

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

T.F., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Fort Worth, TX, Employer**

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**Docket No. 20-0260
Issued: June 12, 2020**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On November 12, 2019 appellant filed a timely appeal from an August 9, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish bilateral ankle and left foot conditions causally related to the accepted factors of her federal employment.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the issuance of the August 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.*

FACTUAL HISTORY

On September 20, 2018 appellant, then a 56-year-old general expeditor, filed an occupational disease claim (Form CA-2) alleging that she injured both ankles and left foot due to activities including repetitive walking from dock door to dock door on concrete 5 to 65 times throughout the night, averaging 10,000 to 12,000 steps, and meeting drivers at their assigned door and scanning their trailer, badge, and placards on each piece of equipment while in the performance of duty. She indicated that she first became aware of her conditions on April 14, 2018 and their relationship to her federal employment on May 6, 2018. On the reverse side of the claim form, the employing establishment reported that appellant stopped work on May 16, 2018. It controverted the claim.

In an undated narrative statement, appellant explained that she began working at the employing establishment in a processing clerk position that required a significant amount of walking and standing on hard concrete floors. She related that towards the end of her shift on April 14, 2018 she realized pain in her left foot with each step. Over the weekend appellant self-treated with rest, ice, and medication. She continued to experience symptoms for which she sought a medical evaluation. Appellant was diagnosed with a stress fracture of the fifth metatarsal, placed in a walking boot, and placed off work.

In support of her claim, appellant submitted a June 28, 2018 medical report by Dr. Karen M. Perl, a Board-certified physiatrist. Dr. Perl advised that appellant had a stress fracture of the left foot metatarsal causally related to factors of her employment and that she should remain off work until her fracture healed. She noted a stress foot fracture usually healed within three to four months, but appellant's fracture should heal within three to six months due to her age.

In a September 27, 2018 letter, the employing establishment controverted appellant's claim contending that she had not established the factual and medical components of her claim.

In a development letter dated October 5, 2018, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of medical evidence needed, including a medical diagnosis and a comprehensive narrative report from a qualified physician explaining how factors of her federal employment caused, contributed to, or aggravated her medical condition. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor and an explanation of appellant's work activities. It afforded both parties 30 days to respond.

OWCP subsequently received additional medical evidence. A September 7, 2017 left ankle magnetic resonance imaging (MRI) scan report by Dr. Kalpana Ramakrishna, a Board-certified diagnostic radiologist, provided an impression of mild tibiotalar arthropathy and joint effusion and/or synovial thickening/hyperintensity, concerning for synovitis. Dr. Ramakrishna also provided impressions of tenosynovitis of the peroneus longus and brevis tendons and tendinosis of the peroneus longus; tenosynovitis of the tibialis posterior tendon and flexor digitorum longus tendon and tendinosis of the tibialis posterior tendon; abnormal appearance of the plantar fascia compatible planter fasciitis; and mild edema in the pre-Achilles fat, concerning for peritendinitis.

In attending physician's reports (Form CA-20) dated May 18 and July 27, 2018, Dr. Perl noted a history that on April 14, 2018 appellant sustained an acute injury while performing repetitive work at the employing establishment. She diagnosed left foot stress fracture of the fifth metatarsal and checked a box marked "Yes" indicating that the diagnosed condition was caused or aggravated by an employment activity. Dr. Perl concluded that appellant was totally disabled from work during the period May 18 through October 1, 2018 secondary to her diagnosed condition.

In work tolerance limitations for return to work forms also dated May 18 and July 27, 2018, Dr. Perl restated her left foot diagnosis and opinion that appellant was totally disabled from work.

In an October 24, 2018 letter, the employing establishment responded to OWCP's October 5, 2018 development letter. It contended that her claimed injury was caused by activities outside her federal employment or could have been caused by degenerative changes due to aging. The employing establishment described the duties of appellant's general expeditor position and submitted an official copy of the position description. It noted that she was not performing her full work duties at the time her claimed injury occurred as she had been working in a modified position and had previous periods of disability since 2007.

OWCP, by decision dated December 7, 2018, denied appellant's occupational disease claim finding that the evidence of record was insufficient to establish that the injury and/or events occurred as alleged. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

Thereafter, OWCP continued to receive evidence. In reports dated December 17, 2018 and progress notes dated January 14, 2018 and January 2, 2019, Dr. Rory L. Allen, an attending osteopath specializing in family medicine, noted a history that on April 14, 2018 appellant sustained an occupational injury as a result of performing her repetitive work duties of standing on hard surfaces and walking for a prolonged duration, lifting, and carrying eight hours per day, five days per week as a general expeditor. He discussed his examination findings and provided assessments of right and left ankle and foot sprain and left foot stress fracture. Dr. Allen advised that appellant was temporarily totally disabled from work from December 17, 2018 to March 31, 2019 due to limited mobility, weakness, and decreased strength. He noted that she was currently wearing a walking boot and was a fall risk. In his December 17, 2018 report, Dr. Allen opined that appellant sustained a work-related injury causally related to the described repetitive work duties.

