United States Department of Labor
Employees' Compensation Appeals Board

CAROLYN D. WHITT, Appellant	)	
and	)	**Docket No. 05-993**
	)	**Issued: July 25, 2005**
U.S. POSTAL SERVICE, POST OFFICE, Cleveland, OH, Employer	)	

Appearances:
Carolyn D. Whitt, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 25, 2005 appellant filed a timely appeal from the Office of Workers' Compensation Programs' decision dated January 12, 2005, denying her claim for an occupational disease. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merit and nonmerit decisions in this case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that she sustained an occupational foot condition in the performance of duty.

FACTUAL HISTORY

On August 2, 2004 appellant, then a 41-year-old letter carrier, filed an occupational disease claim alleging that she had a blister on her right foot, which became infected and turned into an ulcer, due to walking required by her job. She first became aware of the injury and its relation to her work on July 15, 2004. Appellant did not stop work. In an undated statement, appellant explained that, on July 14, 2004, she was exiting her vehicle to deliver mail when she stepped awkwardly and landed on the side of her right foot. She alleged that it was painful to walk on her foot; however, she took pain medication and continued to work. Appellant indicated

that her right foot became so painful on July 16, 2004, that she had to leave work early to seek medical attention. She alleged that the blister subsequently became infected which necessitated surgery.

In support of her claim, appellant submitted a July 22, 2004 x-ray of the right foot, read by Dr. Mark Robbin, a Board-certified diagnostic radiologist, which revealed no evidence of osteomyelitis. In reports dated July 22 and 27 and August 2, 2004, Dr. Joan E. Schiller, a podiatrist, determined that appellant had an infection of the fifth digit of the right foot and performed a debridement of the ulcer. She also submitted a laboratory report dated July 22, 2004, which indicated a gram stain was positive for mixed bacteria including cocci and pleomorphic bacilli. A separate laboratory report dated July 25, 2004 was positive for staphylococcus.

In an October 1, 2004 report, Dr. William E. Donahue, Jr., a podiatrist, noted appellant's history of injury and treatment. He indicated that she was an insulin-dependent diabetic with peripheral vascular disease and an incision and drainage with debridement and curettage of the infected tissue was performed on the fourth interspace of the right foot. The physician advised that appellant's ulcer and surrounding soft tissue had healed and her cellulitis had resolved. Dr. Donahue also indicated that appellant had a deformed and rotated rigid fifth toe of the right foot which would cause a recurrence of the condition if she did not have additional surgery in the future. He also indicated that, once appellant received orthotic shoes, she could return to regular duty, if they fit properly.

In an attending physician's report dated November 3, 2004, Dr. Donahue diagnosed diabetes and an infection. He checked the box "no" in response to whether he believed the condition was caused or aggravated by an employment activity and advised that appellant's condition required hospitalization. Dr. Donahue filled in the dates of September 8 to October 28, 2004 for the period of total disability and advised that appellant could return to work on October 28, 2004. In an undated disability certificate, Dr. Donahue filled in "patient's job did not contribute to her podiatric condition."

By letter dated November 19, 2004, the Office requested additional factual and medical evidence from appellant.

Appellant submitted treatment notes and an operative report from Dr. Donahue regarding a wound on the fourth interspace and cellulitis dating from August 2 to December 2, 2004. On August 4, 2004 Dr. Donahue advised that "there is nothing compatible with this infection that would be compatible with the work-related injury." In an August 8, 2004 report, Dr. Vijay Mistry, Board-certified in internal medicine, diagnosed diabetes with hyperglycemia, hypertension, a nonhealing ulcer on the right foot, history of diverticulitis and post partial colectomy, obesity and hyperlipidemia. He did not address the issue of causal relationship.

By decision dated January 12, 2005, the Office denied appellant's claim finding that she had not submitted sufficient medical evidence to support a causal relationship between her condition and employment factors in support of her claim.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act[1] 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.[2] 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.[3]

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 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.[4]

ANALYSIS

Appellant alleged that her foot condition was caused or aggravated by the walking required by her job. She also noted that, while delivering mail on July 14, 2004, she stepped out of her vehicle awkwardly and landed on the right side of her foot. These work activities are not disputed. The Office denied the claim finding that the medical evidence did not sufficiently relate appellant's diagnosed right foot condition to the claimed events. The Board finds that appellant has submitted insufficient medical evidence to establish that her right foot condition was caused or aggravated by the incident when she stepped out of her vehicle and landed on the right side of her foot or to any other factors of her federal employment.

[1] 5 U.S.C. §§ 8101-8193.

[2] *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[3] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[4] *Id.*

The medical records contain no discussion by a physician explaining how walking in appellant's employment would have caused or contributed to her foot condition or aggravated a preexisting medical condition. Dr. Donahue specifically advised that appellant's right foot condition was not caused by factors of her employment. In an undated disability certificate, Dr. Donahue filled in "patient's job did not contribute to her pediatric condition." In an August 4, 2004 treatment note, Dr. Donahue stated that "there is nothing compatible with this infection that would be compatible with the work-related injury." In a November 3, 2004 attending physician's report, Dr. Donahue also opined that appellant's condition was not employment related. These reports do not support appellant's claim that the walking required in her federal employment caused or contributed to her diagnosed right foot condition.

The record contains additional reports; however, they do not contain a rationalized medical opinion explaining the cause of appellant's right foot condition or how specific factors of her federal employment contributed to her condition. The Office informed appellant of the deficiencies in the medical evidence of record and the evidence needed to establish her claim in a letter dated November 19, 2004.

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.[5] 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.[6] Appellant has not submitted reasoned medical evidence explaining how her right foot condition was caused or aggravated by her federal employment. She has not met her burden of proof in establishing her claim.

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.

[5] *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

[6] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 12, 2005 is affirmed.

Issued: July 25, 2005
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