

on June 2004 while she was a part-time flexible carrier. Appellant stated that in January 2005 she became a regular carrier on a route with many stairs and hills, resulting in a progressively worse right knee condition.

On October 5, 2009 OWCP accepted the claim for a right knee sprain and right chondromalacia patella. Appellant received compensation for intermittent wage loss from July 2, 2009 to January 14, 2010.

The record indicates that appellant continued to receive treatment from a nurse practitioner with respect to right knee pain. In a report dated November 8, 2011, Dr. Marilyn Boyuka, a podiatrist, stated that appellant presented with left foot pain “since she injured knee while at work.” She provided results on examination and indicated that appellant was prescribed night splints and orthotics.

On February 7, 2012 appellant filed claims for compensation (Form CA-7) for the periods December 3 to 9 and 31, 2011 to January 6, 2012. An accompanying time analysis form (CA-7a) indicated that appellant was claiming four hours of compensation on December 9, 2011 and 1.68 hours on January 6, 2012 for visiting her physician. CA-7 and CA-7a forms submitted on February 29, 2012 claimed two hours of compensation for February 17, 2012.

With respect to December 9, 2011, the record contains a report from Dr. Boyuka providing results on examination. Dr. Boyuka indicated that appellant was given an injection to the left plantar medial heel. In a report dated January 6, 2012, she again provided results on examination and indicated that appellant received an injection. In a duty status report (Form CA-17) dated January 6, 2012, Dr. Boyuka diagnosed bilateral plantar fasciitis and tarsal tunnel syndrome. She stated, “injury to knee affected [bilateral] feet and ankles.” In a report dated February 17, 2012, Dr. Boyuka stated, “injury to right knee has increased strain on left foot/ankle.” She provided results on examination.

By decision dated May 3, 2012, OWCP denied the claim for compensation. It found the medical evidence was insufficient to establish the claim.

LEGAL PRECEDENT

A claimant may be paid compensation for wage loss while obtaining medical services and for a reasonable time spent traveling to and from the provider’s location.² The medical treatment must be for an employment-related condition.³ An employee seeking benefits under FECA⁴ has the burden of establishing the essential elements of his or her claim, including that

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.901.16 (October 2009).

³ See *Amelia S. Jefferson*, 57 ECAB 183 (2005).

⁴ 5 U.S.C. §§ 8101-8193.

any specific condition for which compensation is claimed is causally related to the employment injury.⁵

With respect to consequential injuries, it is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional conduct.⁶ The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.⁷

A claimant bears the burden of proof to establish a claim for a consequential injury.⁸ As part of this burden, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship. Rationalized medical evidence is evidence that provides an opinion of reasonable medical certainty and supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the employment injury.⁹

ANALYSIS

In the present case, appellant seeks compensation for wage loss for medical treatment she received on December 9, 2011, January 6 and February 17, 2012. In order to be entitled to receive compensation for such treatment, appellant must establish that the treatment was for an employment-related condition. The treatment in this case was from a podiatrist, Dr. Boyuka, for a foot and ankle condition. Dr. Boyuka diagnosed bilateral plantar fasciitis and tarsal tunnel syndrome.

Since the accepted conditions were a right knee sprain and right chondromalacia patella, appellant must establish the plantar fasciitis or tarsal tunnel syndrome as a consequential injury of the accepted right knee condition. As noted above, a consequential injury is the direct and natural result of the primary employment injury.

To establish a consequential injury, there must be rationalized medical evidence that establishes a diagnosed condition as a direct and natural result of the accepted employment injury. In this case, Dr. Boyuka did not provide a complete factual and medical background to support an opinion on the issue. She did not provide a detailed medical history discussing the employment-related right knee condition. Dr. Boyuka briefly opines that the right knee injury "affected" appellant's feet and ankles, and that the knee injury "increased strain" on her left foot

⁵ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *Albert F. Ranieri*, 55 ECAB 598 (2004).

⁷ See A. Larson, *The Law of Workers' Compensation* § 10.01 (November 2000).

⁸ *J.A.*, Docket No. 12-603 (issued October 10, 2012).

⁹ *Id.*

and ankle. She does not provide any specific explanation as to how the right knee caused a diagnosed foot or ankle condition. Dr. Boyuka does not state whether there was an altered gait, and if so how it contributed to the diagnosed conditions. There is a reference to bilateral conditions as well as to the left foot and ankle, without a clear explanation as to how a specific diagnosed condition was related to the right knee injury.

It is appellant's burden of proof to submit the necessary evidence to establish a consequential injury and resulting treatment on December 9, 2011, January 6 and February 17, 2012, are employment related. The medical evidence of record is of diminished probative value and it is not sufficient to meet appellant's burden of proof.

On appeal, appellant states that, while the physician's appointments were not approved, the office visits were paid by compensation and therefore loss of wages should be paid. The Board notes that it is not clear from the record that any medical benefits for the medical treatment in question were paid.¹⁰ In any case, appellant is not entitled to compensation for wage loss unless the evidence establishes the treatment was for an employment-related condition. For the reasons noted above, the Board finds the evidence is not sufficient to establish the claim for compensation in this case.

Appellant may submit new evidence or argument with a 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 has not established entitlement to compensation from intermittent dates from December 9, 2011 to February 17, 2012.

¹⁰ The payment of a compensation benefit does not itself establish that a condition is accepted as employment related. *See Gary L. Whitmore*, 43 ECAB 441 (1993).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 3, 2012 is affirmed.

Issued: December 6, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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