In an undated Form CA-20, Dr. Allen reiterated appellant's history of injury on April 14, 2018 and his prior diagnoses of left ankle and foot sprain and left foot stress fracture. He checked a box marked "Yes" indicating that the diagnosed conditions were caused or aggravated by the described employment activity.

On January 21, 2019 appellant requested reconsideration of the December 7, 2018 decision and submitted additional evidence. In a November 5, 2018 left foot MRI scan report, Dr. Ashkahn E. Golshani, a diagnostic radiologist, provided impressions of diffuse bone marrow edema in the lateral hallux sesamoid which could relate to sesamoiditis or stress reaction and linear low signal intensity line posteriorly again suspicious for nondisplaced fracture. He noted that the MRI scan did not have the typical appearance of a bipartite hallux sesamoid and requested that it

be correlated with radiographs. Dr. Golshani also provided an impression of mild great toe metatarsophalangeal joint and hallux sesamoid osteoarthritis.

Dr. Ramakrishna, in a September 7, 2017 right ankle MRI scan report, provided impressions of mild arthropathy in the tibiotalar joint and evidence of a prior partial tear of the anterior talofibular ligament.

OWCP received series of progress notes and reports dated January 14, February 8, and March 6, 22, and 27, 2019 by Dr. Allen who restated his prior assessments of right and left ankle and foot sprain and left foot stress fracture and opinion that appellant was temporarily totally disabled from work from December 17, 2018 through March 31, 2019 due to limited mobility, weakness, decreased strength. In the March 22 and 27, 2019 progress notes and March 22, 2019 report, he advised that she was temporarily totally disabled during the period March 22 through June 22, 2018 due to her diagnosed conditions.

Dr. Allen, in a March 25, 2019 work status physician statement, requested that appellant be excused from work from March 25 to June 7, 2019.

By decision dated March 28, 2019, OWCP modified its December 7, 2018 decision finding that appellant had established that the alleged federal employment factors occurred as described. However, the claim remained denied as appellant had not provided a rationalized medical opinion explaining how her diagnosed bilateral foot and ankle conditions were caused or aggravated by the accepted employment factors.

Thereafter, OWCP received an additional report dated April 10, 2019 by Dr. Allen who noted appellant's additional repetitive work duties which involved moving mail parcels from "APX" machines, wire cages, and other postal equipment for six hours a day, five days per week caused increased compression, torsional and forces to the bilateral ankle/foot which directly caused her diagnosed bilateral ankle and foot conditions.

On May 20, 2019 appellant requested reconsideration of the March 28, 2019 decision. Additional progress notes dated March 22, April 22, May 22, June 19, and July 19, 2019 by Dr. Allen were received.

In a June 14, 2019 letter, the employing establishment responded to appellant's May 20, 2019 request for reconsideration, again contending that she did not submit medical evidence sufficient to establish employment-related foot conditions.

OWCP, by decision dated August 9, 2019, denied modification of its March 28, 2019 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 that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation period of FECA,⁴ that an injury was sustained while 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 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

In an occupational disease claim, appellant's burden requires submission of 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.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 claimant, 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 the specific employment factors identified by the claimant.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish bilateral ankle and left foot conditions causally related to the accepted factors of her federal employment.

In support of her claim, appellant submitted a series of reports and progress notes from her attending physician, Dr. Allen. In an April 10, 2019 report, Dr. Allen opined that appellant was temporarily totally disabled and that her diagnosed right and left ankle and foot sprain and left foot

³ *Supra* note 1.

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

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *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).

⁷ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *R.H.*, 59 ECAB 382 (2008).

