

FACTUAL HISTORY

On April 15, 2010 appellant, then a 56-year-old clerk, filed an occupational disease claim alleging that he sustained plantar fasciitis as a result of routine standing on a cement floor, bending, lifting, twisting and turning. He stopped work on March 26, 2010 and did not return.

In an April 16, 2010 attending physician's report, Dr. Charles Metzger, a Board-certified internist, related that appellant experienced bilateral plantar foot pain. He diagnosed plantar fasciitis as well as contusions and checked "yes" in response to a form question asking whether the condition was caused or aggravated by employment activity. Dr. Metzger explained that appellant's symptoms worsened whenever he stood at work and released him to modified duty from April 12 to May 10, 2010.²

OWCP informed appellant in a May 6, 2010 letter that additional evidence was needed to establish his claim. It gave him 30 days to submit a physician's medical report explaining how employment factors contributed to a bilateral foot condition. Appellant furnished May 15 and 18, 2010 treatment notes from Drs. Metzger and Rukiye Yoltar, another Board-certified internist, excusing him from work for the period May 12 to 20, 2010.

In a June 2, 2010 letter, the employing establishment controverted the claim, pointing out that appellant used a rest bar while manually casing mail.

By decision dated June 10, 2010, OWCP denied appellant's claim, finding the evidence insufficient to establish that he was exposed to the alleged employment factors.

Appellant requested a review of the written record on June 26, 2010. He detailed in a June 28, 2010 statement that he continuously worked on a concrete surface for over 20 years and standing, walking, bending, lifting and twisting placed accumulated stress on his heels, ankles and arches.

By decision dated September 22, 2010, an OWCP hearing representative modified the June 10, 2010 decision to accept that appellant's federal duties entailed standing on a cement floor, bending, lifting, twisting and turning. The claim was denied as the medical evidence did not establish that the employment factors caused the foot condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was timely filed within the applicable time limitation period, 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

² Dr. Metzger indicated in the report that he attached his clinical findings. However, the evidence of record does not contain these documents.

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

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's job duties involved standing on a cement floor, bending, lifting, twisting and turning. The Board finds, nevertheless, that the medical evidence did not sufficiently explain how the accepted employment factors caused a foot condition.

In an April 16, 2010 attending physician's report, Dr. Metzger marked a checkbox "yes" to indicate that appellant's plantar fasciitis and contusions resulted from his federal employment. However, he failed to provide medical rationale explaining how standing on a cement floor, pathophysiologically caused the condition.⁸ Neither Dr. Metzger's observation that appellant was symptomatic on duty⁹ nor his affirmative checkbox response¹⁰ was sufficient to establish

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.*, Docket No. 08-2010 (issued April 3, 2009); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005).

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

⁸ *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994). The Board notes that Dr. Metzger did not identify bending, lifting, twisting and turning as contributing factors. *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 medical condition).

⁹ *See T.M.*, Docket No. 08-975 (issued February 6, 2009); *D.I.*, 59 ECAB 158 (2007) (fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship).

¹⁰ *Alberta S. Williamson*, 47 ECAB 569 (1996).

causal relationship. Moreover, he did not furnish any objective evidence to support his diagnosis.¹¹ Finally, Drs. Metzger and Yoltar's notes dated May 15 and 18, 2010 were of limited probative value as they did not offer any opinion regarding causation.¹² In the absence of rationalized medical opinion evidence, appellant failed to meet his burden.

Appellant asserts on appeal that his plantar fasciitis was "clearly a result of 25 years plus of standing on cement floors at work." As noted, causal relationship is a medical issue and the medical evidence did not sufficiently explain the reasons why his employment duties caused or contributed to a diagnosed injury.

The Board points out that appellant submitted new evidence on appeal. The Board lacks jurisdiction to review evidence for the first time on appeal.¹³ However, appellant may submit new evidence or argument as part of a formal 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 did not establish that he sustained an occupational disease in the performance of duty.

¹¹ *William E. Lewis*, Docket No. 96-182 (issued November 24, 1997).

¹² *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

¹³ 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the September 22, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 15, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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