

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

TRUDY K. MEYER, Appellant

and

**U.S. POSTAL SERVICE, MAIL PROCESSING
ANNEX, Indianapolis, IN, Employer**

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**Docket No. 04-1597
Issued: October 22, 2004**

Appearances:
Trudy K. Meyer, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On June 7, 2004 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated May 25, 2004, which denied her occupational injury claim. Pursuant to 20 C.F.R. §§ 501.2 and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury causally related to factors of her federal employment.

FACTUAL HISTORY

On April 12, 2004 appellant, then a 54-year-old mail processing clerk, filed an occupational disease claim alleging that she developed pain and soreness on top of her right foot as a result of her employment. Appellant stated that she first became aware of her condition on February 23, 2004, but first realized the alleged injury was caused or aggravated by her employment on March 24, 2004, when she reported the condition to her supervisor. Appellant

further reported that her right foot condition “did not occur on a certain day” but rather that “it has gradually gotten worse”; that “it feels much better after being off the work room floor”; and that, as soon as she returns to work, “the pain increases and it hurts to walk.”

Appellant submitted several documents, including the following: an unsigned treatment statement dated March 24, 2004 from Concentra Health Services, which reflected that she received treatment for a “new work-related injury” at their clinic on March 24, 2004; an unsigned physician activity status report from Concentra Health Services, dated March 24 2004, which indicated that appellant’s treating provider was Stephanie J. Nelson, P.A., and the stated diagnosis was “ankle/foot pain”; an unsigned physician activity status report from Concentra Health Services, dated March 26, 2004, which indicated that appellant’s treating provider was Sharon J. Crane, N.P., and the stated diagnosis was “ankle/foot pain”; a U.S. Department of Labor duty status report, dated March 24, 2004, signed by “S Nelson PAC,” which included “Employee states walking on cement floor is hurting foot”; undated notes written by appellant, which represented that her right foot was “tender” and had been so for a month and reiterated appellant’s belief that the cement floors “aggravate the pain and make it throb.”

By letter dated April 14, 2004, Linda R. Reid, an injury compensation specialist, of the employing establishment contended that appellant’s medical documentation failed to show a causal relationship between appellant’s claimed condition and her employment.

By letter dated April 20, 2004, the Office notified appellant that the information submitted was insufficient to substantiate her claim and requested additional factual information. Appellant was requested to provide, within 30 days, a detailed description of the employment-related activities which we believed contributed to her condition. The letter requested that appellant obtain from her physician an explanation as to how exposure or incidents in her federal employment contributed to her alleged condition.

On April 28, 2004 appellant submitted an undated, handwritten letter, in which she stated that she was experiencing “severe pain,” which began in February and “just kept getting worse,” her work schedule and a brief description of her outside activities, which included gardening and reading. No further medical reports were forthcoming. The Office also received copies of appellant’s original employment application and position description, as well as a statement dated June 30, 1988 regarding a traffic ticket.

By decision dated May 25, 2004, the Office denied appellant’s claim for compensation on the grounds that the evidence was not sufficient to establish that she sustained an injury, as alleged. The Office found that, although there was evidence to support that the claimed events occurred, there was no medical evidence of record which provided a firm diagnosis or doctor’s reasoned medical opinion as to causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that an injury

¹ 5 U.S.C. §§ 8101-8193.

was sustained in the performance of duty as alleged,² and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.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 the 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 diagnosed condition is causally related to the employment factors identified by the claimant.⁴ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to the claimant's diagnosed condition. To be of probative value, 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.⁵

The Board has consistently held that unsigned medical reports are of no probative value⁶ and that any medical evidence upon which the Office relies upon to resolve an issue must be in writing and signed by a qualified physician.⁷ Lay individuals such as physicians' assistants, nurse practitioners and social workers are not competent to render a medical opinion.⁸ An award of compensation may not be based on appellant's belief of causal relationship. Neither the fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.⁹ Furthermore, the Board has held that a diagnosis of "pain" does not constitute the basis for the payment of compensation.¹⁰

² *Joseph W. Kripp*, 55 ECAB ____ (Docket No. 03-1814, issued October 3, 2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001) (when an employee claims that he sustained injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury); *see also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(q) and (ee) (2002) ("occupational disease or illness" and "traumatic injury" defined).

³ *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

⁴ *Michael R. Shaffer*, 55 ECAB ____ (Docket No. 04-233, issued March 12, 2004); *see also Solomon Polen*, 51 ECAB 341, 343 (2000).

⁵ *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

⁶ *Merton J. Sills*, 39 ECAB 572, 575 (1988).

⁷ *James A. Long*, 40 ECAB 538, 541 (1989).

⁸ *Janet L. Terry*, 53 ECAB ____ (Docket No. 00-1673, issued June 5, 2002).

⁹ *Phillip L. Barnes*, 55 ECAB ____ (Docket No. 02-1441, issued March 31, 2004); *see also Dennis M. Mascarenas*, *supra* note 3 at 218.

¹⁰ *See Robert Broome*, 55 ECAB ____ (Docket No. 04-93, issued February 23, 2004).

ANALYSIS

In the instant case, appellant did not provide the factual and medical evidence to establish a *prima facie* claim for a condition arising from the performance of duty. Appellant alleged in her CA-2 claim form that she experienced pain and soreness on top of her right foot. Standing alone, appellant's allegation of pain, coupled with her belief that the condition was caused by factors relating to her employment, is insufficient to constitute a basis for the payment of compensation.¹¹ Neither does the record reflect medical evidence establishing the presence or existence of the condition for which appellant claims compensation.

The medical evidence presented does not provide sufficient facts or a rationalized medical opinion to establish that appellant sustained a right foot condition in the performance of duty that was causally related to her employment. Evidence which includes a medical report is necessary to establish that the condition for which appellant claimed she sought treatment was related to her employment.¹² Because they are unsigned, the treatment statement and physician activity status reports in the record are of no probative value.¹³ The duty status report is similarly lacking in probative value because it was not signed by a physician.

There is no medical evidence of record that appellant did sustain a diagnosed medical condition. There is no medical evidence of record which explains the physiological process by which appellant's work activities would have caused her claimed right foot condition.¹⁴

The Office advised appellant that it was her responsibility to provide, among other things, a comprehensive medical report from her treating physician which described her symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of her condition. The Office specifically advised appellant to secure an explanation from her physician as to how exposure or incidents in her federal employment contributed to her alleged condition. Appellant failed to submit any medical documentation in response to the Office's request within the allotted time, such as a report from the doctor who treated her.¹⁵ There is no medical evidence in the record which addresses the issue of causal relationship. Therefore, the Office properly denied appellant's claim for benefits under the Act.

CONCLUSION

Appellant has failed to meet her burden of proof that she sustained an injury in the performance of duty.

¹¹ See *Robert Broome*, *supra* note 10.

¹² See *Solomon Polen*, *supra* note 4.

¹³ See *Merton J. Sils*, *supra* note 6.

¹⁴ While the documents of record indicate that appellant was seen by a nurse practitioner and a physician's assistant, there is no evidence of record from a "physician" as defined by 5 U.S.C. § 8101.

¹⁵ Subsequent to the Office's May 25, 2004 decision, appellant submitted a medical history dated June 30, 1988. The Board's review is limited to the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). The Board, therefore, cannot consider the evidence submitted after the Office's decision.

ORDER

IT IS HEREBY ORDERED THAT the May 25, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 22, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member