

On August 20, 2007 appellant, a 42-year-old economic assistant, filed an occupational disease claim alleging injury to her left ankle and low back. She advised that she had a preexisting left ankle condition and that the long walking and standing required by work in the

field caused swelling and pain and aggravated arthritis in her ankle. Appellant also noted that she had degenerative disease of the lumbar spine. She stated that her left ankle condition developed 14 years prior following an injury and, in November 2006, she noticed increased swelling while working.¹ On January 17, 2007 appellant underwent arthroscopic treatment and received physical therapy and acupuncture treatments. Following her most recent surgery, she returned to work on April 25, 2007 at light duty; however, the increased sitting required in her job caused increased back pain.

In an October 12, 2007 letter, the Office requested that appellant submit additional evidence in support of her claim. It advised her to submit a report from an attending physician which listed a diagnosis of her medical condition and provided an opinion on how her condition was caused by her federal employment. No evidence was received within the 30 days allotted.

In a November 20, 2007 decision, the Office denied appellant's claim. It accepted that her work required long periods of walking and standing but found that no medical evidence had been received in support of her claim.

On December 18, 2007 appellant requested a review of the written record by an Office hearing representative. She submitted medical records from Dr. Pushp R. Bhansali, an orthopedic surgeon, who noted a history of a severe left ankle injury several years prior for which appellant underwent an open reduction and internal fixation. Subsequently, appellant developed post-traumatic osteoarthritis of the left ankle. Dr. Bhansali advised that appellant returned for treatment on October 17, 2006 due to progressive pain in her left ankle. Physical examination revealed a marked reduction in range of motion with crepitus in the ankle joint. Appellant advised Dr. Bhansali that she did field work and had experienced swelling in the left ankle joint. After a period of conservative treatment, Dr. Bhansali performed arthroscopic surgery on January 17, 2007, which revealed cartilage damage to the tibial plafond, chondromalacia and chronic synovitis with loose ankle fragments. When last examined on November 15, 2007 appellant had persistent pain in the left ankle. Dr. Bhansali stated that appellant's condition would get worse if she continued in work requiring long standing and walking. He advised that she was capable of sedentary work.²

In a March 26, 2008 decision, an Office hearing representative affirmed the denial of appellant's claim. She found that the medical evidence from Dr. Bhansali was not sufficient to establish that appellant's work duties caused or aggravated her left ankle condition. It was also found that appellant submitted no medical evidence in support of her claim of an employment-related back condition.

¹ Appellant noted that, for the prior five years, her work required increasing field work with a computer. She also stated that on July 27, 2006 after attending a meeting at her office, a chair came out from under her as she was attempting to sit down and she fell on the floor. Due to increasing left ankle and back pain, she sought medical treatment in October 2006.

² Appellant submitted reports of her physical therapy treatment following surgery.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.³

Whether an employee sustained an injury in the performance of duty and has disability for employment is a medical issue to be resolved by medical evidence.⁴ Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on whether there is a causal relationship between the employee's diagnosed condition and the implicated work factors.⁵ In assessing the probative value of a physician's opinion, factors include a complete factual and medical background of the claimant; an opinion expressed in terms of a reasonable degree of medical certainty and rationale explaining the nature of the relationship between the diagnosed condition and the implicated employment factors.⁶

It is well established that where employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for periods of disability related to the aggravation.⁷ Where the medical evidence supports an aggravation or acceleration of an underlying condition precipitated by working conditions or injuries, such disability is compensable.⁸ However, the normal progression of untreated disease cannot be said to constitute "aggravation" of a condition merely because the performance of normal work duties reveal the underlying condition.⁹ For the conditions of employment to bring about an aggravation of preexisting disease, the employment must be such as to cause acceleration of the disease or to precipitate disability.¹⁰

ANALYSIS

Appellant contends that the walking and standing required during field work as an economic assistant aggravated the preexisting osteoarthritis of her left ankle. The Office

³ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁴ See *Paul E. Thams*, 56 ECAB 503 (2005).

