

returning from a United Parcel Service (UPS) outlet across the street from his office. While crossing at the intersection appellant started running to beat the traffic signal when he felt a popping sensation in the bottom of his left foot.² He believed he had torn something in his arch. Appellant continued to work following the September 19, 2011 incident.

Dr. Mark T. Lewis, a podiatrist, examined appellant on September 22, 2011. He had previously treated appellant between January 2007 and June 2008. Appellant complained of ongoing plantar fasciitis and a recent “pop in his *right* foot causing pain.” While Dr. Lewis had not seen him since June 2008, appellant had reportedly received two cortisone injections over the last year, most recently in June 2011. Appellant rated his current pain 6/10. He also reported difficulty putting weight on his left foot. The pain was located along the plantar aspect of the left foot near the plantar fascia attachment to the calcaneus. Dr. Lewis suspected a left partial rupture of the deep fibers in the plantar fascia. He recommended a pneumatic boot to immobilize the foot and advised appellant to follow-up in two weeks.

When appellant returned on October 10, 2011, Dr. Lewis diagnosed partial rupture left plantar fascia. The attending physician’s report (Form CA-20) identified September 19, 2011 as the date of injury. Dr. Lewis noted a history of ongoing plantar fasciitis and a recent pop in the “*right*” foot. Appellant reported that his pain was still 6/10 but his condition had improved. The pneumatic boot provided relief; therefore, Dr. Lewis recommended that appellant continue using it. He also recommended custom-fit orthotic inserts for appellant’s bilateral plantar fasciitis. Additionally, Dr. Lewis submitted a work capacity evaluation (Form OWCP-5c) which noted that appellant was capable of performing his usual job without restrictions.

In his January 5, 2012 treatment notes, Dr. Lewis noted a history of a work-related partial rupture deep fibrous of the plantar fascia. Appellant reported that he was unable to walk for long periods of time. He also reported that increased activity caused increased pain. Dr. Lewis recommended physical therapy and continued use of orthotics. He also submitted a duty status report (Form CA-17) that included a diagnosis of plantar fasciitis with a September 19, 2011 date of injury. Dr. Lewis indicated that appellant was able to perform his regular work without restriction.

On February 13, 2012 OWCP advised appellant that the documentation received thus far was insufficient to establish his September 19, 2011 traumatic injury claim. It requested additional medical evidence as well as a statement explaining how appellant’s off-premises activity was employment related.

On February 14, 2012 the employing establishment advised OWCP that appellant’s alleged injury occurred on September 19, 2011 when he was returning to the office after dropping off a work-related shipment at UPS which was located approximately 100 to 150 yards from appellant’s fixed place of employment. It indicated that because it was a small office, special agents, like appellant, routinely dropped off mail/shipments at UPS.

² On the CA-1 (item no. 26), the employing establishment indicated that appellant was in the performance of duty when injured.

In a February 17, 2012 statement, appellant confirmed that he had delivered work-related materials to UPS on the afternoon of September 19, 2011.³ As he walked back across the street through the intersection, the green light was counting down so he went from walking to running. Within a few steps appellant felt a snapping/popping sensation in the bottom of his left foot. He stated that he had to hop through the intersection and then he limped back to the office which was about 150 yards away. Appellant also explained that he had recurrences of plantar fasciitis in both feet for the past few years. The condition would flare up and then subside. Appellant stated that he usually either ignored it or changed his exercise regimen to exclude running. He further stated that he sought treatment in the past when the inflammation worsened. However, appellant had not previously experienced the type of injury where it felt like the fascia just snapped and left him limping. He indicated that the September 19, 2011 incident was the first time something that severe occurred.

OWCP received treatment records dated September 8 and 15, 2011 from Dr. Edward G. Blahous, Jr., a podiatrist. When appellant saw Dr. Blahous on September 8, 2011 he complained of recurrent left heel pain. The pain reportedly subsided after a June 2011 steroid injection, but had since returned. Dr. Blahous discussed the possibility of additional steroid injections, which appellant received on September 15, 2011. OWCP also received January 16, 2012 physical therapy treatment records.

By decision dated March 26, 2012, OWCP denied appellant's claim because he failed to establish a causal relationship between the September 19, 2011 employment incident and his diagnosed left foot condition.

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁴

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether "fact of injury" has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that is alleged to have occurred.⁵ The second component is whether the employment incident caused

³ Appellant further stated that he had been dropping of packages at UPS two to three times per week.

⁴ 20 C.F.R. § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁵ *Elaine Pendleton*, 40 ECAB 1143 (1989).

a personal injury.⁶ An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.⁷

ANALYSIS

The evidence of record indicates that appellant had a history of bilateral plantar fasciitis dating back to at least January 2007. Less than a week prior to the September 19, 2011 employment incident, Dr. Blahous, a podiatrist, administered a steroid injection for treatment of recurrent left heel pain. After the September 19, 2011 incident, appellant sought treatment from Dr. Lewis, another podiatrist who had last treated him in June 2008. Dr. Lewis' September 22, 2011 report noted that appellant "recently felt a pop in his right foot causing pain." However, he did not specify the date of injury or describe the particular circumstances under which the "pop" occurred. Dr. Lewis' September 22, 2011 treatment notes also incorrectly reported that appellant had last received a steroid injection in June 2011. As noted, Dr. Blahous administered the latest injection on September 15, 2011, just a week prior to Dr. Lewis' examination.

In his subsequent reports and treatment notes, Dr. Lewis diagnosed partial rupture left plantar fascia. While he subsequently characterized appellant's condition as work related and identified September 19, 2011 as the date of injury, he never fully explained the specific mechanism of injury. Dr. Lewis merely noted that appellant felt a pop in his *right* foot, which was inconsistent with appellant's claim that the popping sensation occurred in the left foot. His reports and treatment notes provided no indication of what appellant was doing when he experienced the popping sensation. The Board finds that Dr. Lewis' opinion on causal relationship is neither well reasoned nor rationalized. Dr. Lewis' history of injury is both inaccurate and incomplete. Moreover, he failed to explain how appellant sustained a partial rupture of his left plantar fascia on September 19, 2011.

The Board also finds the January 16, 2012 physical therapy treatment records insufficient to satisfy appellant's burden of proof. Certain healthcare providers, such as physician's assistants, nurse practitioners, physical therapists and social workers, are not considered "physician[s]" as defined under FECA.⁸ Consequently, their medical findings and/or opinions are insufficient for purposes of establishing entitlement under FECA.⁹

⁶ *John J. Carlone*, 41 ECAB 354 (1989). Causal relationship is a medical question which generally requires rationalized medical opinion evidence to resolve the issue. *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

⁷ *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

⁸ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

⁹ *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006).

As appellant failed to establish that his claimed left foot condition is causally related to the September 19, 2011 employment incident, OWCP properly denied his traumatic injury claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision. *See* 5 U.S.C. § 8128(a); 20 C.F.R. §§ 10.605 and 10.607.

CONCLUSION

Appellant failed to establish that he sustained an injury in the performance of duty on September 19, 2011.

ORDER

IT IS HEREBY ORDERED THAT the March 26, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 12, 2012
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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