

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

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| D.P., Appellant                   | ) |                      |
|                                   | ) |                      |
| and                               | ) | Docket No. 17-0391   |
|                                   | ) | Issued: July 3, 2018 |
| U.S. POSTAL SERVICE, POST OFFICE, | ) |                      |
| Washington, DC, 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 December 12, 2016 appellant filed a timely appeal from a September 13, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.<sup>3</sup>

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<sup>1</sup> Appellant timely requested oral argument. In a separate order, the Board, after exercising its discretion, denied the request as appellant's arguments on appeal could be adequately addressed in a decision based on a review of the case as submitted on the record. *Order Denying Request for Oral Argument*, Docket No. 17-0391 (issued May 9, 2017).

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> On appeal, appellant submitted additional evidence. The Board's jurisdiction is limited to the evidence that was before OWCP at the time it issued its decision. Therefore, the Board is precluded from reviewing the additional evidence for the first time on appeal. 20 C.F.R. § 501.2(c)(1); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952).

## ISSUE

The issue is whether appellant has met his burden of proof to establish a left foot condition causally related to the accepted July 29, 2016 employment incident.

## FACTUAL HISTORY

On August 8, 2016 appellant, then a 35-year-old city carrier assistant filed a traumatic injury claim (Form CA-1) alleging that, on July 29, 2016, he fractured his left foot while descending steps in the performance of duty. He stopped work on July 29, 2016.<sup>4</sup>

In a letter dated August 12, 2016, OWCP informed appellant that his claim initially appeared to be a minor claim that resulted in little or no lost time from work. It explained that, based upon these criteria, and because the employing establishment did not controvert continuation of pay or challenge the case, payment of a limited amount of medical expenses was administratively approved. OWCP explained that the merits of the claim were not formally considered. It advised appellant that his claim was now being reopened for consideration because they received an indication that he had not returned to work in a full-time capacity. OWCP informed him of the type of evidence needed to support his claim and requested that he submit such evidence within 30 days.

In an August 10, 2016 disability certificate, Dr. Kojo Marfo, a Board-certified orthopedic surgeon, noted that appellant was under his care from August 10, 2016. He diagnosed foot sprain and avulsion of talar neck. Dr. Kojo indicated that appellant was unable to work for four weeks.

By decision dated September 13, 2016, OWCP accepted that the July 29, 2016 incident occurred as alleged, but denied appellant's claim finding that he failed to submit medical evidence containing a diagnosis in connection with the injury or events. Thus, it concluded that he had not established fact of injury.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>5</sup> has the burden of proof to establish 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 timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. First,

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<sup>4</sup> The record indicates that appellant also has a claim for a traumatic injury on July 16, 2016 under OWCP File No. xxxxxx605. The claims have not been administratively combined.

<sup>5</sup> *Supra* note 2.

<sup>6</sup> *See T.H.*, 59 ECAB 388 (2008).

the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged.<sup>7</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>8</sup>

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left foot condition causally related to the accepted July 29, 2016 employment incident.

The Board finds that the medical evidence of record contains no reasoned explanation of how the specific employment incident on July 29, 2016 caused or aggravated appellant's claimed left foot conditions.<sup>10</sup>

The record contains an August 10, 2016 disability certificate from Dr. Marfo. He noted that appellant was under his care from August 10, 2016 and diagnosed foot sprain and avulsion of talar neck. Dr. Marfo also indicated that appellant was unable to work for four weeks. However, he did not offer any opinion as to the cause of appellant's 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.<sup>11</sup>

As appellant has not submitted any additional medical evidence to support his claim that he sustained a left foot condition causally related to the July 29, 2016 employment incident, he has failed to meet his burden of proof.

On appeal appellant argues that he was under the impression that all of his medical evidence was forwarded. The Board notes that OWCP properly reviewed the evidence that was of record at the time of its September 13, 2016 decision.

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<sup>7</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> *Id.*

<sup>9</sup> *I.J.*, 59 ECAB 408 (2008).

<sup>10</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

<sup>11</sup> *K.W.*, 59 ECAB 271 (2007).

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 his burden of proof to establish a left foot condition causally related to the accepted July 29, 2016 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 13, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 3, 2018  
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