United States Department of Labor
Employees' Compensation Appeals Board

R.J., Appellant	)	
and	)	**Docket No. 17-1228**
	)	**Issued: October 13, 2017**
U.S. POSTAL SERVICE, POST OFFICE, Los Angeles, CA, Employer	)	

Appearances:
Appellant, pro se
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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 15, 2017 appellant filed a timely appeal from November 28, 2016 and April 18, 2017 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 a traumatic injury causally related to June 16, 2016 employment incident.

FACTUAL HISTORY

On September 6, 2016 appellant, then a 51-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that on June 16, 2016 he twisted his left ankle and foot at work. In an attached statement dated June 16, 2016, he indicated that while delivering mail

[1] 5 U.S.C. § 8101 *et seq.*

around l:00 p.m. that day, he stepped in a hole on a sidewalk and twisted his left ankle. Appellant noted that he initially did not want to see a doctor as he thought it was a simple ankle sprain and that the pain would disappear, but it had not. J.A., an employing establishment manager, controverted the claim. He indicated that appellant began scheduled leave on June 17, 2016 and did not return to work until June 28, 2016, noting that, at that time, appellant had no limp and did not complain about his foot or leg. J.A. attached a second undated, unsigned statement from appellant, which related that, as soon as he stepped in the hole, he felt his left foot twisting and ankle cracking, noting that he did not wish to see a doctor because he thought it was a mild sprain and the pain would go away in time.

In support of his claim, appellant submitted an after visit summary dated June 17, 2016. This indicated that appellant was seen by Dr. James A. Zamora, Board-certified in family medicine. Vital signs were listed, and health problems included left plantar fasciitis. Two additional after visit summaries dated July 29 and August 24, 2016 also indicated that appellant was seen by Dr. Zamora for left plantar fasciitis.

By letter dated September 21, 2016, OWCP noted that appellant claimed that he injured his left ankle/foot as a result of stepping in a hole while delivering mail. It informed him of the evidence needed to support his claim, including a comprehensive report from his physician that provided a medical explanation as to how work activities caused, contributed to, or aggravated the claimed condition.

In a response dated September 23, 2016, appellant again related that he stepped in a hole on a sidewalk and twisted his left ankle, while delivering mail on June 16, 2016. He indicated that he immediately felt strong pain and rested for a while, but continued delivering his route and reported the injury to a supervisor when he returned to the station. Appellant reported that his ankle continued to bother him so he went to the doctor the next day. He was prescribed Ibuprofen, and the following week he was on vacation and rested his foot. Appellant noted that when he returned to regular duty, he used pain medication and ointment, but the pain worsened. He returned to his doctor on July 29, 2016, when he was given a controlled ankle motion (CAM) boot to wear when not working. Appellant indicated that he next saw his doctor on August 24, 2016 because his toes were going numb. He related that he saw a podiatrist on September 15, 2016, who took him off work for a month to rest his ankle.

A work status report, signed by Dr. Mike Ching-Kai Jou, a podiatrist, noted that appellant was seen on September 15, 2016 for diagnoses of left plantar fasciitis, left ankle joint pain, left sinus tarsi syndrome, and neuritis. Dr. Jou advised that appellant was placed off work from September 16 through October 16, 2016 due to incapacitating injury or pain.

Dr. Shabab Moradi, a Board-certified physiatrist, provided an attending physician's report (Form CA-20) on September 27, 2016. A treatment note dated September 26, 2016 was attached in which Dr. Moradi described appellant's treatment to date. Examination demonstrated tenderness to the left lateral ankle and left forefoot. Range of motion was limited due to pain and sensation was decreased over the left lateral foot and sole. There was no erythema, swelling, or ecchymosis present. Dr. Moradi diagnosed left ankle sprain and paresthesia and advised that appellant could return to full unrestricted duty. He commented that, based on appellant's history of injury and physical examination, this would be considered a work-related ankle injury

secondary to stepping in a hole but, upon his review of appellant's primary care notes, there appeared to be discrepancies in the history provided by appellant. Dr. Moradi continued that appellant's left ankle pain was initially addressed as plantar fasciitis/heel pain, and it was unclear whether the discrepancy was due to lapses in notation or whether appellant did not have an ankle injury on June 16, 2016 as noted, but rather an exacerbation of his prior heel pain which led to his current left ankle pain. He commented that it would be unusual for a provider to miss the primary site of injury/pain in multiple notes if the left ankle pain was truly the original site of injury. Dr. Moradi recommended obtaining further information from appellant's primary care physician or an expert consultation and, perhaps, a left ankle magnetic resonance imaging (MRI) scan and electrodiagnostic study. He concluded that he did not believe the condition found was caused or aggravated by employment activity.

Dr. Lidia Tiplea, a Board-certified neurologist, provided a work status report on October 31, 2016. She indicated that appellant was placed off work from October 31 to November 14, 2016 due to uncontrolled symptoms for diagnoses of left foot neuritis and left sinus tarsi syndrome.

By decision dated November 28, 2016, OWCP denied appellant's claim, finding that the June 16, 2016 incident occurred as alleged, but that the evidence submitted was insufficient to establish that a medical condition resulted from the June 16, 2016 incident.

On March 22, 2017 appellant requested reconsideration. A November 16, 2016 left ankle MRI scan demonstrated a split tear of the peroneus brevis tendon, a partial tear and retraction of the central bundle of the plantar fascia, and a partial tear of the anterior interosseous ligament.

