

² 5 U.S.C. § 8101 *et seq.*

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.

FACTUAL HISTORY

On August 28, 2023 appellant, then a 50-year-old sales service distribution associate, filed an occupational disease claim (Form CA-2) alleging that she sustained conditions of the ears, nose, and throat causally related to exposure to water waste from the roof that went into her mouth, nose, and ears on June 17, 2023 due to factors of her federal employment, and she lost her voice on August 7, 2023. She first became aware of her condition and its relationship to her federal employment on August 7, 2023. Appellant stopped work on August 7, 2023.

In emergency department notes dated June 17, 2023, Dr. Hetal Joshi, Board-certified in internal and emergency medicine, examined appellant for complaints of chest pain and shortness of breath. Appellant advised Dr. Joshi that yellow debris had fallen from the ceiling of her workplace onto her face. Dr. Joshi diagnosed unspecified chest pain and unspecified dyspnea.

A chest x-ray obtained on June 17, 2023 indicated no infiltrates.

A chest x-ray obtained on August 17, 2023 indicated no acute cardiopulmonary disease.

In work activity status reports dated June 27 through August 31, 2023, Dr. Reddy diagnosed ear, nose, and throat symptoms and a history of shortness of breath. On September 15, 2023 Dr. Reddy noted that appellant had hoarseness and recommended transfer for care to a specialist.

On October 3, 2023 OWCP administratively combined File No. xxxxxx427 with File No. xxxxxx377. The latter file was designated as the master file.

In a development letter dated November 27, 2023, OWCP informed appellant of the deficiencies of her occupational disease claim. It provided a questionnaire for her completion, advised her of the type of factual and medical evidence necessary to establish her claim, and afforded her 60 days to submit the requested evidence.

In a report dated October 11, 2023, Dr. Aubrey McCullough, an osteopath and Board-certified otolaryngologist, examined appellant for complaints of loss of voice. Appellant advised Dr. McCullough that in June 2023 she swallowed some water with debris that fell from the ceiling at work. A laryngoscopy demonstrated a prominently deviated septum, significant hypertrophy of the turbinates, and no sign of active infection. Dr. McCullough diagnosed hoarseness/dysphonia, vocal strain, and unspecified voice and resonance disorder.

Appellant submitted progress notes dated November 16 and 20, 2023 signed by Carly Schiff and Alyssa Molfese, speech-language pathologists.

In a follow-up letter dated January 25, 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 November 27, 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 February 14, 2024, OWCP denied appellant's occupational disease claim, finding that she had not submitted sufficient medical evidence to establish causal relationship between the accepted employment factors and her diagnosed conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including the fact 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 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 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) rationalized medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.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 factors.⁷

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.

³ *Id.*

⁴ *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁷ *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

Appellant submitted emergency department notes from Dr. Joshi dated June 17, 2023, in which he diagnosed unspecified chest pain and unspecified dyspnea. She submitted reports, and work activity status reports from Dr. Reddy containing diagnoses of symptoms of the ear, nose, and throat, and shortness of breath. These notes, forms, and reports contained assessments of symptoms, but did not offer a firm medical diagnosis of any medical condition. Medical reports lacking a firm diagnosis and a rationalized medical opinion regarding causal relationship are of no probative value.⁸ As such, this evidence is insufficient to establish appellant's claim.

In support of her claim, appellant also submitted an October 11, 2023 report from Dr. McCullough, who examined appellant on that date for complaints of loss of voice. A laryngoscopy demonstrated a prominently deviated septum, significant hypertrophy of the turbinates, and no sign of active infection. Dr. McCullough diagnosed vocal strain. However, Dr. McCullough did not provide an opinion regarding the cause of appellant's diagnosed condition. The Board has held that an opinion which does not address the cause of an employee's condition is of no probative value on the issue of causal relationship.⁹ Thus, this report is insufficient to establish appellant's claim.¹⁰

Appellant also submitted the results of diagnostic testing obtained on June 17 and August 17, 2023. The Board, however, has held that reports of diagnostic tests, standing alone, lack probative value as they do not provide an opinion as to whether the accepted employment factors caused the diagnosed condition.¹¹ Thus, this evidence is insufficient to establish appellant's claim.

Notes from speech language pathologists were also received. Speech language pathologists are not considered physicians as defined by FECA.¹² These reports are therefore of no probative value and are insufficient to establish a medical condition causally related to the accepted factors of employment.

⁸ See *D.S.*, Docket No. 25-0034 (issued November 18, 2024); *T.S.*, Docket No. 24-0605 (issued August 23, 2024); *A.C.*, Docket No. 20-1510 (issued April 23, 2021); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

⁹ *T.D.*, Docket No. 19-1779 (issued March 9, 2021); *L.B.* Docket No. 18-0533 (issued August 27, 2018); *D.K.* Docket No. 17-1549 (issued July 6, 2018).

¹⁰ See *L.B.*, Docket No. 24-0833 (issued November 5, 2024).

¹¹ *W.T.*, Docket No. 23-0323 (issued August 15, 2023); *V.Y.*, Docket No. 18-0610 (issued March 6, 2020); *G.S.*, Docket No. 18-1696 (issued March 26, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

¹² Section 8101(2) of FECA provides that the term 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) (January 2013); *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). See also *S.T.*, Docket No. 21-1060 (issued March 11, 2022) (speech pathologists, physical therapists, and occupational therapists are not considered physicians as defined under FECA); *P.Y.*, Docket No. 16-1324 (issued July 24, 2017) (a speech pathologist is not considered a physician under FECA).

As the medical evidence of record is insufficient to establish causal relationship between any of appellant's claimed conditions and the accepted factors of her federal employment, the Board finds that she 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 February 14, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 14, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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