

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

A.R., Appellant)	
)	
and)	Docket No. 20-1425
)	Issued: July 15, 2021
U.S. POSTAL SERVICE, WATSON)	
COMMUNITY STATION, Arlington, TX,)	
Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 13, 2020 appellant filed a timely appeal from a June 1, 2020 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 over the merits of this case.

ISSUE

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

FACTUAL HISTORY

On October 25, 2019 appellant, then a 51-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she experienced bilateral foot pain causally related to

¹ 5 U.S.C. § 8101 *et seq.*

factors of her federal employment, including constant standing and walking. She noted that she first became aware of her condition and its relation to her federal employment on October 19, 2019. On the reverse side of the claim form an employing establishment supervisor, T.A., controverted the claim. She noted that appellant's duties include pulling packages and letters at the window for customers, but that she does not carry mail or drive postal vehicles. Appellant did not stop work.

In a November 1, 2019 letter of controversion, B.S., a health and resource management specialist for the employing establishment, informed OWCP that it had no medical documentation to support that the injury occurred as alleged, nor was there a medical condition diagnosed in connection with the injury or event. B.S. noted that appellant claimed that her feet were hurting due to constant standing and walking, but alleged that her duties required only intermittent standing and walking.

In an initial evaluation report dated October 30, 2019, Dr. Christopher Mann, an occupational medicine specialist, noted that appellant reported that she had worked as a city carrier for 18 years. He indicated that she described her job duties as including landing on her feet repeatedly while entering and exiting her postal vehicle; walking and standing for prolonged periods of time on uneven surfaces for more than 8 hours per day; climbing stairs; squatting repeatedly to pick up packages; standing on one spot casing mail for more than 90 minutes per day; lifting/carrying mail trays and containers; and pushing/pulling all-purpose containers and wire cages. While performing these duties on October 19, 2019, appellant experienced an insidious onset of bilateral foot and ankle edema. She related that, as her workday progressed, her feet and ankles would start swelling, and she would have difficulty ambulating on concrete floors for long periods of time. Appellant denied any prior history of trauma to her feet, but did relate a history of various prior work injuries to her neck, right shoulder, and left hand. On physical examination of the feet and ankles Dr. Mann observed tenderness to palpation and edema over the plantar fascia in the area of the heels and arches, as well as tenderness in the area of the metatarsals and toes. He diagnosed bilateral plantar fibromatosis and metatarsalgia and primary osteoarthritis of the ankles and feet. Dr. Mann recommended that appellant continue working regular limited duty and start a course of physical therapy.

In November 11, 2019 reports of x-rays of the feet, Dr. Nicholas Iwasko, a Board-certified musculoskeletal radiologist, recorded impressions of bilateral inferior calcaneal spurring compatible with chronic plantar fasciitis, hallux valgus of the great toe, posterior calcaneal enthesopathy, soft tissue swelling lateral to the fifth metatarsophalangeal joint and small focal erosion within the lateral aspect of the fifth metatarsal head. In x-ray reports of the ankles of even date, he recorded impressions of bilateral inferior calcaneal spurring compatible with chronic plantar fasciitis, posterior calcaneal enthesopathy, and talonavicular osteoarthritis.

In a November 19, 2019 development letter, OWCP advised appellant of the deficiencies of her claim. It requested that she submit additional factual and medical evidence and provided a questionnaire for her completion. In a separate letter of even date, OWCP also requested additional information from the employing establishment. It afforded both parties 30 days to respond.

In November 25, 2019 reports, Dr. Iwasko evaluated magnetic resonance imaging (MRI) scans of the feet and ankles. He recorded impressions of mild Achilles tendinopathy, various areas

of edema, joint effusions and tenosynovitis, and calcaneal bone spurring of the ankles. On the right Dr. Iwasko noted findings compatible with chronic plantar fasciitis, but without any acute plantar fasciitis changes, while on the left, he noted acute and chronic plantar fasciitis with plantar fascial thickening and edema. He also noted impressions of various joint effusions, periarticular edema, plantar muscle irritation, and arthritic changes of the feet. Dr. Iwasko commented that rheumatoid arthritis, other inflammatory arthritides, or gout could have this appearance. He also recorded impressions of focal bone irritation or erosion of the first and fifth metatarsal heads of the right foot and the third through fifth metatarsals of the left foot, which he indicated suggested an inflammatory arthritis.

