).