

ISSUE

The issue is whether appellant has met his burden of proof to establish a bilateral foot condition causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On June 2, 2017 appellant, then a 45-year-old housekeeping aid, filed an occupational disease claim (Form CA-2) alleging that he developed blisters, ulcerations, and calluses on both feet. He alleged that he first became aware of his claimed conditions on November 1, 2016 and of their relationship to his federal employment on November 25, 2016. Appellant asserted that being “pulled” to a bed washing assignment, as requested by a supervisor, aggravated his bilateral foot condition and diabetic complications. He requested a change in his tour or assignment due to the change in his workload and to better monitor his disability. After multiple requests, appellant noticed that his condition worsened over subsequent days and work shifts and he was unable to walk during the evening on November 25, 2016. He related that he underwent surgery during this time period to fix some of his injuries. Appellant did not submit additional evidence in support of his claim.

OWCP, by development letter dated June 13, 2017, advised appellant of the deficiencies in his claim and afforded him 30 days to submit medical evidence, including a detailed narrative report from his physician which included a history of the injury and a medical explanation with objective evidence of how the reported work activities caused, contributed to, or aggravated a bilateral foot condition. It also requested that the employing establishment submit treatment notes indicating whether appellant was treated at an employing establishment medical facility.

In response to OWCP’s June 13, 2016 development letter, appellant submitted various letters and medical reports from Dr. Ryan Chatelain, a podiatric surgeon. In a December 2, 2016 report, Dr. Chatelain noted that appellant presented for a follow-up visit of wounds to his feet. He discussed findings on physical examination and assessed diabetic neuropathy, pre-ulcerative calluses, hyperkeratosis, hammertoe, and foot pain. Dr. Chatelain addressed appellant’s treatment plan and advised that he should be able to return to activities and shoe gear as tolerated. He maintained that it would be difficult for appellant to return to full-duty work given the amount of necessary weight bearing, noting that unfortunately, pre-ulcerative lesions were forming even with custom offloaded/accommodative inserts and appropriate shoe gear.

In letters dated December 15, 2016 and January 4, 2017, Dr. Chatelain advised that appellant was able to return to work/school on December 16, 2016. He noted that his wounds were healed at that time. Dr. Chatelain also noted that appellant needed cutout accommodations for pre-ulcerative lesions in supportive shoes at all times. He again maintained that it would be difficult for him to return to full-duty work given the amount of necessary weight bearing and that pre-ulcerative lesions were forming even with custom offloaded/accommodative inserts and appropriate shoe gear. Dr. Chatelain indicated that appellant informed him that these lesions formed in under two hours of continued ambulatory activity when no accommodations were provided. He advised that, given the limited nature of his weight-bearing status and concern for recurrent wound formation at his current level of work activity, consideration should be given to

a more sedentary position, including a desk job that would allow him to work, but limit the formation of wounds on his feet.

Dr. Chatelain, in a December 28, 2016 prescription note, requested that appellant be excused from work through January 4, 2017. He explained that appellant was recovering from a health condition that incapacitated him from performing his current job duties.

In an undated medical certificate, Dr. Chatelain indicated that appellant had been under his care from December 2, 2016 for diabetic ulcers and pre-ulcerative lesions with *pes cavus* deformity. He indicated by checking the box marked “yes” that appellant’s injury was work related. Dr. Chatelain advised that on February 15, 2017 appellant could return to his usual duties with accommodations.

On February 15, 2017 Dr. Chatelain reported that appellant returned for a follow-up visit for callusing to the right great toe. He also needed more documentation for work regarding the amount of time he needed to be on and off his foot. Dr. Chatelain examined appellant and reiterated his prior assessments of diabetic neuropathy, hammertoe, hyperkeratosis, foot pain, and pre-ulcerative calluses. He noted appellant’s request to undergo surgery as conservative treatment measures had been exhausted.

In March 2, 2017 hospital records, Dr. Chatelain indicated that he performed a right foot flexor tenotomy with extensor hallucis longus lengthening to treat appellant’s preoperative and postoperative diagnoses of right foot *pes cavus* with hallux malleus deformity and recurrent pre-ulcerative lesions to the tuft of the great toe secondary to these conditions.

By letter dated July 6, 2017, the employing establishment controverted appellant’s claim. It noted that on October 16, 2016 appellant had been promoted from a wage grade level-2 (WG-2) housekeeping aid to a WG-3 housekeeping aid and that bed washing services were part of his regular job duties. The employing establishment also noted that appellant’s immediate supervisor granted his request for reasonable accommodations regarding his diabetes and foot conditions prior to his formal request for such accommodations on November 7, 2016. Actual accommodation was granted on December 11, 2016. The employing establishment contended that appellant had not submitted any medical documentation which provided a physician’s well-reasoned opinion regarding causal relationship between his diagnosed condition and factors of his employment. It also contended that he had not submitted necessary factual information to support his claim.

