



meet her burden of proof to establish that she sustained a recurrence of disability on February 26, 2005 causally related to her accepted bilateral plantar fasciitis and heel spurs. In a June 13, 2008 decision, the Board also affirmed OWCP's decision finding that appellant did not meet her burden of proof to establish that she sustained a recurrence of disability beginning February 26, 2005.<sup>3</sup> The facts of the case as set forth in the Board's prior decision are incorporated herein by reference.<sup>4</sup>

On August 16, 2011 appellant through her attorney requested reconsideration. She submitted reports from Dr. Joseph DeMayo, a Board-certified family practitioner, dated June 16 to August 18, 2011. In his June 16, 2011 report, Dr. DeMayo noted treating appellant conservatively for bilateral foot pain for years. He noted that appellant had difficulty walking and could not stand for any length of time due to pain and recommended surgery. Dr. DeMayo diagnosed plantar fasciitis, tendinitis, bilateral tarsal tunnel syndrome, bilateral plantar compression nerve damage and bilateral heel spurs. On July 21 and August 18, 2011 he requested approval for bilateral foot surgery. Dr. DeMayo noted that appellant experienced severe foot pain when standing and walking. He diagnosed plantar fasciitis, tendinitis and bilateral heel spurs and recommended surgical intervention. Dr. DeMayo opined that this injury was work related which consisted of standing in one spot and walking on hard surfaces. He noted that appellant was out of work for treatment, returned and experienced unbearable pain and stopped working again.

In a decision dated November 15, 2011, OWCP denied modification of its prior decision.

### **LEGAL PRECEDENT**

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>5</sup>

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<sup>3</sup> Docket No. 08-181 (issued June 13, 2008).

<sup>4</sup> OWCP accepted appellant's claim for bilateral plantar fasciitis and heel spurs. Appellant returned to a light-duty position on December 24, 2004 as a distribution clerk. She stopped work on February 26, 2005 and filed a claim for a recurrence of disability alleging that she experienced pain in both feet causally related to her accepted work injury. Appellant has not submitted sufficient evidence to support a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements. The record contains no evidence substantiating that there was a change in the nature and extent of the light-duty requirements or that she was required to perform duties which exceeded her medical restrictions.

On May 17, 2005 OWCP referred appellant for a second opinion to Dr. Iqbal Ahmad, a Board-certified orthopedic surgeon. In a June 7, 2005 report, Dr. Ahmad noted an essentially normal physical examination. He opined that appellant's accepted conditions of sprain of both feet, plantar fasciitis and heel spurs resolved and she did not currently have any acute orthopedic condition. Dr. Ahmad noted that appellant reached maximum medical improvement and could return to her regular job, full time without restrictions. He advised that there was no need for further medical treatment or therapy.

<sup>5</sup> *Terry R. Hedman*, 38 ECAB 222 (1986). See 20 C.F.R. § 10.5(x) for the definition of a recurrence of disability.

Causal relationship is a medical issue,<sup>6</sup> and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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>7</sup>

### ANALYSIS

Appellant submitted reports from Dr. DeMayo, who treated her for bilateral heel pain and plantar fasciitis. In reports dated July 21 and August 18, 2011, Dr. DeMayo noted diagnoses and treatment recommendations. He opined that appellant's condition was work related and consisted of standing in one spot and walking on hard surfaces. Dr. DeMayo noted that she was out of work for treatment, returned and experienced unbearable pain and stopped working again. However, his report is conclusory and insufficient to establish appellant's claim as he did not provide a rationalized opinion explaining the reasons why her recurrent condition and disability was due to the accepted work injury.<sup>8</sup> Dr. DeMayo failed to note a specific date of a recurrence of disability and did not note a particular change in the nature of appellant's physical condition, arising from the employment injury, which prevented her from performing her light-duty position. In his June 16, 2010 report, he did not specifically address whether appellant sustained a work-related recurrence of disability beginning February 26, 2005.<sup>9</sup>

The Board finds that Dr. DeMayo's reports are insufficient to establish appellant's claim for a recurrence of disability as he did not provide a rationalized opinion explaining the reasons why her disability beginning February 26, 2005 was due to the accepted work injury.

Appellant has not met her burden of proof in establishing that there was a change in the nature or extent of the injury-related condition or a change in the nature and extent of the light-duty requirements, which would prohibit her from performing the light-duty position she assumed after she returned to work.

On appeal, appellant asserts that the medical evidence submitted from Dr. DeMayo establish her claim of a recurrence of disability on February 26, 2005. However, the Board on the present appeal and in prior appeals has found that Dr. DeMayo's reports do not provide a rationalized medical opinion explaining why her claimed recurrent condition was due to the accepted work injury. There also is no contemporaneous evidence of record establishing such assertions. Appellant further asserted that there was a conflict of opinion between Drs. DeMayo

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<sup>6</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>7</sup> *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>8</sup> *See Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>9</sup> *See S.E.*, Docket No. 08-2214 (issued May 6, 2009) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

and Dr. Ahmed, the second opinion physician. However, as noted, Dr. DeMayo's reports are of diminished probative value and not sufficient to create a medical conflict.<sup>10</sup>

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 met her burden of proof in establishing that she sustained a recurrence of disability beginning February 26, 2005.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 15, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 16, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

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

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

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<sup>10</sup> See *John D. Jackson*, 55 ECAB 465 (2004) (a simple disagreement between two physicians does not, of itself, establish a conflict; to constitute a conflict of medical opinion, the opposing physicians' reports must be of virtually equal weight and rationale).