

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

## **FACTUAL HISTORY**

On October 31, 2022 appellant, then a 55-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained physical conditions due to factors of her federal employment, including repetitive movements, pinching, grasping, and other fine hand manipulation. She noted that she first became aware of her conditions on January 18, 2021, and realized their relationship to her federal employment on January 28, 2021. OWCP accepted the claim for unilateral primary osteoarthritis of first carpometacarpal (CMC) joint, left hand.

OWCP received reports dated February 18, August 12, 2021, March 28, 2022 and February 28, 2023 from Dr. Xavier Simcock, an attending Board-certified orthopedic and hand surgeon. Dr. Simcock noted appellant's repetitive work activities and discussed his findings on physical and x-ray examinations. He provided an assessment of the accepted condition of osteoarthritis of first CMC joint, left thumb and related that he had discussed surgical reconstruction of the thumb with arthroplasty and bone grafting.

On March 7, 2023 appellant filed a claim for compensation (Form CA-7) for disability from work for the period January 18, 2021 through March 7, 2023.

In a development letter dated March 14, 2023, OWCP informed appellant of the deficiencies of her claim for wage-loss compensation for the period January 18, 2021 through March 7, 2023. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

Appellant filed additional CA-7 forms requesting compensation for disability from work for the period February 25 through April 21, 2023.

OWCP received medical evidence, including additional reports from Dr. Simcock. In reports dated March 27 and 31, 2023, Dr. Simcock restated his prior diagnosis of the accepted condition osteoarthritis of first CMC joint, left thumb.

A March 27, 2023 operative report recounted that Dr. Simcock performed appellant's OWCP-authorized left thumb CMC arthroplasty and left thumb tendon transposition of the flexor carpi radialis to the base of the metacarpal.

On April 4, 2023 Dr. Simcock related that appellant's sutures were removed that day. He referred appellant for occupational therapy and concluded that appellant should avoid heavy lifting.

By decision dated May 4, 2023, OWCP authorized the payment of compensation for the period March 27 through April 21, 2023.<sup>3</sup> However, it denied the remaining claimed disability during the period January 18, 2021 through March 26, 2023, finding that the medical evidence of record was insufficient to establish disability from work causally related to the accepted employment injury.

---

<sup>3</sup> An automated compensation payment system worksheet dated May 2, 2023 indicated that OWCP paid appellant compensation for disability from work during the period March 27 through April 21, 2023 due to her March 27, 2023 OWCP-authorized left thumb surgery.

On July 26, 2023 appellant, through counsel, requested reconsideration of the May 4, 2023 decision.

In support of the request, OWCP received a January 18, 2021 report from Dr. Paul J. Gruzka, a Board-certified orthopedic surgeon, who related that appellant had 10/10 left thumb pain, that appellant performed a lot of repetitive movement at work with the left hand, and that she now had difficulty grasping with her left hand. Dr. Gruzka diagnosed moderately-severe basal left thumb osteoarthritis and indicated that appellant would require a gel injection followed by surgery.

A January 28, 2021 report from Kathleen A. Exner, a nurse practitioner, indicated that appellant could return to work when she was cleared by her primary care physician or hand surgeon.

A May 11, 2021 letter from Dr. Simcock continued to diagnose the accepted condition of osteoarthritis of first CMC joint, left thumb due to appellant's work duties. Dr. Simcock continued to recommend surgical reconstruction of the thumb.

In a June 27, 2023 report, Dr. Simcock advised that appellant could not return to work.

By decision dated October 17, 2023, OWCP denied modification of the May 4, 2023 decision. It found that the medical evidence submitted did not address the claimed period of disability or provide a rationalized opinion on the causal relationship between the claimed disability and the accepted condition.

OWCP subsequently received additional medical evidence. Dr. Simcock, in an August 22, 2023 report, continued to diagnose the accepted left thumb condition. He also noted that appellant was still limited in her grip due to a lack of formal therapy. Dr. Simcock advised that she could return to light-duty work.

On July 2, 2024 appellant, through counsel, requested reconsideration of the October 17, 2023 decision.

In support of the request, counsel submitted a March 28, 2022 report from Dr. Simcock. Dr. Simcock noted appellant's repetitive work duties, her current complaints and physical examination findings. He concluded that appellant's work duties over the last 27 years exacerbated and contributed to her left thumb osteoarthritis.

OWCP, by decision dated August 12, 2024, denied modification of the October 17, 2023 decision.

On October 1, 2024 appellant, through counsel, requested reconsideration. In support of this request for reconsideration, counsel submitted a complete copy of the medical records from treatment in an emergency department on January 28, 2021 for chronic left wrist and hand pain. Counsel also resubmitted a copy of the January 28, 2021 report from nurse practitioner Kathleen Exner, co-signed by Dr. Erik Achramowicz, Board-certified in emergency medicine. This report related an assessment of left-hand pain near the thumb, with arthritic changes.

