

work, she heard a pop in the right outer aspect of her foot which resulted in a break of the right fifth metatarsal. She did not stop work.

By letter dated May 7, 2014, OWCP advised appellant of the type of evidence needed to establish her claim, particularly requesting that she submit a physician's reasoned opinion addressing the relationship of her claimed condition, and specific employment factors.

Appellant was treated in an emergency room on April 16, 2014 by Dr. Joni L. Vest, a Board-certified emergency room physician, for a work-related injury to her right foot. Dr. Vest indicated that appellant had a history of stress fractures in this foot in the past. Appellant reported a "pop" in her right foot while working. She finished her shift and noted that her foot was swollen. Dr. Vest noted that appellant's history was significant for a stress fracture in the right foot in the past, left knee arthroscopy, partial left knee medial meniscectomy on October 23, 2012, and a total left knee arthroplasty on December 31, 2012. Right foot examination showed mild swelling of the lateral aspect of the right midfoot, erythema, tenderness to the base of the fifth tarsal region, and mild bruising to the plantar midfoot region. An April 16, 2014 x-ray of the right foot revealed mild osteoarthritis of the interphalangeal joints, mild osteoarthritis of the first metatarsophalangeal joint, recent transverse fracture of the proximal metaphysis of the fifth metatarsal, nonspecific benign-appearing periostitis of the second third and fourth metatarsals, healing stress fractures of the second third and fourth metatarsals, and the hind foot osteoarthritis and calcaneal spurring. Dr. Vest diagnosed acute right fifth metatarsal fracture.

In an employing establishment treatment note, Dr. Karen J. Barnes, a Board-certified family practitioner, noted treating appellant on April 18, 2014 for a right foot injury. Appellant reported that she heard a pop and broke a bone in her right foot on April 15, 2014 while walking down the hall with her medicine cart. She continued to work until 8:00 p.m. When appellant returned home her foot was bruised and painful. She sought treatment at an emergency room and was diagnosed with a broken fifth metatarsal in the right foot. Appellant denied any trauma to the foot on the date of injury or even prior to this date and stated "I was just walking down the hall when I heard a pop." Dr. Barnes opined that the injury did not appear to have been caused by a work-related factor.

Appellant was treated by Dr. Vincent Sammarco, a Board-certified orthopedist, on April 29, 2014, for a right fifth metatarsal fracture. She reported administering medications at work when she stepped on her foot and heard a pop. Appellant noted having significant difficulty bearing weight on the right foot. Dr. Sammarco noted findings on examination of an antalgic gait with diminished stance time on the affected leg, the right foot examination revealed marked pain and discomfort on palpation of the base of the fifth metatarsal laterally, swelling, but no ecchymosis, mild *pes planus*, and good strength. X-rays of the right foot revealed a fracture of the fifth metatarsal at the metaphyseal diaphyseal junction. Dr. Sammarco diagnosed right fifth metatarsal fracture at the metaphyseal diaphyseal junction (Jones fracture) and opined that this injury resulted from a twisting injury at work. In a June 24, 2014 report, he treated appellant for severe right foot pain. Appellant had severe pain and discomfort with palpation of the base of the fifth metatarsal. Dr. Sammarco noted x-rays of the right foot revealed increased radiolucency at the Jones fracture site and periosteal reaction with transverse radiolucency developing. He diagnosed fracture of the metatarsal. In Dr. Sammarco's report of ability to

work, he noted that appellant was off work. In a July 16, 2014 report, he treated her for worsening right foot pain. Appellant reported that her right foot was not weight bearing and she had severe antalgic gait. Dr. Sammarco noted that physical examination revealed marked point tenderness at the fracture site and significant swelling laterally. He further noted that x-rays of the right foot revealed a frank nonunion of the fifth metatarsal fracture, widening of the fracture, gap and no appreciable bone bridging. Dr. Sammarco recommended surgery.

By decision dated July 29, 2014, OWCP denied appellant's claim for a traumatic injury on the grounds that she failed to establish that the events occurred as alleged.

Appellant requested an oral hearing which was held before an OWCP hearing representative on March 16, 2015. Following the hearing, she submitted records of her previous right foot treatment. In an October 18, 2013 report, Dr. Mathew J. Connelly, a podiatrist, treated appellant for pain and right foot swelling. Appellant reported no trauma. Findings on physical examination revealed edema surrounding the forefoot, pain on palpation of the second and fourth metatarsals, and altered gait. Dr. Connelly diagnosed stress fractures at second and fourth metatarsals of the right foot with an unknown etiology. He recommended immobilization of the right foot. Dr. Connelly noted x-rays of the right foot revealed a definite cortical thickening along the medial aspect of the second metatarsal and cortical thickening and obliteration of the central area of the bone on the fourth metatarsal. On October 30, 2013 he diagnosed stress fractures of the fourth and fifth metatarsals and recommended immobilization. On November 20, 2013 Dr. Connelly treated appellant status postsurgery for stress fractures of the fourth and fifth metatarsals. He noted no evidence of neurovascular or dermatologic damage on the right foot. Palpation of the metatarsals was pain-free, and weight bearing was very mildly antalgic with decreased range of motion of the ankle. Dr. Connelly diagnosed improving stress fractures, fourth and fifth metatarsals, right foot. He noted that appellant could not return to full weight bearing at work. On December 6, 2013 Dr. Connelly noted continuing treatment of the stress fractures of the fourth and fifth metatarsals. He reported that examination was normal and appellant was out of her boot and showed no evidence of dysfunction, edema, or pain. Dr. Connelly diagnosed resolved right fourth and fifth metatarsal stress fractures and returned appellant to weight bearing work without restrictions. Appellant also resubmitted various medical records.

