

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

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**L.S., Appellant**

**and**

**U.S. POSTAL SERVICE, ALMEDA STATION,  
Houston, TX, Employer**

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**Docket No. 07-1715  
Issued: December 26, 2007**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On June 13, 2007 appellant filed a timely appeal from decisions of the Office of Workers' Compensation Programs' dated June 20, 2006 and March 12, 2007 which denied appellant's claim for compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction to review the merits of this case.

**ISSUE**

The issue is whether appellant established that she sustained an injury in the performance of duty causally related to factors of her federal employment.

**FACTUAL HISTORY**

On May 5, 2006 appellant, then a 39-year-old letter carrier, filed an occupational disease claim alleging pain in her feet as a result of constant walking in her federal employment. She first became aware of her condition on January 20, 2005 and that she first realized that her injury was caused or aggravated by her employment on May 2, 2006. In a letter dated May 5, 2006, appellant's supervisor indicated that on May 4, 2006 appellant reported to work with medical

documentation stating that she could only perform two hours of walking. She requested light-duty work until her doctor released her to full duty. The supervisor informed appellant and her union steward that there was no light-duty work available and that she would have to use leave as this was not an on-the-job injury. Later that day, appellant indicated that her doctor told her that the injury was job related and that she should not have to use leave. The supervisor indicated that appellant told her that she was advised to complete the forms for an on-the-job injury.

By letter dated May 18, 2006, the Office requested that appellant submit further information. The record contains a notation that appellant called the Office on May 24, 2006 and indicated that the date of injury was a mistake and that it should have been January 20, 2006.

In support of her claim, appellant submitted notes from Dr. Troy A. Millican, a family practitioner, dated May 2 and 4, 2006. On May 2, 2006 Dr. Millican asked that appellant be excused from working over two hours due to plantar fasciitis. On May 4, 2006 he indicated that appellant was treaded for “foot pain probably caused from constant walking” and that she was restricted from walking over two hours a day.

In a decision dated June 20, 2006, the Office denied appellant’s claim finding that the medical evidence did not establish that her foot condition was related to the established work-related activities.

On September 26, 2006 appellant requested reconsideration. She submitted a June 16, 2006 note from Dr. Millican who noted that appellant originally saw him on May 2, 2006 complaining of foot pain bilaterally but worse on the right. Appellant informed the physician that the pain had been going on for a week or two and was exacerbated by walking. Dr. Millican’s examination of the lower extremities revealed no tenderness and appellant had a normal neurological examination. He listed his impression as plantar fasciitis, improved. Dr. Millican noted: “This was, I feel, caused by prolonged walking which was a contributing factor with work as a mail carrier.” He recommended that appellant gradually increase the amount of time she spends per day walking.

By decision dated March 12, 2007, the Office denied modification of the June 20, 2006 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>1</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>2</sup> These are the essential

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each and every 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.<sup>4</sup> 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 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

In the instant case, the Office denied appellant's claim based on the absence of rationalized medical evidence supporting a causal relationship between appellant's foot condition and her employment. In notes dated May 2 and 4, 2006, Dr. Millican indicated that appellant had plantar fasciitis which was probably caused from constant walking in her employment as a letter carrier. However, his opinion was not fully explained and stated in a speculative manner, noting that appellant's plantar fasciitis was probably due to the walking she performed as a mail carrier. The lack of a rationalized report relating her condition to her employment is detrimental to her claim. Appellant has failed to provide rationalized medical evidence in support of her claim. Although he noted that appellant's employment was a contributing factor to her plantar fasciitis, he did not provide adequate medical reasoning to explain the medical basis of why the diagnosed condition was caused or aggravated by the implicated employment factors. Dr. Millican did not provide a full history of appellant's symptoms or address her history of employment.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment, nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.<sup>6</sup> Causal relationship must be established by

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<sup>3</sup> *Victor D. Woodhams*, 41 ECAB 345 (1989).

<sup>4</sup> *Daniel O. Vasquez*, 57 ECAB \_\_\_ (Docket No. 06-568, issued May 5, 2006).

<sup>5</sup> *Solomon Polen*, 51 ECAB 341 (2000).

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

rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office, therefore, properly denied her claim for compensation.

**CONCLUSION**

The Board finds that appellant failed to establish that she sustained an injury in the performance of duty causally related to factors of her federal employment.<sup>7</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated March 12, 2007 and June 20, 2006 are affirmed.

Issued: December 26, 2007  
Washington, DC

Alec J. Koromilas, Chief 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>7</sup> The Board notes that, subsequent to the Office's March 12, 2007 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952).