By decision dated October 4, 2024, OWCP denied modification.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish the essential elements of his or her claim,<sup>5</sup> including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>6</sup> For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.<sup>7</sup> Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.<sup>8</sup>

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of appellant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the claimed disability and the accepted employment injury.<sup>9</sup>

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.<sup>10</sup>

## **ANALYSIS**

The Board finds that appellant has not met her burden of proof to establish disability from work for the period January 18, 2021 through March 26, 2023, causally related to her accepted employment injury.

In support of the claim for compensation, OWCP received a January 18, 2021 report from Dr. Gruszka who indicated that appellant received an injection to treat her diagnosed conditions of primary osteoarthritis of the left hand and carpal tunnel syndrome. However, Dr. Gruszka did not offer an opinion addressing whether appellant was disabled from work during the claimed period. As the Board has held, medical reports are of no probative value regarding appellant's

---

<sup>4</sup> *Supra* note 2.

<sup>5</sup> *See L.S.*, Docket No. 18-0264 (issued January 28, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019).

<sup>6</sup> *See S.F.*, Docket No. 20-0347 (issued March 31, 2023); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>7</sup> *T.W.*, Docket No. 19-1286 (issued January 13, 2020).

<sup>8</sup> *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291-92 (2001).

<sup>9</sup> *See B.P.*, Docket No. 23-0909 (issued December 27, 2023); *D.W.*, Docket No. 20-1363 (issued September 14, 2021); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

<sup>10</sup> *See M.J.*, Docket No. 19-1287 (issued January 13, 2020); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, *supra* note 8 at 293.

claim for disability during the claimed period if they do not offer an opinion as to whether she was disabled.<sup>11</sup> The Board finds that this report is insufficient to establish appellant's disability claim.

Similarly, Dr. Achramowicz, in his January 28, 2021 report, diagnosed work-related chronic left thumb and left-hand pain, and arthritis, but did not offer an opinion on whether the accepted employment injury caused disability from employment.<sup>12</sup> Moreover, the Board has also held that pain is a symptom and not a compensable medical diagnosis.<sup>13</sup> Thus, the report from Dr. Achramowicz is of no probative value and insufficient to establish appellant's disability claim.

OWCP also received multiple reports from Dr. Simcock, which addressed her left thumb condition, and medical treatment. In a report dated June 27, 2023, Dr. Simcock opined that appellant could not return to work. However, he did not provide any medical rationale addressing why appellant was disabled from work during the claimed time period. In an August 22, 2023 report, Dr. Simcock diagnosed the accepted condition of osteoarthritis of first CMC joint, left thumb. He opined that appellant could return to light-duty work, but did not address the relevant time period of claimed disability. The Board has held that medical evidence that does not address whether the claimed disability during the relevant time period is causally related to the accepted employment-related conditions is of no probative value.<sup>14</sup> Dr. Simcock's remaining reports dated February 18, 2021 through April 4, 2023 diagnosed the accepted condition of osteoarthritis of first CMC joint, left thumb and described the OWCP-authorized left thumb CMC arthroplasty and left thumb tendon transposition of the flexor carpi radialis to the base of the metacarpal performed. However, these reports did not address whether appellant was disabled from work. Medical reports are of no probative value regarding appellant's claim for disability during the claimed period if they do not offer an opinion as to whether appellant was disabled.<sup>15</sup> For these reasons, the Board finds that Dr. Simcock's reports are insufficient to establish that appellant was disabled from work from January 18, 2021 through March 26, 2023.

As the medical evidence of record is insufficient to establish that appellant was disabled during the claimed period of disability, the Board finds that appellant has not met her burden of proof.

---

<sup>11</sup> *M.J.*, *id.*; *see also P.L.*, Docket No. 22-0337 (issued September 9, 2022); *K.F.*, Docket No. 19-1846 (issued November 3, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *Id.*

<sup>13</sup> *See D.C.*, Docket No. 22-0648 (issued September 15, 2022); *M.C.*, Docket No. 21-0707 (issued August 5, 2022); *B.M.*, Docket No. 21-0198 (issued June 29, 2021); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

<sup>14</sup> *A.W.*, Docket No. 24-0382 (issued May 16, 2024); *S.M.*, 22-1209 (issued February 27, 2024); *M.P.*, Docket No. 23-0759 (issued January 23, 2024); *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *A.S.*, Docket No. 21-1263 (issued July 24, 2023); *R.J.*, Docket No. 19-0179 (issued May 26, 2020); *M.A.*, Docket No. 19-1119 (issued November 25, 2019); *S.I.*, Docket No. 18-1582 (issued June 20, 2019); *L.B.*, *supra* note 11; *D.K.*, *supra* note 11.

<sup>15</sup> *A.D.*, Docket No. 24-0411 (issued June 20, 2024).

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 disability from work for the period January 18, 2021 through March 26, 2023, causally related to her accepted employment injury.

**ORDER**

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

Issued: January 2, 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