

³ The Board notes that appellant submitted additional evidence on appeal after OWCP rendered its August 13, 2015 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, the Board lacks jurisdiction to review this additional evidence. 20 C.F.R. § 501.2(c)(1).

ISSUE

The issue is whether appellant established a right ankle injury causally related to an April 20, 2015 employment incident.

FACTUAL HISTORY

On April 24, 2015 appellant, then a 40-year-old materials handler, filed a traumatic injury claim (Form CA-1) alleging that on April 20, 2015 he injured his right ankle at work. He reported that he was attempting to place some heavy material and overextended his right ankle. The record indicates that appellant had a prior injury on February 15, 2013 accepted for a right ankle sprain.⁴ He worked light duty and had returned to full duty as of June 24, 2013.

Appellant was seen on April 20, 2015 by Dr. Christina Maier, an osteopath. Dr. Maier provided a history that appellant was lifting a 40-pound box while sitting in a crane, and while leaning forward felt significant pain in his right ankle. She noted that appellant had a prior right ankle injury on February 15, 2013 and had undergone surgery for that injury in January 2014. Dr. Maier provided results on examination and diagnosed right ankle arthralgia. In a form report, she indicated that appellant could work with restrictions.

In a note dated April 21, 2015, Dr. Elizabeth Hinton, a podiatrist, indicated that appellant was seen for right ankle pain and discomfort. In a brief report dated April 23, 2015, she related that appellant had previously been seen for a 2013 right ankle injury. According to Dr. Hinton, the 2013 injury was permanent and caused permanent pain. By report dated April 27, 2015, she noted that appellant had severe right ankle pain. Dr. Hinton indicated that appellant's condition had been present for several years, but on April 9, 2015 appellant claimed the arch supports were making his ankle pain worse. She wrote that on April 27, 2015 appellant was mowing the lawn over the weekend and now had severe right ankle pain. Dr. Hinton diagnosed ankle and foot arthropathy, ankle and foot tenosynovitis, ankle enthesopathy, and tarsal tunnel syndrome.

The employing establishment controverted the claim by letter dated May 8, 2015. The compensation specialist noted that Dr. Hinton had referred to the 2013 employment injury.

The record contains a right ankle magnetic resonance imaging (MRI) scan report dated May 19, 2015, from Dr. Joachim Huerter, a radiologist. Dr. Huerter reported a focal area of marrow edema and a bone marrow contusion on the medial aspect of the talus. By report dated June 8, 2015, Dr. Terry Clarke, a podiatrist, indicated that appellant woke up that morning and reported right ankle pain.

By report dated June 23, 2015, Dr. Bradley Lamm, a podiatrist, provided a history of a 2013 right ankle injury, with surgery in January 2014. He reported that appellant had not had a reinjury to his ankle since the 2013 employment injury. Dr. Lamm provided results on examination and diagnosed right ankle pain, instability, and weakness, neuritis right sural nerve

⁴ OWCP issued a September 17, 2015 decision denying a claim for a recurrence of disability under that claim. That issue is not currently before the Board.

and intermediate dorsal cutaneous nerve. By report dated June 24, 2015, Dr. Clarke reported that appellant did not believe he was getting better.

In a letter dated July 10, 2015, OWCP requested that appellant submit additional factual and medical evidence with respect to his claim. Appellant was afforded 30 days to submit this evidence.

By decision dated August 13, 2015, OWCP denied the claim for compensation. It found the medical evidence was insufficient to establish an injury causally related to an April 20, 2015 employment incident.

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 are causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

To determine whether an employee actually sustained an 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 which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁷ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence supporting such a causal relationship.⁸ 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. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing

⁵ Gary J. Watling, 52 ECAB 278 (2001); Elaine Pendleton, 40 ECAB 1143, 1154 (1989).

⁶ Michael E. Smith, 50 ECAB 313 (1999).

⁷ Elaine Pendleton, *supra* note 5 at 1143.

⁸ See 20 C.F.R. § 10.110(a); John M. Tornello, 35 ECAB 234 (1983).

quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁹

ANALYSIS

In the present case, appellant filed a traumatic injury claim alleging that he sustained a right ankle injury in the performance of duty on April 20, 2015. He described the incident as overextending his right ankle while attempting to position some heavy material. OWCP accepted that there was an employment incident on April 20, 2015. The issue is whether there is medical evidence establishing a diagnosed condition casually related to the employment incident.

The only medical evidence with a factual history describing the incident was the April 20, 2015 report from Dr. Maier, an osteopath. This report is insufficient to establish the claim for compensation. Dr. Maier diagnosed a right ankle arthralgia. She noted that appellant had a prior history of injury regarding the right ankle. Dr. Maier does not provide any opinion on causal relationship between the diagnosed condition and the employment incident. A rationalized medical opinion in this case would provide a clear explanation, based on an accurate factual history, of any injury causally related to the April 20, 2015 employment incident, with reference to the medical history.

As to the evidence of record from the podiatrists, Drs. Hinton, Clarke, and Lamm, these reports do not support appellant's claim for compensation. None of the podiatrists provide a history of the April 20, 2015 employment incident. Dr. Lamm specifically indicated in his June 23, 2015 report that appellant had not had an additional injury to his right ankle after the 2013 employment injury and January 2014 surgery.

It is appellant's burden of proof to establish the claim for compensation. For the reasons discussed, he did not meet his burden of proof in this case.

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 appellant did not meet his burden of proof to establish an injury causally related to an April 20, 2015 employment incident.

⁹ *James Mack*, 43 ECAB 321 (1991).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 13, 2015 is affirmed.

Issued: April 14, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board