By decision dated September 7, 2017, OWCP denied appellant’s occupational disease claim. It found that the medical evidence of record was insufficient to establish that the diagnosed foot conditions were causally related to the accepted employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 filed within the applicable time

³ *Supra* note 2.

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 is causally related to the employment injury.⁴ 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.⁵

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

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁶ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is causal relationship between the employee's diagnosed condition and the compensable employment factors.⁷ The opinion of the physician must be based on a complete factual and medical background of the employee, 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.⁸

ANALYSIS

OWCP accepted as factual that appellant washed beds while working as a housekeeping aid. The Board finds, however, that the medical evidence of record is insufficient to establish that he sustained a bilateral foot condition caused or aggravated by these accepted work factors.

Appellant submitted a series of reports from his attending physician, Dr. Chatelain. In an undated medical certificate, Dr. Chatelain diagnosed diabetic ulcers and pre-ulcerative lesions with *pes cavus* deformity. He advised that appellant could return to his usual work duties with accommodations on February 15, 2017. Although Dr. Chatelain answered "yes" on a form report when asked if the diagnosis was work related, the Board has held that a report that addresses causal relationship with a checkmark, without medical rationale explaining how the work condition caused the alleged injury, is of diminished probative value and is insufficient to establish causal

⁴ *T.H.*, Docket No. 17-0747 (issued May 14, 2018); *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *T.H.*, *id.*; *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.* 58 ECAB 149 (2006); *D'Wayne Avila*, 57 ECAB 642 (2006).

⁷ *J.J.*, Docket No. 09-0027 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

⁸ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

relationship.⁹ He failed to explain how appellant's diabetic ulcers and pre-ulcerative lesions with *pes cavus* deformity, resultant disability, and work restrictions were caused or aggravated by washing beds at work. Because Dr. Chatelain failed to provide a well-rationalized explanation regarding causal relationship between appellant's diagnosed conditions, resultant disability, and work restrictions and the accepted employment factors, his medical certificate is of limited probative value.

In reports dated December 15, 2016 and January 4, 2017, Dr. Chatelain related a history that appellant's pre-ulcerative lesions on his feet formed under two hours of continued ambulatory activity when no accommodations were made for his condition at work. However, he appears merely to repeat the history of injury as reported by appellant without providing his own opinion regarding whether appellant's condition was work related. To the extent that Dr. Chatelain is providing his own opinion, he failed to provide a rationalized opinion based on objective findings regarding causal relationship between appellant's pre-ulcerative lesions and the established employment factors.¹⁰ As such, the Board finds that his reports are insufficient to meet appellant's burden of proof.

Similarly, Dr. Chatelain's remaining reports are insufficient to meet appellant's burden of proof. Within these additional reports, he did not provide an opinion stating that the accepted employment factors caused or aggravated appellant's diagnosed right foot conditions, resultant surgery, and disability status.¹¹

The Board finds that appellant has failed to submit rationalized, probative medical evidence sufficient to establish bilateral foot conditions causally related to the accepted employment factor. Appellant therefore did not meet his burden of proof.

On appeal appellant's representative contends that appellant sustained a work-related injury and disability based on Dr. Chatelain's medical opinion. He further contends that his injury could have been avoided if the employing establishment had complied with Dr. Chatelain's orders by providing him with a sedentary position. The representative maintains that instead it kept appellant in his duty position which caused his bilateral foot condition and worsened his disability. However, for the reasons set forth above, Dr. Chatelain failed to explain with medical rationale how the accepted employment factors caused or aggravated appellant's diagnosed foot conditions, resultant surgery, disability status, and work restrictions.¹² Thus, Dr. Chatelain's opinion is

⁹ *A.C.*, Docket No. 17-1869 (issued March 1, 2018); *see also Calvin E. King, Jr.*, 51 ECAB 394 (2000); *see also Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

¹⁰ *M.G.*, Docket No. 16-1791 (issued February 22, 2017); *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

¹¹ *See T.M.*, Docket No. 16-1456 (issued January 10, 2017); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *A.D.*, 58 ECAB 149 (2006) (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).

¹² *See supra* note 7.

insufficient to establish that appellant sustained a bilateral foot condition causally related to the accepted employment factors.

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 failed to meet his burden of proof to establish a bilateral foot condition causally related to the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the September 7, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 20, 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