

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

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**MARIA D. RIVERA, Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Laredo, TX, Employer**

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**Docket No. 05-515  
Issued: August 1, 2005**

*Appearances:*  
*Maria D. Rivera, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On January 3, 2005 appellant timely filed an appeal from an October 14, 2004 decision by the Office of Workers' Compensation Programs which denied her claim on the grounds that she had not established that her condition was causally related to the accepted employment incident. Pursuant to 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 established that she sustained an injury while in the performance of duty.

**FACTUAL HISTORY**

On March 9, 2004 appellant, a 35-year-old city carrier, filed a traumatic injury claim alleging that she injured her left ankle and right wrist and knee on that date when she fell down after stepping on a raised pavement.

Appellant submitted a duty status report (Form CA-17) dated March 9, 2004 from Dr. E. Calixto-Lopez, an attending physician, who noted that appellant fell to the ground while walking in front of her vehicle on March 9, 2004. Dr. Calixto-Lopez diagnosed a left ankle sprain, right knee contusion and right wrist contusion and stated that appellant could return to full-duty work on March 15, 2004.

In support of her claim, appellant submitted duty status reports dated March 11, 15 and April 15 and 22, 2004 and a work status report dated April 14, 2004 by Dr. Alex J. Blanco, an attending Board-certified family practitioner, who noted that appellant sustained an injury on March 9, 2004 when she tripped and fell to the ground. He diagnosed an ankle sprain and released her to full-duty work on March 15, 2004. Dr. Blanco noted the injury date as March 9, 2004, that appellant twisted her ankle at work and diagnosed a left ankle sprain in an April 15, 2004 work status report.

On May 6, 2004 the Office received treatment notes dated June 10, 2002 by Dr. Philip Holzknacht, an attending Board-certified orthopedic surgeon, treatment notes dated September 17, 2001 by Dr. Jed M. Wells, a podiatrist, an April 15, 2004 referral to Dr. Joaquin F. Oronoz, Jr., a Board-certified orthopedic surgeon, for appellant's left ankle sprain. Dr. Holzknacht reported January 28, 2002 as the date of injury and that she was seen for a "follow-up evaluation of her lateral ankle sprain on the left side." He stated that appellant was currently wearing an ankle brace to help her with "stability as she has had problems with the sprains in the past."

On May 13, 2004 the Office received an April 23, 2004 magnetic resonance imaging (MRI) scan by Dr. Richard Anguiano, a Board-certified radiologist, who diagnosed lumbar disc disease at L2-3 through L4-5, a mild stenosis at L2-3 and L4-5.

Appellant subsequently submitted work status reports dated March 11 and 25, 2004 and physical reports dated March 11, 25 and an April 15, 2004 by Dr. Blanco. In the March 25 and April 15, 2004 reports, Dr. Blanco reported March 9, 2004 as the date of injury and diagnosed a left ankle sprain. In the work status reports, the physician noted the injury date as March 9, 2004 that appellant twisted her ankle at work and diagnosed a left ankle sprain.

On June 28, 2004 the Office received duty status reports dated April 15, 2004 by Dr. Blanco, who noted March 25, 2003 as the date of injury when that appellant slipped and fell. He reported tenderness and edema on examination, diagnosed a left ankle sprain and released appellant to work on April 15, 2004.

On July 12, 2004 the Office received treatment notes dated May 19, 2004.<sup>1</sup> The physician opined that appellant had pain due to an injury sustained to the sural nerve. Under history, the physician reported appellant was "here for followup on left ankle sprain and instability as well as left heel numbness and low back pain."

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<sup>1</sup> This report was unsigned, but a subsequent submission reveals the physician to be Dr. Oronoz.

On August 20, 2004 the Office received a March 10, 2004 x-ray report by Dr. Guillermo Salinas, who reported a negative right wrist and no fracture of the left ankle. He noted “soft tissue swelling is present about the lateral malleolus” of the left ankle.

