

In a May 22, 2009 letter, the Office notified appellant that the evidence submitted was insufficient to establish her claim and advised her as to the evidence needed to establish her claim.

In a May 26, 2009 note, Dr. Jacob Salomon, a surgeon, diagnosed recurrent plantar fasciitis of the left foot. Appellant also provided May and June 2009 disability certificates from Dr. Salomon advising that she was unable to work intermittently due to plantar fasciitis and “left foot/heel and calf tendinitis.”

By decision dated July 15, 2009, the Office denied appellant’s claim on the grounds that the medical evidence did not demonstrate that her claimed condition was caused by work-related activity.

On August 12, 2009 appellant requested a review of the written record.

In a July 13, 2009 treatment note, Dr. Malcolm Herzog, a podiatrist, commented that appellant pushed and unloaded 70-pound mail containers and bags at work in 2005 and was diagnosed with plantar fasciitis of the left foot. Appellant underwent left foot neuroma surgery on January 12, 2008 and continued to feel pain in the same area. She asserted that the pain forced her to shift her bodyweight, leading to aggravated muscles and cramps in the calf. Appellant did not work in the past two weeks.

A July 20, 2009 magnetic resonance imaging (MRI) scan of appellant’s left ankle joint performed by Dr. Amjad Safvi, a Board-certified diagnostic radiologist, revealed a predominantly intermediate signal abnormality measuring along the plantar aspect of the plantar fascia at its calcaneal attachment, suggestive of plantar fibromatosis. A July 20, 2009 MRI scan of appellant’s left foot performed by Dr. Safvi revealed marginal osteophyte formation from the articular sides of the head of the first metatarsal and the adjacent base of proximal phalanx of the great toe, suggestive of degenerative osteoarthritis.

In a July 30, 2009 treatment note, Dr. Herzog advised that appellant’s symptoms continued and that she attributed the pain to a “stumped neuroma,” with secondary pain in the plantar fascial area of the left foot. He commented that her left heel pain forced her to shift her weight to the forefoot, which aggravated her forefoot and produced the neuroma that was unsuccessfully treated by surgery. Dr. Herzog opined that appellant sustained a “repetitive motion injury that may have precipitated her plantar fasciitis and neuroma due to weight shift as a result of compensatory gait” and recommended exploratory procedure to remove the stump neuroma from patient’s left foot. A subsequent revised version of his note added that her condition was the result of repetitive injury “based upon the description of her job.”

In an August 11, 2009 report, Dr. Salomon noted that appellant presented on May 5, 2009 complaining of left foot pain and has received treatment for left foot pain secondary to traumatic injuries she sustained while working at the employing establishment. He advised that she had foot surgeries on October 14, 2005 for her plantar fasciitis and on January 12, 2008 for a postoperative neuroma. Dr. Salomon stated that appellant has had chronic foot pain since the January 12, 2008 surgery. He observed surgical scars on the left heel and between the third and fourth toes and diagnosed her as having plantar fasciitis and recurrent neuroma of the left foot,

which made it impossible for her to bear weight while walking on the left foot. Dr. Salomon concurred with Dr. Herzog's evaluation that appellant had a stump on the previously operated neuroma causing left foot pain and recurrent plantar fasciitis due to "the repetitive type of injury that occurs at work while she is performing her job" aggravating the nerve in her third interspace. He opined that appellant's plantar fasciitis and the stump neuroma were caused and aggravated by her employment.

In a September 11, 2009 disability certificate, Dr. Salomon advised that appellant was unable to return to work due to a flare-up of her plantar fasciitis. An August 3, 2009 evaluation from Dr. Abbey Graves, a clinical psychologist, noted that appellant reported job stress and diagnosed major depression.

By decision dated January 26, 2010, an Office hearing representative affirmed the July 15, 2009 decision, finding that Drs. Herzog and Salomon provided insufficient rationale to support their opinion on causal relationship.¹

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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 disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.³ 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.⁴

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁵ To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

¹ The hearing representative noted that appellant previously filed an October 10, 2007 claim. This claim is not before the Board on the present appeal.