By decision dated January 30, 2020, OWCP denied appellant's claim, finding that the evidence was insufficient to establish that the employment injury or event(s) occurred as she alleged. Consequently, it concluded that the requirements had not been met to establish an injury as defined by FECA.

In a February 10, 2020 narrative report, Dr. Mann clarified that his office incorrectly indicated that appellant had been working regular duties. He had advised his office that she was working limited duty with a 15-pound lifting restriction from prior work injuries, but was still required to be on her feet for most of the workday, two to four hours at a time, on hard concrete that was sometimes covered with rubber mats. Dr. Mann noted that diagnostic examinations clearly showed signs of significant degeneration in appellant's interarticular surfaces of both ankles, and that the November 25, 2019 MRI scans were consistent with osteophytic changes manifested from prolonged standing and walking activity for multiple hours per day. He opined that body habitus, along with carrying weights and engaging in regular pivoting, turning, and twisting on the feet, causes microtrauma to the joint surfaces that over time manifests as osteoarthritic changes around the joints. Dr. Mann further opined that prolonged periods of standing, carrying and/or walking activity on hard floors would directly contribute to strain across the plantar fascia and inflammation in between the articular surfaces of the ankle and forefoot. He diagnosed an onset of bilateral plantar fibromatosis and early onset of primary osteoarthritis of the feet and ankles as a result of constant and long-term repetitive standing and walking activities.

On March 9, 2020 appellant requested reconsideration.

In support of her request, appellant submitted a response of even date to OWCP's development questionnaire, relating that she began her employment in February 2001 as a letter carrier. In August 2019, she was placed on limited duty as a lobby director, which involved prolonged standing on concrete floors and walking to retrieve customer packages and letters. Appellant alleged that her feet and ankles became painful, especially in the area of her heels, which made it difficult for her to stand and walk. She denied any prior foot problems or hobbies or activities other than her duties with the employing establishment.

By decision dated June 1, 2020, OWCP modified its January 30, 2020 decision, finding that the evidence of record was sufficient to establish factors of employment and diagnosed conditions. However, the claim remained denied, as the evidence of record was insufficient to establish a causal relationship between appellant's feet and ankle conditions and the accepted factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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,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

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 identified employment factors.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ The opinion of the physician must be based upon a complete factual and medical background, 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.⁸

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.⁹

² *Supra* note 1.

³ *F.H.*, Docket No.18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁵ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁶ *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

⁷ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

ANALYSIS

The Board finds that this case is not in posture for decision.

In his February 10, 2020 narrative report, Dr. Mann diagnosed an onset of bilateral plantar fibromatosis and early onset of primary osteoarthritis of the ankles and feet. He attributed these conditions to long-term repetitive standing and walking activities, which he found had contributed to strain across the plantar fascia and inflammation between the articular surfaces of the ankle and forefoot. Dr. Mann also noted that body habitus and carrying weights, while engaging in various movements causes microtrauma to the joint surfaces, which over time manifests as osteoarthritic changes around the joints.

The Board finds that, while it is not fully rationalized and insufficient to establish the claim, Dr. Mann's February 10, 2020 report provides a mechanism of injury, references objective diagnostic reports, and supports that appellant's diagnosed conditions are causally related due to the accepted employment factors. Accordingly, this report is sufficient to require OWCP to further develop the medical evidence.¹⁰

It is well established that proceedings under FECA are not adversarial in nature and, while the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.¹¹

The Board will, therefore, remand the case for further development of the medical evidence. On remand, OWCP shall prepare a statement of accepted facts and obtain a rationalized opinion from a physician in the appropriate field of medicine as to whether the accepted work factors caused or aggravated appellant's diagnosed medical conditions. If the physician opines that the diagnosed conditions are not causally related to the accepted employment factors, he or she must explain with rationale how or why their opinion differs from that of Dr. Mann. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

¹⁰ *E.P.*, Docket No. 19-1703 (issued April 16, 2021); *C.W.*, Docket No. 19-0322 (issued July 18, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *D.W.*, Docket No. 17-1884 (issued November 8, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

¹¹ *E.P.*, *id.*; *C.W.*, *id.*; *X.V.*, *id.*; *S.W.*, Docket No. 18-0119 (issued October 5, 2018); *William J. Cantrell*, 34 ECAB 1233 (1993).

ORDER

IT IS HEREBY ORDERED THAT the June 1, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 15, 2021
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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