

¹ The Office had previously accepted a 1996 left foot bunion (hallux valgus-acquired) under claim number 06-0667956. Appellant's podiatrist, Dr. Frank A. Ognibene, initially diagnosed left foot osteoarthritis on November 12, 1998.

surgical procedures between August 1995 and August 2001. On November 16, 2005 appellant filed a claim for compensation (Form CA-7) for the period October 25 to November 8, 2005 under claim number 06-0667956. However, on September 26, 2006 she refiled her Form CA-7 under the current claim number (06-2154558). Dr. Ognibene, appellant's podiatrist, provided a November 8, 2005 work certificate indicating that she was excused from work during the period October 24 to November 8, 2005. He also noted that appellant was able to resume light-duty work on November 9, 2005, with limited walking and standing.² On October 23, 2006 the Office advised appellant that she needed to submit medical evidence establishing her disability for work for the entire period claimed. The Office subsequently received another copy of Dr. Ognibene's November 8, 2005 return to work certificate.

In a decision dated January 9, 2007, the Office denied appellant's claim for wage-loss compensation for the period October 25 to November 8, 2005.

Appellant requested reconsideration on January 18, 2007. She explained that she had undergone foot surgery and was off work until November 9, 2005. Appellant also requested an oral hearing on January 18, 2007. She later clarified that she wanted a hearing rather than reconsideration before the Office. However, appellant missed her scheduled hearing and the Office instead conducted a review of the written record.

In a June 14, 2007 letter, Dr. Ognibene indicated that he had performed foot surgery on October 24, 2005 for correction of a hammertoe and exostosis. He also noted that under his advisement appellant remained off work from October 24 to November 8, 2005.

By decision dated July 19, 2007, the Office hearing representative denied appellant's claim for wage-loss compensation for the period October 25 to November 8, 2005. The hearing representative found that appellant had not established that her absence from work during the claimed period was due to her accepted condition of left foot osteoarthritis or otherwise employment related.

LEGAL PRECEDENT

A claimant has the burden of establishing the essential elements of her claim, including that the medical condition for which compensation is claimed is causally related to the claimed employment injury.³ For wage-loss benefits, the claimant must submit medical evidence showing that the condition claimed is disabling.⁴ The evidence submitted must be reliable, probative and substantial.⁵

² The employing establishment indicated that appellant returned to full-time, limited-duty work on November 9, 2005.

³ 20 C.F.R. § 10.115(e) (2007); see *Tammy L. Medley*, 55 ECAB 182, 184 (2003).

⁴ 20 C.F.R. § 10.115(f).

⁵ 20 C.F.R. § 10.115.

ANALYSIS

Appellant was off work from October 25 to November 8, 2005 recuperating from foot surgery she underwent on October 24, 2005. Dr. Ognibene confirmed that he performed foot surgery on October 24, 2005 for correction of a hammertoe and exostosis. And it was on his advice that appellant remained off work until November 9, 2005. What is absent from the record, however, is any indication that the October 24, 2005 surgery was related to appellant's accepted condition of left foot osteoarthritis. Dr. Ognibene did not indicate which foot he operated on and he did not specifically relate the October 24, 2005 surgery to appellant's accepted condition. Both the November 8, 2005 return to work certificate and Dr. Ognibene's June 14, 2007 letter fail to address the issue of causal relationship. Thus, the record is devoid of any medical evidence linking appellant's claimed disability to her accepted employment injury of August 8, 2001.

CONCLUSION

Appellant did not establish entitlement to wage-loss compensation for the period October 25 to November 8, 2005.

ORDER

IT IS HEREBY ORDERED THAT the July 19, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 19, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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