

employing establishment noted that she stopped work on March 14, 2005 after receiving disciplinary action. Appellant filed three occupational disease claims since stopping work.

On October 5, 2006 the Office requested additional factual and medical information from appellant, including a detailed factual statement describing the work factors which she believed caused her condition and a rationalized medical opinion addressing the relationship of any diagnosed condition and her federal employment. In a report dated August 1, 2006, Dr. Mary L. Durand, a podiatrist, described her treatment of appellant in June and July 2004 for bilateral heel and arch pain. She diagnosed “severe plantar fasciitis and calcaneal bursitis, left more than right.” Dr. Durand noted that appellant’s work duties included standing and walking on hard surfaces throughout the day. An x-ray obtained on July 20, 2004 showed a moderate plantar heel spur and an ultrasound examination revealed inflamed plantar fascia of the left heel. Dr. Durand found that appellant should limit her time on hard surfaces and not work over eight hours per day. She treated her with physical therapy, orthotics and cortisone injections. Dr. Durand stated, “My conclusion was that [appellant’s] bilateral severe plantar fasciitis and calcaneal bursitis were directly related to her work on hard surfaces while in the course of her employment with the [employing establishment].”

By decision dated December 5, 2006, the Office denied appellant’s occupational disease claim. The Office found that she did not establish the work factors alleged to have caused her condition. The Office additionally noted that appellant failed to provide rationalized medical evidence showing that she was unable to work beginning March 14, 2005.

In a statement received by the Office on December 5, 2006, appellant related that she stood and walked on concrete floors at work throughout her 20 years of employment. She described the medical treatment she received and noted that her condition improved after she stopped work in March 2005.

On December 12, 2006 appellant, through her attorney, requested an oral hearing. At the hearing, held on May 9, 2007, appellant related that she did not stop work in 2005 because of her bilateral foot condition. She claimed medical treatment rather than compensation for disability. Appellant did not receive treatment for her feet after August 2004. She used whirlpool machines and orthotics for her condition. Appellant delayed filing a claim because she feared retaliation. Subsequent to the hearing, she submitted chart notes from Dr. Durand dated June and July 2004. In an August 9, 2004 referral form, Dr. Durand noted that she was treating appellant for heel pain, plantar fasciitis and a heel spur.

By decision dated July 16, 2007, the hearing representative affirmed the December 5, 2006 decision as modified to show that appellant had established the occurrence of the work factors to which she attributed her condition. She found that the medical evidence did not establish a causal relationship between a diagnosed condition and the identified employment factors.

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 the individual is an "employee of the United States" within the meaning of the Act, that the claim was filed within the applicable time limitation; that an injury was sustained while 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 on 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;⁴ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁵ and (3) medical evidence establishing 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.⁶

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.⁷ The opinion of the physician must be based on a complete factual and medical background of the claimant,⁸ must be one of reasonable medical certainty⁹ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

¹ 5 U.S.C. §§ 8101-8193.

² *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *See Ellen L. Noble*, 55 ECAB 530 (2004).

⁴ *Michael R. Shaffer*, 55 ECAB 386 (2004).

⁵ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁶ *Beverly A. Spencer*, 55 ECAB 501 (2004).

⁷ *Conard Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ *Judy C. Rogers*, 54 ECAB 693 (2003).

ANALYSIS

Appellant attributed her bilateral heel spurs, bursitis and plantar fasciitis to standing and walking on concrete floors during the course of her federal employment. The Office accepted the occurrence of the claimed employment factors. The issue, therefore, is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified employment factors.

In a report dated August 1, 2006, Dr. Durand described her treatment of appellant in June and July 2004 for heel and arch pain of both feet. She diagnosed severe plantar fasciitis and calcaneal bursitis bilaterally, worse on the left side. Dr. Durand described appellant's walking and standing on hard surfaces at work. She opined that appellant should limit her time on hard surfaces and not work overtime. Dr. Durand asserted that appellant's "bilateral severe plantar fasciitis and calcaneal bursitis were directly related to her work on hard surfaces while in the course of her employment with the [employing establishment]." She did not, however, provide any rationale for her opinion. A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant's burden of proof.¹¹

Appellant submitted chart notes dated June and July 2004 from Dr. Durand.¹² In an August 9, 2004 referral form, Dr. Durand diagnosed heel pain, plantar fasciitis and a heel spur. She did not, however, address the cause of the diagnosed conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.¹³

On appeal, appellant's attorney contends that the August 1, 2006 report from Dr. Durand was sufficient to either establish causal relationship or to require further development of the evidence. An award of compensation, however, may not be based on surmise, conjecture, speculation or upon a claimant's own belief that there is a causal relationship between her claimed condition and her employment.¹⁴ Appellant must submit a physician's report in which the physician reviews those factors of employment identified by her as causing her condition and, taking these factors into consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his or her opinion.¹⁵ Appellant failed to submit such evidence and therefore failed to discharge her burden of proof.

¹¹ See *Beverly A. Spencer*, *supra* note 6.

¹² The chart notes are handwritten and difficult to read.

¹³ *Conard Hightower*, *supra* note 7.

¹⁴ *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹⁵ *Robert Broome*, 55 ECAB 339 (2004).

CONCLUSION

The Board finds that appellant has not established that she sustained a bilateral foot condition causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated July 16, 2007 and December 5, 2006 are affirmed.

Issued: May 16, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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