⁵ See *Donald W. Wenzel*, 56 ECAB 390 (2005); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ See *Larry D. Dunkin*, 56 ECAB 220 (2004).

⁷ See *Thomas N. Martinez*, 41 ECAB 1006 (1990); *William D. Bryson*, 32 ECAB 860 (1981).

⁸ See *Grace K. Johnson*, 8 ECAB 547 (1956).

⁹ See *Glenn C. Chasteen*, 42 ECAB 493 (1991); *Sylvia E. Loomis*, 1 ECAB 18 (1947).

¹⁰ Compare *John Watkins*, 47 ECAB 597 (1996); *Helen Morgan (Willis R. Morgan)*, 6 ECAB 633 (1954); *Jerry Hall*, 6 ECAB 522 (1954).

accepted that her federal employment required extensive walking and standing, as alleged. The issue is whether the medical evidence establishes that appellant's federal employment aggravated her preexisting left ankle condition.

Dr. Bhansali, appellant's attending orthopedic surgeon, provided a report addressing the preexisting injury to her left ankle and subsequent development of post-traumatic osteoarthritis of the joint. He advised that she sought treatment on October 17, 2006 for increasing pain in the left ankle and physical examination revealed limitation of motion and crepitus. Although appellant provided a description of doing field work in which she experienced stiffness and swelling of the ankle, Dr. Bhansali did not address whether her work duties had aggravated or contributed to her osteoarthritis condition or to her disability for work. He did not explain how prolonged standing or walking in her employment would contribute to or accelerate the osteoarthritis of her left ankle joint. Dr. Bhansali noted that arthroscopic surgery was performed on January 17, 2007 but did not explain how her work activities caused or accelerated her condition and the need for surgery. He merely noted, post surgery, that her condition could get worse if she continued in her job. It is well established that the mere fact that a condition manifests itself during a period of employment does not raise an inference of causal relation.¹¹ Neither the fact that a condition became apparent during a period of employment nor the belief of the claimant that the condition was caused or aggravated by employment factors is sufficient to establish causal relation.¹² As noted, the aggravation of an underlying physical condition by employment factors must be established by probative medical opinion evidence. The Board finds that Dr. Bhansali did not provide a probative medical opinion on this issue. For this reason, appellant has not established that her federal employment aggravated her left ankle osteoarthritis.¹³

To the extent that appellant attributes her low back condition to factors of federal employment, the Board notes that she did not submit any medical evidence to support this aspect of her claim. In this respect, she has failed to establish a *prima facie* claim that her sedentary work caused or aggravated her lumbar spine condition.¹⁴ Although appellant submitted a statement contending that sitting at sedentary duty caused back pain, she did not submit any rationalized medical evidence addressing this issue. On October 12, 2007, the Office informed her of the additional evidence needed to support her claim; however, the record before the Board contains no medical evidence. Therefore, appellant failed to provide the factual and medical evidence required to establish a *prima facie* claim.¹⁵

¹¹ See *Roy L. Humphrey* 57 ECAB 238 (2005).

¹² *Id.*

¹³ The records from appellant's physical therapist do not constitute competent medical opinion in support of causal relation as a physical therapist is not a physician as defined under the Act. See 5 U.S.C. § 8101(2); *David P. Sawchuk*, 57 ECAB 316 (2005); *Jerre R. Rinehart*, 45 ECAB 518 (1994).

¹⁴ See *Donald W. Wenzel*, 56 ECAB 390 (2005).

¹⁵ See also *Richard H. Weiss*, 47 ECAB 182 (1995).

CONCLUSION

The Board finds that appellant has not established that factors of her federal employment aggravated her preexisting left ankle condition. Moreover, appellant did not establish a low back condition due to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the March 26, 2008 and November 20, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: November 18, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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