

**United States Department of Labor
Employees' Compensation Appeals Board**

G.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Joliet, IL, Employer**

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**Docket No. 14-404
Issued: May 2, 2014**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 13, 2013 appellant filed a timely appeal from a September 13, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met his burden of proof to establish that he sustained a right foot injury causally related to factors of his federal employment.

FACTUAL HISTORY

On June 6, 2013 appellant, then a 49-year-old city letter carrier, filed an occupational disease claim alleging that he developed a stress fracture, tendon inflammation and arthritis as a result of walking in the course of his employment from 9 to 10 hours a day for four and one half

¹ 5 U.S.C. § 8101 *et seq.*

years. He became aware of his condition in March 2013 and of its relationship to his employment in April 2013. Appellant stopped work on May 17, 2013.

In a diagnostic report dated May 17, 2013, Dr. Robert Palmer, a Board-certified radiologist, reviewed the results of a magnetic resonance imaging (MRI) scan of appellant's right ankle. He listed a history of progressively worsening anterior pain of the right ankle and hindfoot for six months with no known injury. Dr. Palmer noted extensive subchondral cyst formation with stress-related reactive marrow; edema without a discrete fracture line on the first and second intercuneiform joints and medial, middle and lateral cuneiform bones, respectively; and a lesser degree involving the naviculocuneiform joint. The findings appeared degenerative and related to repetitive trauma versus changes secondary to early Charcot arthropathy if appellant had a history of diabetes or neuropathy. Dr. Palmer also noted a subchondral reactive marrow edema and cystic changes with chondral thinning and fissuring of the medial tibiotalar and ankle joint, which he stated may be degenerative changes secondary to altered weight-bearing and kinetics versus a post-traumatic change. He further observed trace tenosynovitis of the tibialis posterior, flexor digitorum longus and flexor hallucis longus tendons, which were otherwise unremarkable. Dr. Palmer stated that appellant's MRI scan revealed mild insertional tendinopathy of the Achilles tendon without a discrete tear and early sinus tarsi and tarsal tunnel syndrome.

Appellant also submitted an unsigned and undated report from Essington Podiatry Group.

On August 8, 2013 OWCP advised appellant of the evidence needed to establish his claim. It requested that he submit a physician's opinion as to how his employment activities caused, contributed or aggravated his right foot condition, supported by medical explanation, along with an explanation of the nature of his preexisting conditions, including its natural course and how the underlying condition was affected by employment.

In a statement dated August 28, 2013, appellant noted that he injured his right foot and could not walk for long distances. He did not engage in any sports, but did go to a health club where he did not walk very much. Appellant noted that he experienced sharp pain in his right foot prior to March 1, 2013, but had attributed it to arthritis and stated that he was not aware that he had a stress fracture or inflamed tendons.

On September 13, 2013 OWCP denied appellant's claim. It found that the medical evidence did not establish that his right foot condition was causally related to factors of his federal employment.

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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the

employment injury.² These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.³

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 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 claimant 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 employment.⁴ An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.⁵

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁶ Rationalized medical opinion evidence is medical evidence which includes a physician's reasoned opinion on whether there is a causal relationship between the claimant's diagnosed condition and the compensable 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.⁷ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁸

² *Gary J. Watling*, 52 ECAB 278, 279 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Michael E. Smith*, 50 ECAB 313, 315 (1999).

⁴ *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

⁵ *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

⁶ *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117, 123 (2005).

⁷ *Leslie C. Moore*, 52 ECAB 132, 134 (2000).

⁸ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

ANALYSIS

OWCP denied appellant's claim on the grounds that he did not establish a causal relationship between his claimed right foot and ankle condition and work factors. The Board finds that he has not submitted sufficient medical evidence to establish that his right foot condition was caused or aggravated by factors of his federal employment.

On May 17, 2013 Dr. Robert Palmer, a Board-certified radiologist, reviewed the results of an MRI scan of appellant's right ankle. He noted a six-month history of progressive worsening of the right ankle and hindfoot with no known injury. Dr. Palmer did not otherwise address the relationship of appellant's condition to the work he performed as a letter carrier. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹ Dr. Palmer's report is insufficient to meet appellant's burden of proof to establish a causal relationship between work-related factors and his claimed injury.

Appellant also submitted an unsigned and undated report from Essington Podiatry Group. A medical report is not considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician.¹⁰ As the report was unsigned, the author cannot be readily identified as a physician. Consequently, it is of no probative value.

The Board finds that the medical evidence does not establish that appellant sustained a right foot injury causally related to his employment. An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment, is sufficient to establish causal relationship.¹¹ Causal relationship must be established by rationalized medical opinion evidence. The Board finds that, OWCP properly determined that appellant did not meet his burden of proof to establish his claim.

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 did not meet his burden of proof to establish that his claimed right foot condition was causally related to his federal employment.

⁹ *Supra* note 3 at 316 n.8 (1999).

¹⁰ *See Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹¹ *See Dennis M. Mascarenas*, *supra* note 5.

ORDER

IT IS HEREBY ORDERED THAT the September 13, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 2, 2014
Washington, DC

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

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

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