

# Medical evidence and OWCP, Part 5 —The CA-2 for occupational disease



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**T**hough OWCP initially accepts the vast majority of CA-1s filed by letter carriers for traumatic injuries, it initially accepts significantly less than half of the CA-2s filed for occupational disease. In most claims where OWCP has denied a CA-2, it is because the injured worker has failed to provide the sort of medical evidence that OWCP requires in occupational disease cases.

The implementing regulations of the Federal Employees' Compensation Act (FECA) found at 20 CFR §10.5(q) define occupational disease as, "a condition produced by the work environment over a period longer than a single workday or shift." Some of the more widely recognized occupational diseases/illnesses include carpal tunnel syndrome, arthritis, rotator cuff strains and tears, radiculopathies, tendonitis and many back injuries. These medical conditions usually develop slowly and do not generally occur at a specific time and place.

Physicians routinely write medical reports for health insurance providers to get paid. However, the evidence, findings and opinions that OWCP expects in a medical report to accept an occupational disease case go well beyond what any other medical insurer finds necessary for providing coverage. And most doctors have no experience writing such reports. This is because not only does OWCP require detailed and specific causal explanations that no other insurer requires, but also because occupational disease cases additionally often involve prior injuries and pre-existing conditions that the attending physician must address in their report. And occupational disease cases may involve activities outside of work such as sports, hobbies and household chores that might also have affected the diagnosed occupational conditions.

In writing any medical report for OWCP, the attending physician should be aware of both the non-apportionment rule and the standard of reasonable medical certainty that were discussed in September's column. The attending physician also should bear in mind that OWCP claims examiners have no medical expertise or training. They are bureaucrats and they read medical reports, much as high school teachers read test exams, with a checklist of required elements that are taken from OWCP's implementing regulations and the FECA *Procedure Manual*. Claims examiners will not review chart notes or the medical record as a whole to extract the required elements. The required elements must be contained within a single report.

The implementing regulations of the FECA found at 20 CFR §10.330 list the required elements:

In all cases reported to OWCP, a medical report from the attending physician is required. This report should include:

- (a) Dates of examination and treatment;
- (b) History given by the employee;
- (c) Physical findings;
- (d) Results of diagnostic tests;
- (e) Diagnosis;
- (f) Course of treatment;
- (g) A description of any other conditions found but not due to the claimed injury;
- (h) The treatment given or recommended for the claimed injury;
- (i) The physician's opinion, with medical reasons, as to causal relationship between the diagnosed condition(s) and the factors or conditions of the employment;
- (j) The extent of disability affecting the employee's ability to work due to the injury;
- (k) The prognosis for recovery; and
- (l) All other material findings.

That's quite a list. To simplify matters, the report should focus on the following items.

### 1. Clear diagnoses based on objective clinical findings

The attending physician should clearly state the diagnoses and the clinical basis for them (the diagnostic procedures relied upon such as physical exams, MRIs and X-rays). The attending physician also should be aware that OWCP will not accept pain as a diagnosis. The focus should be on the cause of the pain such as a sprain, strain, herniated disc, radiculopathy, etc.

### 2. A review of the medical history of the affected body part

The physician should, in writing, review and show familiarity with the medical history involving the affected body part. This review can be done as a chronological bullet point list of dates of examinations, treatments and procedures performed along with brief summaries for each bullet point.

### 3. Familiarity with the work activities that have contributed to the diagnosed conditions in the affected body part

Injured letter carriers should provide to their physician a detailed narrative statement describing the work duties they believe have contributed to their occupational disease. The May 2017 column provided detailed guidance on how to write this narrative. Attending physicians in their medical report should not only indicate that they have read the narrative statement but should also, as part of their causal explanation, refer to the specific work duties that they believe have caused or contributed to the diagnosed occupational disease.

In the March column I will continue this discussion of the medical evidence required in CA-2 occupational disease cases by examining in detail the requirement for a causal explanation, which is the most common reason for OWCP denying these cases.