Dr. Naren Gurbani, a Board-certified orthopedic surgeon, provided a December 20, 2016 treatment note. He reported a chief complaint of left ankle pain and swelling for six months, aggravated by ambulation. Dr. Gurbani discussed appellant's treatment to date. Left ankle demonstrated swelling and tenderness with diminished range of motion. Appellant could not perform single support heel raise. Left ankle x-ray that day demonstrated no acute fracture, significant joint disease, or soft tissue abnormality. A spur was noted involving the plantar aspect of the calcaneus. Dr. Gurbani reviewed the November 16, 2016 MRI scan and diagnosed left peroneal tendon tear, hind foot valgus. He recommended heel wedges for both shoes, exercise therapy, and medication, noting that, if appellant did not improve with therapy, he could need surgery.

In a merit decision dated April 18, 2017, OWCP denied modification of its November 28, 2016 decision. It noted that, although appellant had filed an occupational disease claim, since he was claiming a medical condition caused by a June 16, 2016 employment incident, it was being adjudicated as a traumatic injury claim. OWCP found that the medical evidence of record was insufficient to establish the claim because it did not sufficiently explain how stepping in a hole on June 16, 2016 caused, aggravated, accelerated, or precipitated the diagnosed conditions.[2]

[2] OWCP suggested that appellant file a Form CA-2, an occupational disease claim, since it appeared that the repetitive duties of standing and walking performed during his career as a letter carrier could have caused, aggravated, accelerated, or precipitated the conditions which were diagnosed in the instant claim.

LEGAL PRECEDENT

An employee seeking compensation under FECA[3] has the burden of proof to establish the essential elements of his or her claim by the weight of reliable, probative, and substantial evidence,[4] including that he or she is an "employee" within the meaning of FECA and that the claim was filed within the applicable time limitation.[5] The employee must also establish that he sustained an injury in the performance of duty as alleged and that his disability for work, if any, was causally related to the employment injury.[6]

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.[7]

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.[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 employee.[9] 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 causal relationship.[10]

ANALYSIS

It is undisputed that the June 16, 2016 employment incident occurred as alleged. The Board finds that the medical evidence submitted by appellant, however, is insufficient to establish that this incident resulted in an employment injury.

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[3] *Id*.

[4] *J.P.*, 59 ECAB 178 (2007).

[5] *R.C.*, 59 ECAB 427 (2008).

[6] *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989). OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift. 20 C.F.R. § 10.5(ee). OWCP regulations define the term "occupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift." 20 C.F.R. § 10.5(q).

[7] *T.H.*, 59 ECAB 388 (2008).

[8] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[9] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[10] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

Medical evidence submitted to support a claim for compensation should reflect a correct history, and the physician should offer a medically-sound explanation of how the claimed work event caused or aggravated the claimed condition.[11] The Board finds that no physician did so in this case.

The after visit summaries do not constitute competent medical evidence as they merely note that appellant was seen on a particular date. They are unsigned, and there is no indication of who prepared those reports. Incomplete medical reports not containing a signature do not constitute probative medical evidence,[12] as the author cannot be identified as a physician.[13]

The November 16, 2016 left ankle MRI scan did not provide a cause of any diagnosed conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[14] Likewise, the reports of Dr. Jou, Dr. Tiplea, and Dr. Gurbani did not include an opinion as to the cause of any diagnosed condition and, therefore, have no probative value on the issue of causation.[15]

Dr. Moradi's September 2016 opinion is also insufficient to establish a traumatic injury on June 16, 2016. He noted tenderness on examination of appellant's left ankle and forefoot, limited range of motion, and some decreased foot sensation and commented that, based on appellant's history of injury and physical examination, this could be considered a work-related ankle injury secondary to stepping in a hole. Dr. Moradi, however, further indicated that, upon review of the medical records, there appeared to be discrepancies in the history provided by appellant, noting that his left ankle pain was initially addressed as plantar fasciitis/heel pain. He further indicated that it was unclear whether the discrepancy was due to notation errors or whether appellant did not have an ankle injury on June 16, 2016 as alleged. Dr. Moradi commented that it would be unusual for a provider to miss the primary site of injury/pain in multiple notes if the left ankle pain was truly the original site of injury. He concluded that he did not believe the condition found was caused or aggravated by employment activity.

[11] *D.D.*, Docket No. 13-1517 (issued April 14, 2014).

[12] *P.H.*, Docket No. 16-1023 (issued October 11, 2016).

[13] *See Merton J. Sills*, 39 ECAB 572, 575 (1988); *see also, E.V.*, Docket No. 17-0417 (issued September 13, 2017).

[14] *Willie M. Miller*, 53 ECAB 697 (2002).

[15] *Id*.

It is appellant's burden of proof to establish a diagnosed condition causally related to the June 16, 2016 employment incident. Appellant submitted insufficient evidence to establish an injury caused by this incident.[16]

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 failed to establish a traumatic injury causally related to the June 16, 2016 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 18, 2017 and November 28, 2016 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 13, 2017
Washington, DC

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

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

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

[16] As suggested by OWCP in its April 18, 2017 decision, he could file a new Form CA-2, occupational disease claim, to the extent that he asserts that the repetitive duties of standing and walking performed during his career as a letter carrier could have caused, aggravated, accelerated, or precipitated the conditions which were diagnosed in the instant claim. An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q). A traumatic injury is defined as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. 20 C.F.R. § 10.5(ee). An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).