

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

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C.F., Appellant )

and )

DEPARTMENT OF THE ARMY, TANK- )  
AUTOMOTIVE & ARMAMENTS COMMAND, )  
Fort Benning, GA, Employer )

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**Docket No. 15-738  
Issued: June 18, 2015**

*Appearances:*

*Alan J. Shapiro, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On February 17, 2015 appellant, through counsel, filed a timely appeal from the January 6, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish an injury causally related to a June 13, 2013 work incident.

**FACTUAL HISTORY**

On June 19, 2013 appellant, a 46-year-old tools and parts attendant, filed a traumatic injury claim alleging that she injured her left ankle and tail bone in the performance of duty

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

when she tripped over a pallet and fell on June 13, 2013. She stopped work the following day and went to the emergency room where she saw a physician assistant. The physician assistant diagnosed a fractured left ankle. Appellant was released to light duty on June 18, 2013.

In a decision dated February 28, 2014, OWCP denied appellant's traumatic injury claim. It accepted that the June 13, 2013 work incident occurred as alleged, but found that appellant failed to submit medical evidence establishing a diagnosis causally related to the work incident.

On February 27, 2014 Dr. Deanna M. del Mazo, an internist, requested that appellant be allowed to wear prescribed orthotic devices or shoe gear for treatment of her fractured foot.

Appellant, through counsel, on March 27, 2014 requested a telephonic hearing before an OWCP hearing representative.

During the hearing on October 17, 2014, appellant's counsel argued that the timeline, along with appellant's testimony and the medical records, showed causal relationship. Appellant was in a lot of pain after she fell, her tailbone more so than her left ankle. She told a coworker what happened. Appellant finished her shift, took a van pool home, and took medication. When she awoke the next morning she could barely climb out of bed because her tailbone hurt so much, and her left ankle was black and blue and swollen. Appellant went to the emergency room. It was later found that she had a left ankle fracture. Appellant wore a soft cast and walked around on crutches. Nothing more could be done for her fractured tailbone.

In a decision dated January 6, 2015, an OWCP hearing representative affirmed the February 28, 2014 denial of appellant's traumatic injury claim. He found that no physician had provided an opinion explaining how the June 13, 2013 work incident caused a diagnosed medical condition. The hearing representative found that the timeline of injury alone was insufficient to establish a work-related injury.

On appeal, appellant's counsel again argues the timeline of events: "How could claimant sustain her injury in any manner other than alleged? The claimant has sustained her burden of proof."

### **LEGAL PRECEDENT**

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>2</sup> An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged. He or she must also establish that such event, incident, or exposure caused an injury.<sup>3</sup>

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<sup>2</sup> 5 U.S.C. § 8102(a).

<sup>3</sup> *John J. Carlone*, 41 ECAB 354 (1989).

Causal relationship is a medical issue,<sup>4</sup> and the medical 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 of the claimant,<sup>5</sup> must be one of reasonable medical certainty,<sup>6</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>7</sup>

A physician assistant is not considered a “physician” within the meaning of FECA and is therefore not competent to give a medical opinion.<sup>8</sup>

### ANALYSIS

OWCP accepts that appellant tripped over a pallet and fell at work on June 13, 2013. Appellant has therefore established that a specific event, incident, or exposure occurring at the time, place, and in the manner alleged. The question that remains is whether the accepted work incident caused a fracture of her left ankle and tailbone.

The question of causal relationship is a medical issue that usually requires reasoned medical opinion for resolution. This evidence should be obtained from a physician who has examined or treated the claimant for the condition for which compensation is claimed.<sup>9</sup> There is no reasoned medical opinion in appellant’s case. Dr. del Mazo, the internist, confirmed that appellant had a fractured foot, but she made no attempt to connect this condition to what happened on June 13, 2013. On its face, then, the medical opinion evidence is insufficient to establish the critical element of causal relationship.

OWCP recognizes, however, that a medical opinion on causal relationship is not required in every case. If all of the following criteria are satisfied, a claim may be accepted without a medical report addressing causal relationship: (1) The condition reported is a minor one which can be identified on visual inspection by a lay person (*e.g.*, burn, laceration, insect sting or animal bite); (2) The injury was witnessed or reported promptly, and no dispute exists as to the fact of injury; and (3) No time was lost from work due to disability.<sup>10</sup>

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<sup>4</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>5</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>6</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>7</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>8</sup> *Guadalupe Julia Sandoval*, 30 ECAB 1491 (1979); *see* 5 U.S.C. § 8101(2) (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).

<sup>9</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3 (January 2013).

<sup>10</sup> *Id.* at Chapter 2.805.c.3.

Appellant's injury was not a minor condition that could be identified on visual inspection by a lay person. It appears that she lost at least one day from work as a result of the claimed injury. Appellant stopped work on June 14, 2013. She was released to light duty on June 18, 2013. As all three criteria do not apply to appellant's case, a medical report addressing causal relationship is required, notwithstanding the relative circumstances of her case.

Because appellant has not submitted a physician's opinion on the critical issue of causal relationship, the Board finds that she has not met her burden of proof to establish that the June 13, 2013 work incident caused an injury. The Board will therefore affirm OWCP's January 6, 2014 decision denying her 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, 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 met her burden to establish an injury causally related to a June 13, 2013 work incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 6, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 18, 2015  
Washington, DC

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

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

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