

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

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CAROLYN L. WOLF, Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,  
Omaha, NE, Employer

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**Docket No. 05-846  
Issued: August 1, 2005**

*Appearances:*  
Carolyn L. Wolf, pro se  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On February 28, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated February 7, 2005, which denied modification of decisions dated November 10 and July 21, 2004, finding that she failed to establish an injury as alleged. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

**ISSUE**

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury in the performance of duty, causally related to factors of her federal employment.

**FACTUAL HISTORY**

On May 17, 2004 appellant, then a 50-year-old custodian, filed an occupational disease claim alleging that she sustained severe plantar fasciitis and tarsal tunnel as a result of walking on cement floors while in the performance of duty. She first became aware of the injury and its relation to her employment on April 23, 2004. Appellant stopped work on May 17, 2004. In a

letter dated May 19, 2004, the employing establishment indicated that she had preexisting conditions, including bunions.

Appellant submitted evidence pertaining to a preexisting right foot condition. In an undated report, Dr. Michael R. Powers, a podiatrist, diagnosed chronic right foot pain associated with a bunion deformity, which was unresolved using past conservative treatments and which warranted corrective surgery. In separate work release forms, he advised that appellant underwent surgery on August 23, 2002 and could return to work on September 9, 2002. Dr. Powers recommended restrictions of limited amounts of walking, standing for no more than 4 hours a day with periodic breaks, no climbing activities on the stairs and ladders, no lifting more than 10 pounds and no squatting.

In a May 12, 2004 duty status report, a health care provider, whose signature is illegible, diagnosed plantar fasciitis and tarsal tunnel syndrome and indicated that appellant, could sit for eight hours a day, but could only stand or walk for one hour a day. He advised no pulling, pushing, climbing or kneeling, bending or twisting as needed, no driving or operating machinery and no temperature extremes. In a separate report, also dated May 12, 2004, the health care provider indicated that appellant's condition commenced in July 2000 and noted that she had severe foot pain that required intermittent days off work.

By letters dated June 2, 2004, the Office advised appellant that additional factual and medical evidence was needed. The Office explained that a physician's opinion on causal relationship was crucial to her claim and allotted 30 days within which to submit the requested information.

In a July 6, 2004 response, appellant described the circumstances surrounding her claimed injuries. She indicated that she never had medical problems with her feet until the summer of 2001, when she began having heel pain in both feet. Appellant attributed her heel pain to her federal employment.

By decision dated July 21, 2004, the Office denied appellant's claim. The Office found that the evidence supported that her job entailed walking. However, it found that she did not submit sufficient medical evidence in support of her claim.

Appellant requested reconsideration on August 10, 2004.

In chart notes dating from June 28 to July 15, 2004, Dr. David E. Cornell, a podiatrist, advised that appellant was treated for heel pain. He noted her history of injury and treatment and diagnosed Achilles tendinitis, calcaneal spur and bilateral plantar fasciitis. In a July 29, 2004 report, Dr. Cornell advised that appellant could resume work with restrictions. He limited her activities to standing and walking for no more than four hours a day. On August 3, 2004 Dr. Cornell noted that appellant's history included a series of foot operations and injections. He indicated that she related that "her job had 'caused' or 'aggravated' her condition." Dr. Cornell advised that appellant had a problem in the heels of her feet and that orthotics were made for appellant, which could alleviate her problems. He explained that he did not see appellant for her foot problems prior to her employment; therefore, he was "unable to state categorically and with any degree of certainty that her job 'caused her' problem." Dr. Cornell indicated that he could

state with a high degree of medical certainty that her job aggravated her condition. He advised restrictions to reduce appellant's exposure to job-related stresses that aggravate her present condition. Dr. Cornell continued to treat appellant and submit reports dating from August 10 to September 28, 2004.

By letter dated August 17, 2004, the employing establishment indicated that appellant had not been working her regular job and had been on light duty for the "past months."

By decision dated November 10, 2004, the Office denied modification of the July 21, 2004 decision.

Appellant requested reconsideration on December 2, 2004. She submitted additional reports from Dr. Cornell, a November 2, 2004 treatment note and a November 30, 2004 report. On November 30, 2004 he explained that appellant related that her federal employment had "caused" or "aggravated" her heel condition. Dr. Cornell subsequently noted her history and opined that it was his "professional opinion that her foot problems were caused while on [her] [f]ederal job at the [employing establishment] and was directly related to her long hours on her feet there." He opined that appellant's feet would continue to be aggravated by any employment which required standing or walking or carrying objects for long hours.

By decision dated February 7, 2005, the Office denied modification of the November 10, 2004 prior decision.<sup>1</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing 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 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 and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>3</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>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual

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<sup>1</sup> Appellant subsequently submitted a March 10, 2005 report from Dr. Cornell. However, as this report was not before the Office at the time it issued its February 7, 2005 decision, the Board may not consider it for the first time on appeal. See 20 C.F.R. § 501.2(c).

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.<sup>5</sup>

### ANALYSIS

Appellant has established that her job entailed walking. However, she has not submitted the adequate medical evidence in support of her claim. The Office found that the medical evidence did not establish that the claimed foot condition resulted from or was affected by work duties.

In an August 3, 2004 report, Dr. Cornell noted that appellant related that her job had "caused" or "aggravated" her condition. He explained, however, that he was unable to state categorically and with any degree of certainty that her job 'caused her' problem. Dr. Cornell indicated a belief that appellant's job aggravated her condition. He did not offer any medical rationale in support of his equivocal opinion on causal relationship.<sup>6</sup> Dr. Cornell's report did not identify any specific factors of appellant's employment that caused or aggravated her condition or explain with adequate rationale how the walking required in her employment contributed to the diagnosed condition. His opinion is of limited probative value.<sup>7</sup>

On November 30, 2004 Dr. Cornell again explained that appellant related that her federal employment had "caused" or "aggravated" her heel condition. He stated that it was his "professional opinion that her foot problems were caused while on her [f]ederal job at the [employing establishment] and was directly related to her long hours on her feet there." Dr. Cornell indicated that appellant's feet would be aggravated by any employment which required standing or walking or carrying objects for long hours. However, he did not indicate that he was aware of the specific factors of appellant's position, nor the number of hours of walking required or that she was working in a light-duty position which limited the time she was on her feet. Dr. Cornell did not explain why his opinion on causal relationship changed his earlier opinion in which he was "unable to state categorically or with any degree of certainty that

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<sup>5</sup> *Id.*

<sup>6</sup> See *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (where the Board held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value).

<sup>7</sup> See *Linda I. Sprague*, 48 ECAB 386, 389-90 (1997).

appellant's job had caused her foot condition. As she had a previous history of foot operations, dating back to 2000, it is important that the doctor explain the reasons for his conclusion on causal relationship. A medical opinion must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The other medical reports of record do not specifically address whether any factors of appellant's employment caused her diagnosed condition. Consequently, the Board finds that this evidence is insufficient to establish appellant's claim. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>8</sup> Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>9</sup> Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is insufficient reasoned medical evidence explaining how appellant's employment duties caused or aggravated her foot condition, she has not met her burden of proof.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

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<sup>8</sup> See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>9</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated February 7, 2005, November 10 and July 21, 2004 are affirmed.

Issued: August 1, 2005  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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