



stairs on her mail route. Appellant noted that she was assigned to office work from July 25 to 31, 2003 and that she felt fine until she started to deliver mail.

On September 5, 2003 the Office determined that appellant was claiming an occupational injury and developed the claim as an occupational disease claim with August 4, 2003 as the date of injury. The Office noted that appellant returned to her regular carrier duties on August 1, 2003 and that she described employment factors beginning August 1, 2003 as the cause of her condition.

In support of her claim, appellant submitted duty status reports (Form CA-17), dated August 4 and 7, 2003 by Dr. Peter H. Gaggos, an attending Board-certified osteopath specializing in family practice and an employing establishment time and attendance report dated August 11, 2003. Dr. Gaggos noted July 25, 2003 as the date of injury, which occurred when appellant felt pain in her right foot. He restricted appellant to no work for one week and stated that she could return on August 11, 2003. On August 7, 2003 Dr. Gaggos restricted appellant to inside work for two weeks and no climbing of stairs. The physician noted July 25, 2003 as the date of injury and that the injury occurred when appellant felt pain in her right foot while she was walking.

In a letter dated September 10, 2003, the Office requested appellant to submit additional information in support of her claim, including a medical report and opinion from a physician, supported by medical reasons, describing the history of the alleged work incident and indicating how the reported work incident caused or aggravated the claimed conditions. The Office gave appellant 30 days to submit additional evidence.

Appellant subsequently submitted an accident report and a September 29, 2003 duty status report by Dr. Gaggos who noted August 4, 2003 as the date of injury and diagnosed a sprained right foot due to delivering mail. He indicated that she could return to her regular work. In the accident report, appellant related that while delivering mail her right foot, which she had previously sprained, started to hurt. At this point she stopped delivering mail, returned to the office and went to see her physician.

In an October 16, 2003 decision, the Office denied appellant's claim, finding that the evidence submitted by appellant failed to establish that she sustained an injury under the Federal Employees' Compensation Act. Specifically, the medical evidence failed to diagnose a medical condition causally related to factors of employment identified by appellant.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Act<sup>2</sup> has the burden of establishing the essential elements of 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

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

related to the employment injury.<sup>3</sup> 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.<sup>4</sup>

To establish that an injury was sustained in the performance of duty, appellant must submit the following: (1) medical evidence establishing the presence or existence of the condition, for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the 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>5</sup> The medical evidence required to establish causal relationship, generally is rationalized medical 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 appellant'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 appellant.<sup>6</sup>

The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.<sup>7</sup>

### ANALYSIS

The Board notes that the Office properly developed this claim as a new occupational claim rather than a recurrence of disability claim as filed by appellant. A "recurrence of disability" means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>8</sup> The Office has defined "occupational disease or illness" to mean a condition caused by the work environment over a period longer than a single workday or shift.<sup>9</sup>

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<sup>3</sup> *Allen C. Hundley*, 53 ECAB \_\_\_\_ (Docket No. 02-107, issued May 17, 2002).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Donna L. Mims*, 53 ECAB \_\_\_\_ (Docket No. 01-1835, issued August 13, 2002).

<sup>6</sup> *Patricia J. Glenn*, 53 ECAB \_\_\_\_ (Docket No. 01-65, issued October 12, 2001); *Claudio Vazquez*, 52 ECAB 496 (2001).

<sup>7</sup> *Lucrecia M. Nielsen*, 42 ECAB 583, 593 (1991); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

<sup>8</sup> 20 C.F.R. § 10.5(x) (2002).

<sup>9</sup> 20 C.F.R. § 10.5(q) (2002).

The Office procedures state that a recurrence of disability includes a work stoppage caused by a spontaneous material change, demonstrated by objective findings, in the medical condition that resulted from a previous injury or occupational illness without an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured. Office procedures further state: "If a new work-related injury or exposure occurs, Form CA-1 [notice of traumatic injury] or Form CA-2 [notice of occupational disease or illness] should be completed accordingly."<sup>10</sup> In the instant case, appellant attributed her condition to walking up and down stairs on her mail route. Appellant had been assigned to office work from July 25 to 31, 2003 and returned to her regular carrier duties on August 1, 2003. Appellant also related she felt fine until she returned to her usual duties as a city carrier and noted August 4, 2003, as the beginning date of her disability. Thus, the Office properly followed its procedures and developed appellant's claim as an occupational disease since appellant attributed the condition to new occupational exposures of walking up and down stairs on her mail route and the aggravation did not occur in a single workday as she had returned to usual duties on August 1, 2003.

The issue then is whether appellant sustained an injury in the performance of duty. In the present case, appellant did not submit sufficient medical evidence in support of her claim for compensation based on her claimed right foot sprain. The Office advised appellant of the type of evidence required to establish her claim, however, appellant failed to submit such evidence. She failed to submit a rationalized medical opinion relating the cause of the alleged conditions to factors of her federal employment.<sup>11</sup> The only evidence of record at the time of the October 16, 2003, decision, were the duty status forms completed by Dr. Gaggos, an accident report for August 4, 2003 and an August 11, 2003 time and attendance report. The reports of Dr. Gaggos, diagnosed a right foot sprain and noted July 25, 2003 as the date of injury. The September 29, 2003 report indicates an August 4, 2003 date of injury with a diagnosis of foot sprain, which the physician attributed to delivering mail.

The medical record in this case lacks a well-reasoned narrative from a physician relating appellant's right foot condition to walking up and down stairs, which appellant first noticed on August 4, 2003 after returning to delivering mail on August 1, 2003. Dr. Gaggos restricted appellant to no work for one week in his August 4, 2003 report. He noted the date of injury as July 25, 2003 and described the injury as occurring when appellant felt pain in her right foot while walking. In his August 11, 2003 report, the physician restricted appellant to no climbing stairs and inside work for two weeks. Regarding how the injury occurred, he noted that appellant felt pain in her right foot while she was walking and noted the date of injury as July 25, 2003. The September 29, 2003 duty status reports by Dr. Gaggos, attributed appellant's condition to delivering mail, but did not explain how the injury was caused by appellant's employment.

Accordingly, as appellant failed to submit any probative, rationalized medical evidence in support of a causal relationship between her claimed condition and factors or incidents of employment, the Office properly denied appellant's claim for compensation.

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<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b (January 1995).

<sup>11</sup> *William C. Thomas*, 45 ECAB 591 (1994).

**CONCLUSION**

The Board finds that the Office properly found that appellant failed to establish that she sustained an injury in the performance duty

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 16, 2003 is affirmed.

Issued: April 21, 2004  
Washington, DC

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member