

FACTUAL HISTORY

On June 18, 2018 appellant, then a 56-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a “lesion plantar nerve left” due to factors of his federal employment. He indicated that he first became aware of his condition and first realized it was caused or aggravated by his federal employment duties on June 12, 2017. Appellant did not stop working.

In a development letter dated June 26, 2018, OWCP advised appellant of the deficiencies of his claim and instructed him as to the factual and medical evidence necessary to establish his claim. It afforded him 30 days to submit additional evidence and respond to its inquiries.

By decision dated August 6, 2018, OWCP denied appellant’s claim finding that the evidence of record did not establish that any injury, accident, or employment exposure occurred and therefore, the factual component of fact of injury had not been established. It concluded that he had not met the requirements to establish an injury as defined by FECA.

On August 13, 2018 appellant, through counsel, requested a telephonic hearing before a representative of OWCP’s Branch of Hearings and Review.

Appellant submitted a June 12, 2017 report from Dr. Joseph R. Bartal, a podiatrist, who diagnosed lesion of plantar nerve, left, and indicated that appellant had suffered a similar condition a year prior in the right second intermetatarsal space.

A telephonic hearing was held before an OWCP hearing representative on January 15, 2019. Appellant testified that he had worked as a letter carrier for 21 years and then retired in September 2018. He stated that, prior to his retirement, his federal duties required him to walk for 1.5 hours per day, including walking on uneven surfaces and across lawns. The hearing representative held the case record open for 30 days for the submission of additional evidence. OWCP did not receive additional evidence.

By decision dated March 14, 2019, OWCP denied appellant’s claim. It accepted that his federal employment required walking on uneven surfaces and crossing lawns as alleged, but denied the claim finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed left foot condition and the accepted factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 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, that an injury was sustained 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

³ *Id.*

injury.⁴ These are the essential elements of 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, an employee 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 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 employee.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ 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.⁸ 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).⁹

ANALYSIS

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

The Board finds that Dr. Bartal did not adequately explain how appellant sustained the claimed injury. While he diagnosed a lesion of the left plantar nerve, Dr. Bartal did not identify the specific employment factors alleged by appellant and did not provide a pathophysiological explanation as to how those activities either caused or contributed to appellant's diagnosed condition.¹⁰ He did not opine that appellant's left foot condition was a direct result of the accepted factors of his federal employment. Medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹¹ Additionally, the Board has held that neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition

⁴ *K.V.*, Docket No. 18-0947 (issued March 4, 2019); *M.E.*, Docket No. 18-1135 (issued January 4, 2019); *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

⁵ *K.V.* and *M.E.*, *id.*; *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *R.G.*, Docket No. 19-0233 (issued July 16, 2019). *See also* *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

⁹ *Id.*; *Victor J. Woodhams*, *supra* note 6.

¹⁰ *Supra* note 8 and 9.

¹¹ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.¹²

As appellant has not submitted rationalized medical evidence to establish his claim of a left foot condition causally related to the accepted employment factors, he 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 foot condition causally related to the accepted factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the March 14, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 21, 2019
Washington, DC

Christopher J. Godfrey, 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

¹² See *J.L.*, Docket No. 18-1804 (issued April 12, 2019).