

ISSUE

The issue is whether appellant has met her burden of proof to establish a right foot sprain causally related to the accepted December 6, 2016 employment incident.

FACTUAL HISTORY

On December 6, 2016 appellant, then a 45-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that, on that date, she sprained her right foot when she missed a step, slipped, and fell while in the performance of duty. She stopped work on December 17, 2016.

In a December 16, 2016 hospital record, Dr. Wayne T. Fellows, an osteopathic physician, related appellant's complaints of right ankle pain. He noted that she fell while on the job. Upon physical examination of her right ankle, Dr. Fellows observed tenderness to the anterior ankle and slight tenderness below the medial malleolus. He related that a right ankle x-ray examination showed soft tissue swelling and a tiny avulsion fracture off the superior aspect of the navicular bone. Dr. Fellows diagnosed ankle sprain and recommended that appellant follow-up with an orthopedist. He noted that she could work limited duty with restrictions.

In a January 5, 2017 report, Dr. Paul Sullivan, a Board-certified podiatrist, related that on December 6, 2016 appellant was delivering mail at work when she missed a step and fell onto the sidewalk. He noted "not quite cleared of mechanism of [appellant's] injury to her right foot." Upon physical examination of appellant's right foot, Dr. Sullivan observed mild swelling about the neutral and dorsal tarsal regions. Neurological examination showed grossly intact sensation L2 through S1. Dr. Sullivan also reported pain at the talonavicular and along the posterior tibial (PT) tendon with the bulbous swelling at the distal insertion point around the navicular on the right. He indicated that radiographic imaging of the right foot showed an avulsion fracture of the navicular on the lateral view. Dr. Sullivan diagnosed closed nondisplaced fracture of the navicular bone of the right foot and other synovitis and tenosynovitis of the right ankle and foot. He completed a work status note indicating that appellant could work modified duty with restrictions of sedentary work only.

By development letter dated January 12, 2017, OWCP informed appellant that her claim was initially accepted as a minor injury, but was now being reopened for review of the merits. It requested that she respond to an attached development questionnaire and provide medical evidence to establish that she sustained a diagnosed condition as a result of the alleged incident. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP received appellant's response to its development letter on January 23, 2017. Appellant related that while she was delivering mail along her route she was walking on the sidewalk and did not see that at the end of the sidewalk was a drop off. She indicated that after her fall she felt extreme right foot pain, road rash on her left knee, and her hands were all scuffed up. Appellant noted that she immediately reported the incident to the officer-in-charge and received papers a few days later to go to the physician. She indicated that she wrapped her foot and continued to work, but when the swelling and pain continued she sought medical treatment. Appellant discussed the medical treatment that she had received and reported that she waited to

file a claim until she had all the necessary paperwork. She noted that she did not sustain any other injuries.

OWCP received a January 5, 2017 attending physician's report (Form CA-20) by Dr. Sullivan. Dr. Sullivan described a history of injury of "fell off step as mail carrier." He noted examination findings of fracture, edema, and pain. Dr. Sullivan diagnosed fracture of the navicular bone on the right. He checked a box marked "yes" indicating that the condition was caused or aggravated by the described employment activity. Dr. Sullivan noted that appellant could work sedentary duty with no driving.

By decision dated February 16, 2017, OWCP accepted that the December 6, 2016 employment incident occurred as alleged and that a right foot condition was diagnosed, but it denied her claim finding insufficient medical evidence to establish causal relationship between her medical condition and the accepted incident.

On February 21, 2017 appellant, through counsel, requested a hearing before a hearing representative from OWCP's Branch of Hearings and Review. A hearing was held on May 9, 2017.

OWCP received a follow-up report and examination note dated February 24, 2017 by Dr. Sullivan. Dr. Sullivan related that appellant was initially evaluated on January 5, 2017 and had informed him that on December 6, 2016 she was delivering mail when she twisted her right ankle and had persistent pain and swelling since the fall. Upon physical examination, he observed no significant swelling to her right ankle and foot and tenderness along the PT tendon and at the navicular. Neurological examination showed grossly intact sensation. Dr. Sullivan diagnosed completely healed avulsion fracture of the right navicular bone of the right foot, some residual posterior tibial tendinitis of the right ankle, and other synovitis and tenosynovitis of the right ankle and foot.

