



to another office, her job consisted of only standing at the window counter for eight hours per day. Appellant indicated that she first became aware of her conditions and first realized they were caused or aggravated by her employment on January 1, 2013. She stopped work on July 5, 2016.

In an undated narrative statement, appellant indicated that her duties consisted of sorting packages to appropriate routes which required a lot of movement, pivoting, and walking to hampers, boxing mail in P.O. Boxes which required side-to-side movement, moving and pushing equipment full of mail or packages, and she was never in one place for more than five minutes. She further indicated that, when the carriers were all moved to a different zip code, there was no more equipment to move and no parcels to sort, so her duty assignments were changed to mainly window clerk duties, which consisted of standing at a counter tending to customers' needs for eight hours per day, five days per week. Appellant stated that she started to notice pain in her ankle area a few months into her new assignments as her right ankle was becoming more visible and swollen.

An April 29, 2016 right foot x-ray revealed "33 degree hallux valgus deformity" and flattening of the arch of the foot.

On June 28, 2016 Dr. Jason Boynton, appellant's podiatrist, diagnosed bilateral *pes* planovalgus deformity, tenosynovitis of the right hindfoot with *pes* planovalgus, with lateral impingement, right foot and hallux abducto valgus (HAV) with bunion deformity, right greater than left, and right gastroc equinus. He asserted that appellant had a history of right ankle injury and sinus tarsi pain. Dr. Boynton noted that she was given an injection the year before and it had helped, but her condition was progressively getting worse to the point where she had difficulty walking and standing. He indicated that appellant was scheduled for surgery on July 5, 2016 for a right triple arthrodesis, right *lapis* bunionectomy, and right gastroc recession.

In an August 4, 2016 letter, OWCP advised appellant of the deficiencies of her claim and afforded her 30 days to submit additional evidence and respond to its inquiries.

In response, appellant submitted an August 26, 2016 narrative statement reiterating the factual history of her claim and indicating that she never had any disability prior to this condition.

By decision dated September 20, 2016, OWCP denied the claim, finding that the evidence of record failed to establish causal relationship between appellant's conditions and factors of her federal employment.

On October 21, 2016 appellant requested reconsideration and submitted an August 12, 2016 report from Dr. Boynton, who stated that he had seen her over the last several years and she had a "longstanding history of *pes* planovalgus, which was likely exacerbated by her work situation, requiring her to stand on hard floors for long periods of time, which was not necessarily the cause of the problem but certainly an exacerbating factor." Dr. Boynton indicated that diagnostic imaging demonstrated severe flatfoot and appellant underwent flatfoot reconstruction with subtalar joint and talonavicular joint arthrodesis and a *lapis* bunionectomy to stabilize the medial column several weeks prior. He further indicated that she had a gastroc

recession to increase ankle joint dorsiflexion and decrease the deforming force of her foot. Dr. Boynton advised that appellant would likely return to work at five to six months from surgery.

By decision dated January 19, 2017, OWCP denied modification of its prior decision.

### **LEGAL PRECEDENT**

A claimant seeking benefits under FECA<sup>2</sup> has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.<sup>3</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>4</sup>

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.<sup>5</sup> A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>6</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).<sup>7</sup>

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.<sup>8</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> 20 C.F.R. § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>4</sup> See *D.R.*, Docket No. 09-1723 (issued May 20, 2010); *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>6</sup> *Victor J. Woodhams*, *supra* note 4.

<sup>7</sup> *Id.*

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

The fact that a condition manifests itself during a period of employment is not sufficient to establish causal relationship.<sup>9</sup> Temporal relationship alone will not suffice.<sup>10</sup> Entitlement to FECA benefits may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relationship.<sup>11</sup>

### ANALYSIS

The Board finds that appellant has failed to meet her burden of proof to establish that federal employment factors caused or aggravated one of her diagnosed medical conditions. Appellant identified the factors of employment that she believed caused her conditions, including standing at a window counter for eight hours per day at work, which OWCP accepted as factual. However, in order to establish a claim that she sustained an employment-related injury, she must also submit rationalized medical evidence which explains how her medical conditions were caused or aggravated by the implicated employment factors.<sup>12</sup>

The April 29, 2016 x-ray of the right foot confirmed the diagnosis of hallux valgus deformity and flattening of the arch of the foot. However, the diagnostic study does not address the etiology of appellant's foot conditions. Consequently, this evidence is insufficient to satisfy appellant's burden of proof with respect to causal relationship.<sup>13</sup>

In his reports, Dr. Boynton diagnosed bilateral *pes* planovalgus deformity, tenosynovitis of the right hindfoot with *pes* planovalgus, with lateral impingement, right foot and HAV with bunion deformity, right greater than left, and right gastroc equinus. He indicated that diagnostic imaging demonstrated severe flatfoot and reported that appellant had undergone flatfoot reconstruction surgery on July 5, 2016. Dr. Boynton asserted that she had a history of right ankle injury and sinus tarsi pain, which he had treated over the past several years. He noted that appellant was given an injection the year before and it had helped, but her condition was progressively getting worse to the point where she had difficulty walking and standing. Dr. Boynton stated that appellant had a "longstanding history of *pes* planovalgus, which was likely exacerbated by her work situation, requiring her to stand on hard floors for long periods of time, which was not necessarily the cause of the problem, but certainly an exacerbating factor." He failed to provide sufficient medical rationale explaining how the accepted employment factors caused or aggravated appellant's foot conditions. The Board finds that Dr. Boynton's opinion regarding the cause of appellant's conditions is speculative and equivocal in nature.<sup>14</sup> Dr. Boynton did not otherwise sufficiently explain the reasons why diagnostic testing and examination findings led him to conclude that prolonged standing at work caused or contributed

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<sup>9</sup> 20 C.F.R. § 10.115(e).

<sup>10</sup> See *D.I.*, 59 ECAB 158, 162 (2007).

<sup>11</sup> See *M.H.*, Docket No. 16-0228 (issued June 8, 2016).

<sup>12</sup> See *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

<sup>13</sup> See *supra* notes 3 through 5.

<sup>14</sup> A physician's opinion must be expressed in terms of a reasonable degree of medical certainty. *Victor J. Woodhams*, *supra* note 4.

to the diagnosed conditions. The need for rationale is particularly important as the record indicates that appellant had a prior history of *pes planovalgus*, right ankle injury, and sinus tarsi pain.<sup>15</sup> Therefore, the Board finds that the reports from Dr. Boynton are insufficient to establish a foot condition causally related to factors of appellant's federal employment.

As appellant has not submitted any rationalized medical evidence to support her claim that she sustained an injury causally related to the accepted employment factors, she failed to meet her burden of proof to establish a 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 of proof to establish a right foot and/or ankle injury causally related to factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the January 19, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 20, 2017  
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

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<sup>15</sup> See *supra* note 8.