⁸ *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

⁹ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

stress fracture resulted from her repetitive work duties of standing on hard surfaces and walking for a prolonged duration, lifting, carrying, and moving mail parcels from “APX” machines, wire cages, and other postal equipment. He reasoned that her work duties caused increased compression, torsional and forces to the bilateral ankle/foot which directly caused her diagnosed bilateral ankle and foot conditions. While Dr. Allen supported causal relationship, he did not provide sufficient medical rationale explaining how appellant’s work duties caused her disabling conditions. Without explaining how, physiologically, the specific movements involved in appellant’s job caused, contributed to, or aggravated the specific diagnosed conditions, Dr. Allen’s opinion is of limited probative value and insufficient to establish causal relationship.¹⁰ Thus, the Board finds that his report is insufficient to meet appellant’s burden of proof.¹¹

In a December 17, 2018 report, Dr. Allen again opined that appellant’s bilateral ankle and foot conditions resulted from her repetitive work duties. The Board has held that a medical opinion is of limited value if it is conclusory in nature.¹² A medical opinion must explain how the implicated employment factors physiologically caused, contributed to, or aggravated the specific diagnosed conditions.¹³ While Dr. Allen supported causal relationship, he did not provide medical rationale explaining the basis of his conclusory opinion regarding the causal relationship between appellant’s bilateral ankle and foot conditions, disability from work, and the accepted factors of her federal employment.¹⁴ As such, his report is insufficient to meet appellant’s burden of proof.

In an undated Form CA-20 report, Dr. Allen checked a box marked “Yes” indicating that appellant’s bilateral ankle and foot conditions were caused or aggravated by the employment activity. However, he did not offer medical rationale sufficient to explain how and why he believed that the accepted employment factors resulted in or contributed to the diagnosed conditions. The Board has held that a checkmark or affirmative notation in response to a form question on causal relationship is insufficient, without medical rationale, to establish causal relationship.¹⁵ Without explaining how the accepted repetitive movements involved in appellant’s employment duties caused or contributed to her conditions, Dr. Allen’s opinion is of limited probative value.¹⁶ Therefore, the Board finds that his report is insufficient to meet appellant’s burden of proof.

Dr. Allen’s remaining reports and progress notes addressed appellant’s bilateral ankle and foot conditions and resultant disability from work, but did not offer a medical opinion addressing

¹⁰ See *D.J.*, Docket No. 18-0694 (issued March 16, 2020); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *K.O.*, Docket No. 18-1422 (issued March 19, 2019).

¹¹ *Id.*

¹² *D.S.*, Docket No. 19-1814 (issued April 1, 2020); *C.M.*, Docket No. 19-0360 (issued February 25, 2020).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *D.S.*, *supra* note 12; *C.F.*, Docket No. 19-1748 (issued March 27, 2020); *J.S.*, Docket No. 18-0657 (issued February 26, 2020); *Deborah L. Beatty*, 54 ECAB 3234 (2003).

¹⁶ *D.S.*, *id.* *C.F.*, *id.*; *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

whether the diagnosed conditions and any resultant disability were causally related 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.¹⁷ For these reasons, the Board finds that Dr. Allen's medical evidence is insufficient to establish appellant's claim.

Appellant was also treated by Dr. Perl. In Form CA-20 reports dated May 18 and July 27, 2018, Dr. Perl advised that appellant was totally disabled and checked a box marked "Yes" indicating that her diagnosed left foot stress fracture of the fifth metatarsal was caused or aggravated by the employment activity of repetitive work duties. As noted above, the Board has held that a checkmark or affirmative notation in response to a form question on causal relationship is insufficient, without medical rationale, to establish causal relationship.¹⁸ As Dr. Perl did not explain with rationale how the accepted employment factors caused or aggravated the diagnosed conditions, her opinion is of limited probative value.¹⁹ Her remaining June 28, 2018 report is also insufficient to establish causal relationship. Dr. Perl did not offer an opinion addressing the cause of the conditions diagnosed and any resultant disability.²⁰ For these reasons, the Board finds that her reports are insufficient to meet appellant's burden of proof.

Appellant also submitted September 7, 2017 MRI scan reports from Dr. Ramakrishna and a November 5, 2018 MRI scan report from Dr. Golshani in support of her claim for bilateral ankle and left foot conditions. The Board has held, however, that diagnostic studies standing alone lack probative value as they do not address whether the accepted employment factors caused any of the diagnosed conditions.²¹ These reports of Dr. Ramakrishna and Dr. Golshani are therefore also insufficient to establish appellant's claim.

The Board finds that the record lacks rationalized medical evidence establishing causal relationship between appellant's bilateral foot and ankle conditions and the accepted factors of her federal employment. Thus, appellant has not met her burden of proof to establish her claim.

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.

¹⁷ *S.K.*, Docket No. 18-1414; *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁸ *Supra* note 15.

¹⁹ *Supra* note 16.

²⁰ *Supra* note 17.

²¹ *A.M.*, Docket No. 19-1138 (issued February 18, 2020); *R.Z.*, Docket No. 19-0408 (issued June 26, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish bilateral ankle and left foot conditions causally related to the accepted factors of her federal employment.

ORDER

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

Issued: June 12, 2020
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board