



caused excessive weight-bearing on his foot during hot, humid weather to the same part of the foot he previously injured on April 29, 2007.

In a statement dated July 30, 2010, appellant noted he had retired from the Navy with 20 years' service as a disabled veteran with a service-connected disability, diabetes. He was hired by the employing establishment as a city letter carrier in 1995. Appellant acquired sufficient seniority to bid on and win city routes which required him to walk short distances and entailed limited weight-bearing. He injured his left foot in April 2007 when he stepped on a nail and returned to his route until August 2009, when he was transferred to a route which required more walking. The route was manageable; however, in February 2010 appellant was transferred to a new route with very rough terrain and heavy weight-bearing which aggravated his diabetic condition and the ulcer on his left foot.

Appellant stated that the route change resulted from management's implementation of the Carrier Optimal Routing (COR) program, which utilized a computerized strategy to assign routes to letter carriers. The COR program was designed to create the most efficient, compact, contiguous and safe routes for carriers. Appellant contended that the transfer recommended by COR resulted in a route with longer distances, harder walking and heavier weight-bearing. It added two hours of walking up and down hills with many steps to climb.<sup>2</sup> Appellant asserted that management's use of COR to assign routes failed to take into account the impact of longer distances on carriers. He stated that the additional walking caused him to seek medical treatment in July 2010.

Appellant submitted treatment notes dated July 2010 from Dr. Seth A. Schweitzer, a specialist in podiatry, who advised that appellant had an ulcer on the left foot which had been present for six weeks. Dr. Schweitzer noted that appellant had stepped on a nail three years prior in the same spot on his left foot. The injury healed but was aggravated after two hours of walking was added to his regular route. Dr. Schweitzer diagnosed diabetic peripheral neuropathy, Type 2, chronic neurotrophic ulcer the left fourth metatarsal and cellulitis of the left foot. He opined, based on the history appellant provided, that his employment duties aggravated his diabetic foot-related problem.

In a letter received by OWCP on August 11, 2010, the employing establishment controverted the claim. It noted that appellant had never complained of excess walking in his routes or requested any change in his restrictions due to his diabetes. The employing establishment stated that his only restriction was not to work more than eight hours a day. This was lifted when appellant bid on city route 5, which required four hours of walking.

In a letter dated September 16, 2010 to appellant, OWCP requested additional factual and medical information in support of his claim. It asked him to submit a detailed description of the job activities he believed contributed to his condition and a comprehensive medical report from a treating physician, with a diagnosis of his condition and an explanation of how his work-related activities contributed to the condition.

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<sup>2</sup> Appellant attached documents, including memoranda from the employing establishment and a newspaper article, which described and explained the COR program.

In a July 29, 2010 report, Dr. James Schmitt, a specialist in internal medicine, noted that appellant had developed diabetic foot ulcers in the past triggered by long periods of walking in hot humid weather. Appellant was originally treated for diabetic foot ulcers from 2002 to 2004. Dr. Schmitt advised that, during the latter part of June 2010, on one of the hotter, more humid days, appellant developed multiple blisters on the sole of his left foot while walking his regular mail route. One of the blisters had significant pressure, sufficient to develop into a Grade 4 ulcer on his left fore foot. When Dr. Schmitt saw appellant on July 28, 2010 the ulcer was healing well, though it was still very deep. He opined that it would take an extended period of time, with good wound care, to resolve. Dr. Schmitt stated that foot ulcers arising from pressure and moisture were a significant health risk for diabetics, placing their feet at risk for deep-seated infections or amputation. He recommended altering appellant's job description to shorten the required walking distances and to reduce his carrying to help safeguard his health.

By decision dated January 19, 2011, OWCP denied appellant's claim for compensation, finding that he failed to submit sufficient medical evidence to establish that his diabetic ulcer condition was aggravated or contributed to by his work duties as a letter carrier.

On February 13, 2011 appellant requested a review of the written record. He stated that he had returned to work on October 10, 2010 that his condition had resolved and that he had not missed a day of work since that time. Appellant sought reimbursement for sick and annual leave used when he was off work. He did not submit any additional medical evidence.

By decision dated May 11, 2011, an OWCP hearing representative affirmed the January 19, 2011 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of establishing that 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 of FECA, that an injury was sustained 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.<sup>4</sup> 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.<sup>5</sup>

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 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

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

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. The medical evidence required to establish causal relationship is usually rationalized medical 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. 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.<sup>6</sup>

Under FECA, when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation.<sup>7</sup> When the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation ceased.<sup>8</sup>

### ANALYSIS

The Board finds that the case is not in posture for decision. The record establishes that appellant has diabetes accepted as a service-connected disability. Appellant submitted sufficient medical evidence to require further development as to whether his left foot condition was aggravated by his employment.

The medical reports from Dr. Schweitzer and Dr. Schmitt document appellant's left foot ulcer condition. Dr. Schweitzer advised that three years previously appellant had stepped on a nail and injured his left foot. Although this injury eventually healed, the ulcer emerged at the same part of the left foot. Dr. Schweitzer noted a history that two hours of walking were added to appellant's regular route, aggravating the ulcer on his left foot. He diagnosed diabetic, peripheral neuropathy, Type 2, chronic neurotrophic ulcer the left fourth metatarsal and cellulitis of the left foot. Dr. Schweitzer concluded that appellant's employment duties and his chronic diabetes condition led to his current left foot condition.

Dr. Schmitt also noted that appellant had previously developed diabetic foot ulcers in 2002 to 2004, which were caused by long periods of walking in hot humid weather. He found that appellant developed multiple blisters on the sole of his left foot during the latter part of June 2010 while walking on his regular mail route on hot, humid days. Dr. Schmitt opined that one of the blisters developed significant pressure sufficient to result in a Grade 4 ulcer on the left foot. He recommended altering appellant's work duties to minimize walking distances and to reduce the carrying weight. Dr. Schmitt stated that foot ulcers arose from pressure and moisture and were a significant health risk for diabetics.

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<sup>6</sup> *Id.*

<sup>7</sup> *Raymond W. Behrens*, 50 ECAB 221, 222 (1999); *James L. Hearn*, 29 ECAB 278, 287 (1978).

<sup>8</sup> *Id.*

Appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of the employment. As part of this burden, he must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.<sup>9</sup> It is well established that proceedings under FECA are not adversarial in nature and, while the employee has the burden to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.<sup>10</sup>

While the reports of appellant's attending physicians are not completely rationalized, they are consistent in finding that appellant's left foot condition was aggravated by the walking required in his federal employment. While the reports are not sufficient to meet his burden of proof to establish his claim, they raise an uncontroverted inference between his claimed condition and his employment duties and are sufficient to require OWCP to further develop the medical evidence and the case record.<sup>11</sup>

On remand, OWCP should refer appellant for a second opinion evaluation to determine whether his left foot ulcer condition was aggravated by his employment duties. After such further development as necessary, it shall issue an appropriate decision.

### **CONCLUSION**

The Board finds that this case is not in posture for decision.

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<sup>9</sup> *G.T.*, 59 ECAB 447 (2008); *Nancy G. O'Meara*, 12 ECAB 67, 71 (1960).

<sup>10</sup> *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

<sup>11</sup> *Richard E. Simpson*, 55 ECAB 490, 500 (2004); *John J. Carlone*, 41 ECAB 354, 360 (1989).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 11, 2011 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this opinion.

Issued: July 18, 2012  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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