

In a December 9, 2014 Arizona workers' compensation form report, appellant stated that on December 6, 2014 she exited a mail delivery vehicle to retrieve a dropped parcel and stepped on a sharp rock injuring her foot. Diane Barrera, a family nurse practitioner, advised that appellant had left foot pain and numbness, and peroneal tendon pain radiating to the lateral ankle. She noted that a magnetic resonance imaging (MRI) scan was necessary for further diagnosis. Ms. Barrera also provided a December 9, 2014 work status note indicating that appellant needed to be off work for one week.

On December 12, 2014 the employing establishment contended that appellant's condition was related to preexisting plantar fasciitis, for which she was currently receiving treatment.

In a December 14, 2014 note, Ms. Barrera placed appellant on work restrictions pending the results of an MRI scan or x-ray. In a duty status report of the same date, she diagnosed appellant with a possible rupture of the left peroneal ligament.

By letter dated January 8, 2015, OWCP informed appellant that the evidence of record was insufficient to support her claim. It advised her to provide a medical report containing a physician's opinion supported by a medical explanation as to how work factors caused or aggravated the claimed condition.

Appellant provided additional treatment records. In a December 9, 2014 report, Ms. Barrera related that appellant complained of foot pain caused by stepping on a sharp rock at work. Examination revealed that appellant's lateral foot had moderate-to-severe point tenderness at the proximal fifth metatarsal and slightly superior over the fifth metatarsal. Ms. Barrera documented appellant's history of plantar fasciitis, noting that she had recently received a steroid injection to the lateral tendon. She diagnosed appellant with calcaneal spur, plantar fascial fibromatosis, and foot and ankle pain. Also submitted were subsequent treatment records from Ms. Barrera.

In a December 15, 2014 report, Dr. Karl Theodore Wickstrom, a Board-certified radiologist, to whom appellant was referred by Ms. Barrera, reported that appellant was seen for left foot pain from a contusion of the lateral foot. X-rays were negative for fracture, but revealed Achilles enthesophytes. Dr. Wickstrom noted that the remaining soft tissue, articular, and osseous structures of the right hind foot, midfoot, and forefoot were normal. He diagnosed calcaneal enthesophytes.

Appellant also submitted duty status reports from Dr. Serj Nazarian, a podiatrist. In a January 15, 2015 report, Dr. Nazarian advised that appellant was injured on December 6, 2014 and diagnosed continued left foot pain.² On January 29, 2015 he indicated that she had severe pain in the fifth metatarsal for which he diagnosed degenerative joint disease. On February 12, 2015 Dr. Nazarian diagnosed chronic left foot pain.

OWCP also received a February 6, 2015 report, from Dr. Hojatollah Askari, a Board-certified internist, who related appellant's complaint that she twisted her ankle after stepping on a rock at work on December 6, 2014. Dr. Askari performed an examination and diagnosed foot

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and ankle pain. He stated that appellant was using an orthopedic boot. In a February 19, 2015 addendum, Dr. Askari stated that she was working as a mail carrier on December 6, 2014 when she stepped on a sharp rock and twisted her left ankle. He noted that appellant iced and elevated her foot on the date of injury, and sought treatment three days later. Dr. Askari noted advised that she would see Dr. Nazarian on February 26, 2015 and a decision would be made at that time regarding when she could return to work.

Appellant, in a February 8, 2015 statement, claimed that she twisted her left ankle while stepping out of a delivery vehicle to retrieve a dropped parcel. She explained that she did not immediately stop work because she believed that the pain would subside. Appellant reported no ankle pain prior to the alleged injury.

In a March 5, 2015 decision, OWCP denied appellant's claim, finding the medical evidence insufficient to demonstrate that her condition was causally related to the accepted work event.

LEGAL PRECEDENT

An employee seeking compensation under FECA has the burden of establishing the essential elements of his or her claim by the weight of reliable, probative, and substantial evidence,³ including that he or she is an "employee" within the meaning of FECA and that he or she filed his or her claim within the applicable time limitation.⁴ The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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

³ *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

⁴ *R.C.*, 59 ECAB 427 (2008).

⁵ *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *T.H.*, 59 ECAB 388 (2008).

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The evidence supports that appellant stepped on a rock on December 6, 2014 as she was exiting her work vehicle. The issue is whether she established that she sustained an injury to her left foot as a result of that event. The Board finds that appellant did not submit sufficient medical evidence establishing a causal relationship between a diagnosed condition and the employment incident.

Appellant submitted medical reports from Dr. Askari dated February 6 and 19, 2015. Dr. Askari related that appellant stepped on a rock and twisted her ankle, while working. He diagnosed foot and ankle pain. It is unclear if Dr. Askari's declarations regarding the cause of appellant's condition represents his own opinion, or if he merely conveyed the history of injury as reported by her.⁸ To the extent that his statements reflect his personal opinion, the Board finds that he failed to explain the process by which stepping on a rock would have caused or aggravated the claimed condition.⁹ In this case, the need for medical rationale is particularly important as the record indicates that appellant suffered from preexisting plantar fasciitis and received steroid injection treatment shortly before the claimed injury.

The record also contains duty status reports from Dr. Nazarian, a podiatrist, noting that appellant was injured on December 6, 2014. These reports are insufficient to establish the claim as Dr. Nazarian did not specifically address whether appellant's employment caused or contributed to the diagnosed conditions.¹⁰ Likewise, Dr. Wickstrom's December 15, 2014 x-ray report is of limited probative value as he did not address whether a diagnosed condition was work related.

The remainder of the medical evidence was completed by Ms. Barrera, a nurse practitioner. The Board has held that nurse practitioners are not considered physicians under FECA.¹¹ Accordingly, Ms. Barrera's reports regarding diagnosis and causal relationship are of no probative medical value.¹²

On appeal, appellant indicates that Dr. Askari's reports were sufficient to establish causal relationship. However, as noted above, Dr. Askari did not provide a definitive opinion supported by medical rationale explaining the relationship between the claimed condition and the work

⁸ The Board has held that a physician's opinion regarding causal relationship that is primarily based on appellant's own representations rather than objective medical findings is of limited probative value. *C.M.*, Docket No. 14-88 (issued April 18, 2014).

⁹ See *P.M.*, Docket No. 15-0505 (issued June 19, 2015).

¹⁰ *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

¹¹ The term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8102(2); *C.H.*, Docket No. 13-1879 (issued February 18, 2014) (finding that evidence from a family nurse practitioner had no probative medical value as a nurse is not a physician as defined under FECA).

¹² *Thomas L. Agee*, 56 ECAB 465 (2005). See *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

incident. Because appellant has not submitted sufficient medical opinion evidence in this case, the Board finds that she has not met her burden of proof.

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 establish that her left foot condition was causally related to her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the March 5, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 25, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board