

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

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<b>T.M., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 19-1360</b>
	)	<b>Issued: December 12, 2019</b>
<b>U.S. POSTAL SERVICE, PROCESSING &amp; DISTRIBUTION CENTER, Knoxville, TN, Employer</b>	)	
_____	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On June 6, 2019 appellant filed a timely appeal from a May 9, 2019 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 this case.<sup>3</sup>

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<sup>1</sup> Appellant has also filed an appeal from a May 10, 2019 decision in Docket No. 19-1566 relating to a claimed left foot injury. Issues relating to a claimed left foot injury are not addressed in this decision and Docket No. 19-1566 will proceed to a separate decision.

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

<sup>3</sup> The Board notes that, following the May 9, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## ISSUE

The issue is whether appellant has met her burden of proof to establish a right foot stress fracture causally related to the accepted factors of her federal employment.

## FACTUAL HISTORY

On February 14, 2019 appellant, then a 37-year-old mail handler, filed an occupational disease claim (Form CA-2) for a right foot stress fracture that she attributed to factors of her federal employment including excessive walking during her tour in her work area. She indicated that she first became aware of her condition and first realized it resulted from her federal employment on February 5, 2019.

In an accompanying statement, appellant related that the foot pain became intense in February 2019 so she went to the doctor and was informed that it was a stress fracture due to excessive walking. She reported that excessive walking was required to perform her job. Appellant indicated that she walked on concrete on the dock for eight hours per day up to seven days per week. She recounted that she was also diagnosed with a left foot stress fracture in July 2017, and April and December 2018 and that she was advised to wear a walking boot for six to eight weeks.

In a February 5, 2019 report, Dr. James Engblom, a podiatrist and Board-certified foot and ankle surgeon, recounted appellant's complaints of persistent right foot pain for the prior two weeks. He noted that appellant did not remember a specific injury. Upon examination of appellant's right foot, Dr. Engblom observed inflammation and tenderness, primarily in the base of the fourth metatarsal. He diagnosed right foot stress fracture.

Appellant also submitted February 14, 2019 laboratory test results.

In a development letter dated March 18, 2019, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of medical and factual evidence necessary to support her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the requested information.

Appellant responded to OWCP's development letter in a completed questionnaire dated April 1, 2019. She described the employment-related activities that she believed contributed to her condition as walking 8 to 11 miles per shift on concrete and pushing or pulling heavy equipment. Appellant reported that she performed these activities for 5 days per week for 1 year and 10 months. She indicated that she did not have a right foot injury or medical condition prior to her federal employment. Appellant related that her activities outside of her federal employment included watching television and social media for two hours per day.

By decision dated May 9, 2019, OWCP denied appellant's occupational disease claim. It accepted her employment duties as a mail handler and a diagnosis of right foot stress fracture, but it denied her claim finding insufficient medical evidence to establish causal relationship between her right foot condition and the accepted factors of her federal employment.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish the essential elements of his or her claim, including 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,<sup>5</sup> 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> 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.<sup>7</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (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 claimant.<sup>8</sup>

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>9</sup> 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 specific employment factors identified by the employee.<sup>10</sup>

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right foot stress fracture causally related to the accepted factors of her federal employment.

In a February 5, 2019 report, Dr. Engblom recounted appellant's complaints of right foot pain for the prior two weeks and noted examination findings of inflammation and tenderness, primarily in the base of the fourth metatarsal and right mild effusion at the base of the fourth

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>8</sup> *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

<sup>9</sup> *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>10</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

metatarsal. He diagnosed right foot stress fracture. Dr. Engblom did not, however, offer an opinion regarding the cause of the diagnosed right foot condition. Medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>11</sup> Accordingly, Dr. Engblom's report is insufficient to establish appellant's claim for a right foot injury.

Likewise, the February 14, 2019 laboratory test results also lacks probative value to establish causal relationship as it did not provide an opinion on causal relationship between appellant's employment duties and her claimed stress fracture.<sup>12</sup>

On appeal appellant noted her disagreement with the decision. As explained above, the medical evidence of record is insufficient to establish that appellant's mail handler employment duties caused or contributed to her right foot stress fracture. Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>13</sup> As appellant has not submitted such rationalized medical opinion evidence in this case, the Board finds that she has not met her burden of proof to establish her claim.<sup>14</sup>

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 stress fracture causally related to the accepted factors of her federal employment.

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<sup>11</sup> *M.W.*, Docket No. 18-1624 (issued April 3, 2019); *S.B.*, Docket No. 18-1296 (issued January 24, 2019).

<sup>12</sup> *See A.B.*, Docket No. 17-0301 (issued May 19, 2017).

<sup>13</sup> *Supra* note 8.

<sup>14</sup> *See M.C.*, Docket No. 19-0673 (issued September 6, 2019).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 9, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 12, 2019  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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