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *See S.P.*, 59 ECAB 184, 188 (2007).

⁶ *See R.R.*, 60 ECAB ___ n.12 (Docket No. 08-2010, issued April 3, 2009); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005).

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's 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, 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.⁷

ANALYSIS

The evidence supports that appellant stood on concrete floors when using a sorting machine at work. However, she has not submitted sufficient medical evidence to establish that this employment factor caused or aggravated her left foot condition.

Dr. Herzog's treatment notes stated that appellant previously sustained plantar fasciitis of the left foot in 2005. Subsequently appellant's left heel pain forced her to shift her weight to the forefoot, aggravating her forefoot and producing a neuroma for which she underwent an unsuccessful operation on January 12, 2008. "Based upon the description of her job," namely pushing and unloading 70-pound mail containers and bags, Dr. Herzog concluded that appellant sustained a repetitive motion injury when she shifted her weight. This precipitated both her plantar fasciitis and a stump neuroma of the left foot. Although Dr. Herzog provided general support for causal relationship, his opinion is insufficient to establish causal relationship between the diagnosed conditions and employment factors. He did not offer medical rationale or adequate reasoning explaining how shifting weight from one foot to another at work would cause or aggravate appellant's diagnosed conditions. Moreover, Dr. Herzog did not address how standing while using a sorting machine, the employment factor identified by appellant, caused or aggravated her condition.⁸ He did not provide a full explanation of appellant's preexisting condition or why appellant's condition was not the result from her neuroma operation on January 12, 2008. Medical reports providing little rationale on causal relation are of diminished probative value and are generally insufficient to meet an employee's burden of proof.⁹ The need for medical rationale is particularly important where the evidence shows that appellant had preexisting problems to the same foot for which she is claiming an employment injury. Consequently, Dr. Herzog's opinion is insufficient to establish appellant's claim.

In an August 11, 2009 report, Dr. Salomon stated that appellant received treatment for her left foot pain that was secondary to "traumatic injuries" she sustained at work. He concurred with Dr. Herzog that appellant had a stump on the previously operated neuroma causing left foot pain and recurrent plantar fasciitis due to "the repetitive type of injury that occurs at work while she is performing her job" aggravating the nerve in her third interspace. Based on appellant's

⁷ *I.J.*, 59 ECAB 408, 415 (2008); *Woodhams*, *supra* note 4 at 352.

⁸ *See John W. Montoya*, 54 ECAB 306, 309 (2003) (a physician's opinion must discuss whether the employment incident described by the claimant caused or contributed to diagnosed appellant's medical condition).

⁹ *S.S.*, 59 ECAB 315, 322 (2008).

surgical history, Dr. Herzog's evaluation, and the July 20, 2009 MRI scans, Dr. Salomon concluded that appellant's left foot condition was "caused and aggravated by her job at the post office." While Dr. Salomon generally supported appellant's claim, he did not explain the pathophysiological process by which standing at work while using the sorting machine, or any other specific repetitive activity, would cause or aggravate the diagnosed left foot condition. He did not provide further opinion on the issue of causal relation noting that he relied in part on the evaluation by Dr. Herzog. Dr. Salomon did not adequately explain why any such condition would not have been the result of appellant's preexisting left foot problems. Without such medical rationale explaining the basis for his opinion, his report is insufficient to establish her claim.

Other medical evidence submitted, including reports of diagnostic testing, do not establish appellant's claim as they offer no opinion regarding the cause of appellant's condition and are of limited probative value.¹⁰ Therefore, appellant did not meet her burden of proof in establish her claim.

Appellant argues on appeal that the decision is contrary to fact and law. As noted the Board finds that the medical evidence did not sufficiently explain how standing on a concrete floor at work caused or contributed to appellant's condition.

CONCLUSION

The Board finds that appellant did not establish that she sustained an occupational disease in the performance of duty.

¹⁰ *E.K.*, 61 ECAB ____ (Docket No. 09-1827, issued April 21, 2010).

ORDER

IT IS HEREBY ORDERED THAT the January 26, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 21, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board