

ISSUE

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

FACTUAL HISTORY

On December 18, 2017 appellant, then a 37-year-old city carrier assistant, filed an occupational disease claim (Form CA-2) for a left ankle condition due to factors of his federal employment including walking. He indicated that he first realized that he had a left ankle condition and that it was causally related to factors of his federal employment on December 4, 2017. On the back of the claim form a supervisor noted that appellant had not stopped work and had returned to work without restrictions.

In a statement dated December 22, 2017, C.M., a supervisor of customer service, related that appellant began working at the employing establishment in May 2017 and, when questioned about an absence in June 2017, advised that he had a preexisting foot condition. Appellant also mentioned injuring his foot in October 2017 while playing basketball. It was not until C.M. began removal proceedings due to appellant's "foot problem and other continued absence" that appellant advised that his condition was employment related and filed an occupational disease claim.

In a January 29, 2018 development letter, OWCP advised appellant that no medical evidence had been received in support of his claim. It informed him regarding the factual and medical evidence required to establish his claim and afforded him 30 days to provide the necessary evidence. Appellant submitted evidence in response to OWCP's request.

In a progress note dated August 23, 2017, Dr. Matthew D. Sorensen, a specialist in podiatric surgery, provided examination findings and diagnosed left ankle calcaneofibular ligament sprain, left ankle joint instability, and ankle osteochondral defect.

In progress notes dated from September 6 and October 18, 2017, Dr. Sorensen provided appellant's physical examination findings and continued to note appellant's left ankle diagnoses.

Dr. Sorensen examined appellant again on December 4, 2017 and diagnosed left ankle joint instability and left ankle synovitis. In a December 18, 2017 report, he noted that appellant was initially evaluated for left foot pain. Dr. Sorensen reported that conservative medical treatment was unsuccessful due to employment-related aggravation of appellant's left ankle instability.

In an undated statement received on February 16, 2018, appellant related that he was assigned the longest route when he transferred to the employing establishment. His duties included lifting 5 to 35 pounds and walking between 8 to 10 hours daily. Appellant related that his pain worsened the more he worked his route.

By decision dated March 19, 2018, OWCP denied the claim finding the evidence of record was insufficient to establish a causal relationship between the diagnosed medical condition and the accepted factors of employment.

On March 26, 2018 appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative, which was held on August 15, 2018. In physical therapy notes dated from April 13 through June 20, 2018, a physical therapist provided examination findings and related that appellant was status post ankle ligament repair and had left ankle pain, difficulty walking, and left ankle joint stiffness.

By decision dated October 26, 2018, OWCP's hearing representative affirmed the March 19, 2018 decision denying appellant's claim.

On November 28, 2018 appellant, through counsel, requested reconsideration and submitted a June 29, 2018 report from Dr. Sorensen. In the June 29, 2018 report, Dr. Sorensen related that appellant was first seen on August 23, 2017 for left ankle pain complaints, which he related had been long standing, but had worsened. On December 4, 2017 appellant was seen for a worsening of his pain, which he attributed to his mail carrier position. He believed his left ankle condition had been aggravated and become more unstable due to his mail route, which consisted of even surfaces, cement, stairs, curbs, and other obstacles. Dr. Sorensen concluded that appellant's long-standing left ankle instability had been aggravated by his work.

By decision dated February 25, 2019, OWCP denied modification of the October 16, 2018 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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,³ 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.⁴ 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.⁵

OWCP's regulations define an occupational disease as "a condition produced by the work environment over a period longer than a single workday or shift."⁶ To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (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

³ *T.H.*, Docket No. 18-1585 (issued March 22, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *T.H.*, *id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *J.P.*, Docket No. 19-0303 (issued August 13, 2019); *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).

⁶ 20 C.F.R. § 10.5(q).

establishing the presence or existence of the disease or condition for which compensation is claimed; 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.⁷

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁸ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable 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.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left ankle condition causally related to the accepted factors of his federal employment.

In support of his claim, appellant submitted a series of reports from Dr. Sorensen. In reports dated December 18, 2017 and June 29, 2018, Dr. Sorensen opined that appellant's left ankle instability had been aggravated by his employment duties. In the June 29, 2018 report, he related that appellant believed that his left ankle condition had become more unstable and been aggravated by his mail route. While Dr. Sorensen supported causal relationship, he did not identify specific work duties which allegedly caused or contributed to appellant's left ankle condition nor did he offer medical rationale explaining how and why he opined that appellant's work activities could result in the diagnosed conditions. The Board has frequently held that conclusory medical opinions are entitled to little probative weight and are insufficient to support causal relationship.¹⁰ A medical opinion must provide an explanation of how the specific employment factors physiologically caused or aggravated the diagnosed conditions.¹¹ A rationalized medical opinion is especially necessary in light of appellant's apparent preexisting left ankle condition.¹² Without medical rationale explaining how the accepted employment factors caused or contributed to the diagnosed conditions, these reports are insufficient to establish appellant's claim.¹³

Dr. Sorensen's remaining notes are of no probative value because they did not relate appellant's diagnosis of left ankle calcaneofibular ligament sprain, left ankle joint instability, left

⁷ *J.P.*, *supra* note 5; *Beverly A. Spencer*, 55 ECAB 501 (2004).

⁸ *T.H.*, *supra* note 3; *I.R.*, Docket No. 09-1229 (issued February 24, 2010); *D.I.*, 59 ECAB 158 (2007).

⁹ *M.S.*, Docket 19-0189 (issued May 14, 2019); *L.T.*, Docket No. 18-1603 (issued February 21, 2019).

¹⁰ *R.R.*, Docket No. 19-0714 (issued August 8, 2019).

¹¹ *A.H.*, Docket No. 19-0270 (issued June 25, 2019); *M.W.*, Docket No. 18-1624 (issued April 3, 2019); *B.H.*, Docket No. 18-1219 (issued January 25, 2019).

¹² *D.M.*, Docket No. 19-0389 (issued July 16, 2019).

¹³ *A.H.*, *supra* note 11; *M.W.*, *supra* note 11; *R.T.*, Docket No. 17-2019 (issued August 24, 2018).

ankle pain, left ankle synovitis, and ankle osteochondral defect to the accepted employment factors. 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.¹⁴ For the reasons set forth above, the Board finds that Dr. Sorensen's progress notes and reports are insufficient to establish appellant's burden of proof.

OWCP also received reports from a physical therapist. However, physical therapy reports have no probative medical value in establishing appellant's claim as a physical therapist is not considered a "physician" as defined under FECA.¹⁵ As such, this evidence is also insufficient to meet appellant's burden of proof.

On appeal counsel contends that OWCP's February 25, 2019 decision is contrary to fact and law. For the reasons set forth above, the Board finds that appellant has not met his burden of proof.

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 ankle condition causally related to the accepted factors of his federal employment.

¹⁴ See *S.G.*, Docket No. 19-0041 (issued May 2, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ 5 U.S.C. § 8101(2) provides that a physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. See 5 U.S.C. § 8102(2); *S.G., id.*; *S.A.*, Docket No. 16-1128 (issued November 24, 2017); *M.M.*, Docket No. 16-1617 (issued January 24, 2017); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as nurses, physician assistants and physical therapists are not competent to render a medical opinion under FECA). See also *Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

ORDER

IT IS HEREBY ORDERED THAT the February 25, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 1, 2019
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