In an April 7, 2017 report, Dr. Sullivan accurately described the December 6, 2016 employment incident and indicated that diagnostic imaging showed a navicular avulsion fracture of appellant's right foot. He provided examination findings of no swelling or pain and full range of motion. Dr. Sullivan diagnosed healed ankle foot ligament strain on the right and nondisplaced fracture of navicular bone of the right foot with routine healing. He opined that appellant had reached maximum medical improvement and could work without restrictions.

By decision dated June 12, 2017, an OWCP hearing representative affirmed the February 16, 2017 denial decision. She found that the medical evidence submitted was insufficient to establish causal relationship between the December 6, 2016 employment incident and appellant's right foot condition.

On August 9, 2017 appellant, through counsel, requested reconsideration. Counsel indicated that he was enclosing new medical evidence in support of appellant's claim.

In a narrative report dated June 5, 2017, Dr. Sullivan indicated that he examined appellant for an injury she sustained on December 6, 2016. He related that she explained "a mechanism of [appellant] fell forward and is not clear the positioning at that time of the right ankle." Dr. Sullivan noted that he initially evaluated appellant on January 5, 2017 and related that radiographic imaging

of her right foot, performed that day, showed a possible fracture or avulsion of the region of the talonavicular joint, dorsal medial region, which clinically correlated to her problem of pain. He indicated that examination findings that day revealed difficulty doing some toe raise maneuver, which would be indicative of possible tendon involvement postinjury. Dr. Sullivan related that he treated appellant again on February 24 and April 7, 2017 and provided his examination findings and recommend course of treatment. He noted that appellant's diagnosis upon initial examination at his office was of posterior tibial tendinitis with probable small avulsion or chip fracture off the navicular. Dr. Sullivan opined that there was a causal relationship between the accepted employment incident and her current condition. He indicated that appellant did not have any work limitations, other than wearing supportive foot wear. Dr. Sullivan concluded that she had a good prognosis and he did not believe that her condition would deteriorate.

A June 23, 2017 right foot diagnostic testing report showed increased laxity of the second, third, and fourth metatarsal phalangeal joints suggesting incompetence of the plantar plates.

In a July 17, 2017 report, Dr. Stanley David, a podiatrist, described that on December 6, 2016 appellant fell at work and injured her right foot and ankle. He noted that she was treated by Dr. Sullivan, who diagnosed nondisplaced fracture of the navicular bone and placed her in a walking boot. Dr. David related that examination findings of appellant's right foot on May 1, 2017 revealed pain and weakness and tenderness in the third interspace of the right foot. He diagnosed a traumatic neuroma third interspace of the right foot. Dr. David explained that traumatic neuroma is caused by surgery or injury and noted that appellant had no previous pain in the third interspace. He noted that he researched two papers from Stanford University and Massachusetts General Hospital, which were included with his report. Dr. David concluded that appellant had traumatic neuroma third interspace radiating to ankle, which was caused by the December 6, 2016 injury.

By decision dated November 7, 2017, OWCP denied modification of the June 12, 2017 decision.

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 timely filed within the applicable time limitation of FECA,⁴ 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

³ *Id.*

⁴ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

the employment injury.⁵ 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.⁶

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.⁷ First, 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.⁸ 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.⁹ An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.¹⁰

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹¹ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.¹² 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).¹³

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish causal relationship between her right foot condition and the accepted December 6, 2016 employment incident.

Appellant submitted medical reports from Dr. Sullivan dated January 5 to June 5, 2017. Dr. Sullivan described that on December 6, 2016 she fell down and injured her right foot when she missed a step onto a sidewalk while delivering mail in the performance of duty. Upon initial

⁵ *L.T.*, Docket No. 18-1603 (issued February 21, 2019); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *G.D.*, Docket No. 19-0265 (issued May 20, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *R.B.*, Docket No. 17-2014 (issued February 14, 2019); *B.F.*, Docket No. 09-0060 (issued March 17, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁸ *S.F.*, Docket No. 18-0296 (issued July 26, 2018); *D.B.*, 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁹ *A.D.*, Docket No. 17-1855 (issued February 26, 2018); *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 7.

¹⁰ *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

¹¹ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

¹² *M.S.*, Docket No. 19-0189 (issued May 14, 2019).

