

On December 17, 2007 appellant, then a 51-year-old sales and service distribution associate, filed a traumatic injury claim alleging that on October 1, 2007 she hurt her right leg and the ball of her foot due to prolonged standing at work. In a December 18, 2007 statement, she related that she stood on her feet from 5:00 a.m. to 12:00 p.m. which resulted in heel spurs as confirmed by x-rays.

In letters dated December 22, 2007, the employing establishment controverted the claim. It contended that appellant failed to submit evidence establishing that she sustained a medical condition causally related to her federal employment. The employing establishment also contended that her claim was not timely filed as she waited 79 days before filing it. It requested that the Office deny continuation of pay and consider the claim as an occupational disease claim.

By letter dated January 31, 2008, the Office advised appellant that the evidence submitted was insufficient to establish her claim. It requested additional factual and medical evidence, including a rationalized medical report from an attending physician which described her symptoms, results of examination and tests, diagnosis, treatment provided, the effect of treatment and opinion with medical reasons on whether exposure or incidents in appellant's federal employment contributed to her condition. The Office advised appellant that it would adjudicate her claim as an occupational disease. It explained that the condition she described occurred over a period longer than one workday or shift.

In a February 16, 2008 letter, appellant further described her work duties. She worked from 5:00 a.m. until 1:00 p.m., Monday through Saturday. Appellant was off work on Tuesday and Sunday. She stood for seven and one-half hours daily while boxing mail, throwing off parcels and preparing carrier routes. Appellant related that the flooring was concrete and it did not provide sufficient cushion. Over a period of time, she developed plantar fasciitis as a result of standing while performing her work duties.

In an October 16, 2007 medical note, Dr. Richard J. Shepard, a Board-certified family practitioner, stated that appellant had been under his care for foot pain. He stated that she could not stand for long periods of time until she was evaluated by a podiatrist.

An October 23, 2007 disability certificate from the podiatry clinic of North General Hospital contained an illegible signature. It stated that appellant was excused from excessive standing due to painful feet.

In reports dated November 6, 2007 and February 14, 2008, R. Giorgini, a nurse practitioner, stated that appellant sustained right heel pain secondary to plantar fasciitis. Appellant was unable to work for three to five days due to chronic condition and was referred to a physical therapist. She could subsequently return to light-duty work with restrictions.

By decision dated March 19, 2008, the Office denied appellant's claim. It found the medical evidence insufficient to establish that appellant's right foot condition was causally related to the established work-related duties.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of 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

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

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>2</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</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 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 a causal relationship 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>4</sup> Neither the fact that appellant's condition became apparent during a period of employment nor her belief that the condition was caused by her employment, is sufficient to establish a causal relationship.<sup>5</sup>

### ANALYSIS

The Office accepted that appellant performed the work duties of a sales and service distribution associate as alleged. The Board finds, however, that the medical evidence submitted is insufficient to establish that her diagnosed right foot condition was caused or aggravated by her work-related duties.

Dr. Shepard's October 16, 2007 medical report note that appellant suffered from foot pain and that she could not stand for long periods of time. He did not provide a firm diagnosis of what caused appellant's pain or explain how her symptoms related to her duties as a distribution associate. Dr. Shepard did not provide any medical rationale explaining how or why appellant's foot pain was caused or aggravated by her accepted employment duties. His report is insufficient to establish appellant's claim.

The October 23, 2007 disability certificate from the North General Hospital podiatry clinic with an illegible signature stated that appellant was excused from excessive standing, due

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<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>4</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>5</sup> *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

to painful feet. As the signature cannot be verified as that of a physician, the October 23, 2007 medical note is of no probative value.<sup>6</sup>

The medical notes of R. Giorgini, a nurse practitioner, also have no probative value in establishing that appellant's claim as a nurse practitioner is not a "physician" as defined under the Act.<sup>7</sup>

The Board finds that there is insufficient rationalized medical evidence of record to establish that appellant sustained a right heel condition causally related to the accepted factors of her federal employment as a sales and service distribution associate. Appellant did not meet her burden of proof.

### **CONCLUSION**

The Board finds that appellant has failed to establish that she sustained a right heel injury while in the performance of duty.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 19, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 6, 2008  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>6</sup> A medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8101(2). *See Merton J. Sills*, 572, 575n.3 (1988).

<sup>7</sup> *See* 5 U.S.C. § 8101(2); *Paul Foster*, 56 ECAB 208 (2004); *Thomas R. Horsfall*, 48 ECAB 180 (1996).