On August 12, 2014 Dr. Sammarco noted that appellant continued to have intractable foot pain. Examination revealed marked tenderness to palpation of the lateral column of the foot and in particular the fifth metatarsal. Right foot x-rays revealed a nonunion of the fifth metatarsal fracture. Dr. Sammarco diagnosed intractable pain and discomfort from a fifth metatarsal nonunion and recommended surgery. On August 26, September 23, October 28, and November 25, 2014, he saw appellant in follow up after bone grafting and plating of a fifth metatarsal nonunion. Dr. Sammarco noted that she was clinically doing well with mild pain and an intact neurological examination. In a January 27, 2015 report, he treated appellant for status right fifth metatarsal fracture repair. Dr. Sammarco noted that she was weight bearing using the walker. Examination of the right foot revealed no tenderness to palpation of the fracture site and a well-healed surgical wound. X-rays of the right foot revealed compressive healing of the fifth metatarsal fracture with good bony remodeling. Dr. Sammarco diagnosed fracture of the metatarsal. An magnetic resonance imaging scan of the right foot dated October 24, 2013

revealed stress abnormalities about the fourth and fifth greater than third metatarsal bones and grade 1 tenosynovitis of the peroneal longus.

In a decision dated June 1, 2015, an OWCP hearing representative affirmed the July 29, 2014 decision, as modified. The hearing representative found that the April 15, 2014 work incident occurred as alleged, but appellant failed to establish that the diagnosed foot condition was causally related to the 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 of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.²

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 he actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit medical evidence to establish that the employment incident caused a personal injury.³

Rationalized medical opinion evidence is generally required to establish causal relationship. 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.⁴

ANALYSIS

It is not disputed that on April 15, 2014 appellant was performing her practitioner nurse duties which required walking. It is also not disputed that she was diagnosed with acute right fifth metatarsal fracture and frank nonunion of the fracture. However, appellant has not submitted sufficient medical evidence to establish that her diagnosed conditions were caused or aggravated by the April 15, 2014 work incident.

Appellant submitted an April 29, 2014 report from Dr. Sammarco who treated her for a right fifth metatarsal fracture. She reported walking while she was administering medications at work when she stepped on her foot and heard a pop. Dr. Sammarco noted radiologic

² *Gary J. Watling*, 52 ECAB 357 (2001).

³ *T.H.*, 59 ECAB 388 (2008).

⁴ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

examination of the right foot revealed a fracture of the fifth metatarsal at the metaphyseal diaphyseal junction. He diagnosed right fifth metatarsal fracture at the metaphyseal diaphyseal junction (Jones fracture) and opined that this injury was the result of a twisting injury at work. The Board finds that, although Dr. Sammarco supported causal relationship, he did not provide medical rationale explaining the basis of his conclusory opinion regarding the causal relationship between appellant's right foot condition and the factors of her federal employment.⁵ For instance Dr. Sammarco did not explain how walking on her right foot would cause a fracture of the fifth metatarsal and why this injury would not be caused by nonwork-related factors such as her prior right foot condition from 2013. This evidence was insufficient to show that appellant sustained a work-related injury in the performance of duty. Other reports from Dr. Sammarco are also insufficient to establish the claim as the physician did not provide a history of injury⁶ or specifically address whether her employment activities had caused or aggravated a diagnosed medical condition.⁷

Appellant submitted emergency room notes from Dr. Vest dated April 16, 2014 who treated appellant for a right foot injury. She reported a history of stress fractures and stated that she heard a "pop" in the right foot while working which became swollen and painful. Dr. Vest noted appellant's history was significant for a stress fracture in the right foot. However, she appears merely to be repeating the history of injury as reported by appellant without providing her own opinion regarding whether appellant's condition was work related. To the extent that Dr. Vest is providing her own opinion, she failed to provide a rationalized opinion regarding the causal relationship between appellant's transverse fracture of the fifth metatarsal of the foot and the factors of employment believed to have caused or contributed to such condition. Therefore, this report is insufficient to meet appellant's burden of proof.

Appellant submitted an April 18, 2014 report from Dr. Barnes who treated her for a right foot injury. She reported walking down the hall with her medicine cart on April 15, 2014 when she heard a pop in her right foot. Appellant was treated in the emergency room and was diagnosed with a broken fifth metatarsal in the right foot. She denied any trauma to the foot on the date of injury or prior to this date. This report does not support that appellant's right foot condition was causally related to her employment as Dr. Barnes opined that the injury did not appear to have been caused by a work-related factor. Therefore, this report is insufficient to meet appellant's burden of proof.

⁵ See *T.M.*, Docket No. 08-975 (issued February 6, 2009) (where the Board found that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

⁶ *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

⁷ *A.D.*, 58 ECAB 149 Docket No. 06-1183 (issued November 14, 2006) (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).

The remainder of the medical evidence is of limited probative value as it fails to provide an opinion on the causal relationship between appellant's diagnosed conditions and the April 15, 2014 work incident. For this reason, this evidence is not sufficient to meet her burden of proof.⁸

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 her condition was caused, precipitated, or aggravated by her employment is sufficient to establish causal relationship. Causal relationship must be established by rationalized medical opinion evidence.⁹ Appellant failed to submit such evidence, and OWCP therefore properly denied her claim for compensation.

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 her burden of proof to establish a traumatic injury causally related to an April 15, 2015 employment incident.

⁸ *See id.*

⁹ *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ORDER

IT IS HEREBY ORDERED THAT the June 1, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 9, 2016
Washington, DC

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

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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