¹³ *Id.*; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

examination of appellant's right foot, he observed mild swelling about the neutral and dorsal tarsal region and pain at the talonavicular and along the PT tendon. Dr. Sullivan diagnosed closed nondisplaced fracture of the navicular bone of the right foot and other synovitis and tenosynovitis of the right ankle and foot. In a January 5, 2017 attending physician's report (Form CA-20), he checked a box marked "yes" indicating that the medical condition was caused or aggravated by an employment activity. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹⁴ As Dr. Sullivan did not provide medical rationale explaining how the December 6, 2016 employment incident caused appellant's right foot condition, his report is insufficient to establish causal relationship.

In a June 5, 2017 report, Dr. Sullivan discussed the medical treatment that appellant had received and again provided physical examination findings. He reported diagnoses of posterior tibial tendinitis with probable small avulsion or chip fracture off the navicular. Dr. Sullivan opined that there was causal relationship. Although he provided an accurate history of the accepted December 6, 2016 employment incident and an affirmative opinion on causation, he did not provide medical rationale explaining how the described employment incident resulted in the diagnosed medical condition. A rationalized medical opinion must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.¹⁵ As Dr. Sullivan's reports do not contain sufficient medical rationale his reports are insufficient to establish appellant's claim.

Similarly, Dr. David's opinion on causal relationship in his July 17, 2017 report also lacks medical rationale to support causal relationship. He described the December 6, 2016 employment incident and diagnosed a traumatic neuroma third interspace of the right foot. Dr. David opined that appellant's condition was caused by the accepted December 6, 2016 employment incident. He did not, however, provide any rationalized medical explanation to support his conclusion. 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.¹⁶ Because Dr. David did not provide a reasoned opinion explaining how the December 6, 2016 employment incident caused or contributed to appellant's right foot condition, the Board finds that his report is insufficient to establish her claim.

Appellant was also treated by Dr. Fellows in the emergency room. In a December 16, 2016 report, he noted that she fell down at work and provided examination findings. Dr. Fellows diagnosed ankle sprain and recommended a follow-up with an orthopedist. He did not, however, opine on whether appellant's right foot condition resulted from the December 6, 2016 employment incident. The Board has held that medical evidence that does not offer an opinion regarding the

¹⁴ *D.D.*, 57 ECAB 734, 738 (2006); *Deborah L. Beatty*, 54 ECAB 340 (2003).

¹⁵ *See J.J.*, Docket No. 09-0027 (issued February 10, 2009).

¹⁶ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁷ Similarly, the June 23, 2017 right foot diagnostic testing report is insufficient to establish appellant's traumatic injury claim as it does not address the cause of her claimed condition. The Board has held that diagnostic reports that do not offer any opinion regarding the cause of an employee's condition lack probative value on the issue of causal relationship.¹⁸

On appeal, counsel alleges that Dr. Sullivan's and Dr. David's reports were of sufficient probative value to establish causal relationship under the "relaxed standard" found in *John P. Broll*, 42 ECAB 410. The Board, however, distinguishes the facts of this case from the facts in *John P. Broll*. In *John P. Broll*, the claimant alleged that he sustained a contusion that resulted from a box hitting him on the head. The injury was confirmed by eyewitnesses, including the claimant's supervisor. The claimant also immediately sought medical treatment and provided a medical note of the same date as the alleged injury. In contrast to the facts in the *John P. Broll* case, however, appellant did not sustain a simple, minor injury that was confirmed by eyewitnesses and required immediate medical attention. On the contrary, appellant waited 10 days before seeking medical treatment and has alleged a right foot injury that required continued medical treatment.

In order to obtain benefits under FECA an employee 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.¹⁹ Because appellant has failed to provide such evidence demonstrating that her right foot condition was causally related to the accepted December 6, 2016 employment incident, she has not met her burden of proof to establish her traumatic injury claim.²⁰

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 condition causally related to the accepted December 6, 2016 employment incident.

¹⁷ *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *Ellen L. Noble*, 55 ECAB 530 (2004).

¹⁸ *See S.S.*, Docket No. 18-1356 (issued May 21, 2019).

¹⁹ *Supra* note 5.

²⁰ OWCP should consider whether to accept appellant's left knee road rash and her scuffed hands, as visible injuries, resulting from the December 6, 2016 employment incident. *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.6(a) (June 2011). *M.A.*, Docket No. 13-1630 (issued June 18, 2014).

ORDER

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

Issued: August 19, 2019
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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