

from her delivery vehicle. She stopped work at the time of the injury and returned to limited duty on February 9, 2012.

In a February 6, 2012 duty status report (Form CA-17), Mandle E. Bagwell, a nurse practitioner, diagnosed a right ankle sprain sustained on February 3, 2012.

In a February 9, 2012 letter, OWCP advised appellant of the type of additional evidence needed to establish her claim, including a detailed factual statement identifying the employment factors alleged to have caused the claimed injuries, and a rationalized statement from her physician explaining how and why those factors would cause the claimed injuries. It noted that nurse practitioners were not qualified physicians under FECA. Appellant was afforded 30 days to submit such evidence.

Appellant submitted a February 9, 2012 form report from Giva Gunthers, a nurse practitioner, February 6, 2012 intake and insurance forms, and a February 6, 2012 x-ray report by Dr. Justin Hodge, a Board-certified diagnostic radiologist, noting moderate lateral soft tissue swelling of the right ankle without fracture or dislocation.

By decision dated March 22, 2012, OWCP denied appellant's claim on the grounds that causal relationship was not established. It accepted that the February 3, 2012 incident occurred at the time, place and in the manner alleged. However, appellant did not submit medical evidence explaining how and why the February 3, 2012 incident would cause the claimed ankle sprain.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

In order to determine whether an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether "fact of injury" has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident that is alleged to have occurred.⁵

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Gary J. Watling*, 52 ECAB 278 (2001).

Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

The medical evidence required to establish causal relationship is generally 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 medial 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.⁷

ANALYSIS

Appellant claimed that she sustained a right ankle sprain when stepping from her delivery vehicle on February 3, 2012. OWCP accepted that the February 3, 2012 incident occurred as alleged, but denied her claim on the grounds that she did not submit medical evidence establishing a causal relationship between that event and the claimed ankle sprain.

In support of her claim, appellant submitted form reports from two nurse practitioners. However, nurse practitioners are not considered physicians under FECA and their opinions are of no probative medical value.⁸ While Dr. Hodge is a Board-certified diagnostic radiologist, and therefore a physician under FECA, he did not submit an explanation of how the February 3, 2012 incident would cause any clinical findings such as the swelling he observed on x-ray. Therefore, his opinion is insufficient to meet appellant's burden of proof.⁹ As the insurance and intake forms do not address causal relationship, they are also insufficient to establish a medical connection between the accepted February 3, 2012 incident and the claimed injury.

The Board notes that OWCP advised appellant in a February 9, 2012 letter of the necessity of submitting medical evidence from a qualified physician explaining how and why the February 3, 2012 incident would cause the claimed injury. OWCP also advised appellant that nurse practitioners were not qualified physicians under FECA. However, appellant did not submit medical evidence from a physician supporting that stepping down from her delivery vehicle on February 3, 2012 caused the claimed right ankle sprain. Therefore, OWCP properly denied her claim.

⁶ *Deborah L. Beatty*, 54 ECAB 340 (2003).

⁷ *Solomon Polen*, 51 ECAB 341 (2000).

⁸ See *David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

⁹ *Deborah L. Beatty*, *supra* note 6.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established that she sustained a right ankle sprain in the performance of duty on February 3, 2012.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 22, 2012 is affirmed.

Issued: October 16, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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