

that appellant “claims ankle pain with no known reason” and that he “continually claims injuries that have no known reason.”

In a letter dated July 10, 2017, an employing establishment health and resources management specialist controverted the claim. She advised OWCP that, according to the medical documentation, appellant was diagnosed with cellulitis. She indicated that, since it was caused by bacteria in the dermis, it would be an occupational claim and not a traumatic injury.

In a July 8, 2017 routing slip, appellant indicated that, while delivering his route, he started having pain when walking on the left ankle. He noted that he “called the [employing establishment] to let them know of the problem.”

In a July 8, 2017 report, Dr. Robert M. Martino, a Board-certified orthopedic surgeon, noted that appellant presented with complaints that he was walking and experienced pain in his left ankle. He noted a history that she had a slow onset of pain in the left ankle with no trauma today “but did cut on rose thorn a couple of days ago at work and now has red inflamed skin left lateral ankle and on other complaint and no hi risk for infection.” Dr. Martino diagnosed cellulitis of the left ankle. He provided restrictions for work which included no walking on uneven terrain, no climbing stairs, and being seated for 90 percent of the time.

In a July 8, 2017 duty status report, Dr. Martino noted that appellant had pain in the left ankle, which he related occurred while delivering mail when he experienced pain in his left ankle. He again diagnosed cellulitis of the left ankle. Dr. Martino delineated restrictions for work, which included that he should be sitting 90 percent of the time, no stairs, no climbing, and no uneven surfaces.

In a July 10, 2017 treatment note, a physician assistant indicated that appellant was seen for recheck of a self-reported left ankle injury. He diagnosed cellulitis of left ankle.

In a July 12, 2017 treatment note, Dr. Lynne M. Yancey, Board-certified in emergency medicine, diagnosed cellulitis of the left lower limb. She released appellant to return to work on that date with restrictions that included that he should be sitting 100 percent of the time. Furthermore, appellant was to keep the foot elevated at all times when sitting. Dr. Yancey filled in that the anticipated date of maximum medical improvement was August 15, 2017.

In a separate report also dated July 12, 2017 and accompanying duty status report (Form CA-17), Dr. Yancey noted that appellant’s history included that he was “scratched by a rose bush while delivering mail sometime late last week.” She indicated that, by Saturday, he had developed pain, redness, warmth, and swelling over the left ankle. Dr. Yancey related that appellant was “not sure whether there was originally any redness/swelling over the scratched area, which is just above the ankle.” She diagnosed cellulitis of the left ankle. Dr. Yancey also noted that the history was “somewhat inconsistent, and the abrasion is not located where the swelling and tenderness are (which is the ankle joint itself).” She doubted that it was the septic joint, but gout was possible.

By development letter dated July 20, 2017, OWCP advised appellant of the deficiencies in the claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit additional evidence.

OWCP subsequently received a July 17, 2017 report, wherein Dr. Yancey assessed cellulitis of the left ankle and left ankle strain. In a July 20, 2017 report, Dr. Yancey advised that appellant could return to work with walking up to four hours per day and follow up in three weeks. On August 16, 2017 she indicated that he could return to regular-duty work.

OWCP also received copies of previously submitted reports, physical therapy notes, and a July 21, 2017 modified-job assignment accommodating appellant's four-hour walking restriction.

By decision dated August 24, 2017, OWCP denied appellant's claim. It found that the evidence of record was insufficient to establish that the July 8, 2017 incident occurred as described. OWCP noted that appellant did not complete its factual development questionnaire or otherwise provide additional information to support that a work-related event occurred. It concluded, therefore, that he had not met the requirements to establish an injury as defined by FECA.

LEGAL PRECEDENT

A claimant seeking benefits under FECA 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 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, 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.² 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.³

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁴ The second component is whether the employment incident caused a personal injury⁵ An employee may establish that an injury occurred in the performance of duty as alleged,

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

³ *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).

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *John J. Carlone*, 41 ECAB 345 (1989). Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. *Robert G. Morris*, 48 ECAB 238 (1996). 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. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). 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). *Id.*

but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.⁶

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish an injury in the performance of duty on July 8, 2017, as alleged.

Appellant has alleged that on July 8, 2017 he was walking while in the performance of duty when he experienced pain in his left ankle. OWCP denied the claim, finding that the evidence of record was insufficient to establish that the injury occurred as alleged.

In a letter dated July 20, 2017, OWCP requested that appellant submit clarifying information describing how his claimed injury occurred. However, appellant did not submit any additional information to support that a work-related event occurred. As such, the record lacks sufficient factual evidence to establish how the claimed injury occurred. As appellant has not established the factual aspect of his claim, the medical evidence regarding causal relationship need not be addressed.⁷

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 an injury in the performance of duty on July 8, 2017 as alleged.

⁶ *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

⁷ *See V.F.*, 58 ECAB 321, 327 (2007).

ORDER

IT IS HEREBY ORDERED THAT the August 24, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 10, 2019
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