By letter dated September 9, 2004, the Office informed appellant of the type of evidence needed to support her claim and requested that she submit such evidence within 30 days.

Appellant submitted a September 1, 2004 duty status report and progress notes dated April 22 to September 2, 2004 by Dr. Oronoz, who reported on April 22, 2004 that appellant “injured her left ankle when she twisted it on the job on March 9, 2004” and that she had a history of ankle sprains. A physical examination revealed “weakness of the plantar flexion on the left on repetitive heel raises,” decreased sensation in the left heel and “no tenderness, full range of motion, and 5/5 strength” in the left ankle. Dr. Oronoz diagnosed left ankle instability due to recurrent ankle sprains, low back pain, heel numbness and “weakness of the plantar flexors could represent a herniated nucleus pulposus at L4-5 on the left. In his September 2, 2004 progress notes, the physician diagnosed left recurrent ankle instability.

By decision dated October 14, 2004, the Office denied appellant’s claim for compensation. It accepted that the March 9, 2004 incident occurred, but found there was no medical evidence that provided a diagnosis which could be connected to the incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>2</sup> has the burden of proof to establish the essential elements of the claim, including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup> When an employee claims that she sustained a traumatic injury in the performance of duty, she must establish the “fact of injury,” namely, she must submit sufficient evidence to establish that she experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged and that such event, incident or exposure caused an injury.<sup>4</sup>

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.<sup>5</sup> An award of

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Robert Broome*, 55 ECAB \_\_\_\_ (Docket No. 04-93, issued February 23, 2004); *see also Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Betty J. Smith*, 54 ECAB \_\_\_\_ (Docket No. 02-149, issued October 29, 2002); *see also Tracey P. Spillane*, 54 ECAB \_\_\_\_ (Docket No. 02-2190, issued June 12, 2003). The term “injury” as defined by the Act, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101(5). *See* 20 C.F.R. § 10.5(q), (ee).

<sup>5</sup> *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

compensation may not be based on appellant's belief of causal relationship. 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 a causal relationship.<sup>6</sup>

### **ANALYSIS**

Appellant alleged that she sustained injuries to her ankle and right wrist and knee on March 9, 2004 when fell down after stepping on a raised pavement. The Office accepted that the March 9, 2004 incident occurred, but found there was no medical evidence that provided a diagnosis which could be connected to an event.

The Office has recognized that in certain cases: traumatic injury claims, such as a fall from a scaffold with a broken arm, may not require a fully-rationalized medical opinion on causal relationship.<sup>7</sup> Appellant's fall on March 9, 2004 is not in dispute. On that day she submitted a report from Dr. Calixto-Lopez. In a March 9, 2004 Form CA-17, Dr. Calixto-Lopez diagnosed a left ankle sprain and contusions to the right wrist and knee. The physician noted that appellant injured herself on March 9, 2004 when she fell to the ground walking in front of her vehicle. Thereafter, the various work and duty reports by Dr. Blanco also provided a diagnosis of ankle sprain and related that appellant sustained an injury when she tripped and fell on March 9, 2004.

The Board finds that appellant has established that she sustained an injury in the performance of duty on March 9, 2004. She was diagnosed on that date with a left ankle sprain, right knee contusion and right wrist contusion. These findings are supported by reports from Drs. Calixto-Lopez and Blanco. Because the Office did not accept fact of injury, it did not further evaluate the claim to determine whether appellant was disabled due to this injury. On return of the case record to the Office, the Office shall determine the nature and extent of any disability resulting from the left ankle sprain and contusions to the right knee and right wrist.

### **CONCLUSION**

The Board finds that appellant has established that she sustained an ankle sprain, right wrist contusion and right knee contusion in the performance of duty on March 9, 2004.

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<sup>6</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d)(2) (June 1995); see also *Deborah L. Beatty*, 54 ECAB \_\_\_\_ (Docket No. 02-2294, issued January 15, 2003).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 14, 2004 is reversed.

Issued: August 1, 2005  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board