



## **FACTUAL HISTORY**

On March 12, 2020 appellant, then a 62-year-old clerk, filed a traumatic injury claim (Form CA-1) alleging that on March 14, 2019 she sustained a right fibula fracture while in the performance of duty. On the reverse side of the claim form D.Q., appellant's supervisor acknowledged that appellant was injured in the performance of duty on March 14, 2019.

In a March 19, 2019 statement, appellant asserted that on March 14, 2019 she had stepped up onto a flat sorter machine to clear a mail jam between two rollers. As she climbed down, she struck her right ankle against "the metal leg under the machine." Appellant experienced the onset of severe right foot pain. She returned home at the end of her shift, then sought treatment at a hospital emergency department.

OWCP received a surgical scheduling form from the medical office of Dr. Stephen M. Bell, a Board-certified orthopedic surgeon, for March 29, 2019 preadmission testing prior to a scheduled April 4, 2019 open reduction and fixation of the right fibula. Appellant was also scheduled for a postoperative appointment with Dr. Bell on April 26, 2019.

In a development letter dated March 19, 2020, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a questionnaire for her completion. OWCP afforded her 30 days to respond.

By decision dated April 24, 2020, OWCP accepted that the March 14, 2019 employment incident occurred as alleged. However, it denied the claim, finding that appellant had not submitted medical evidence containing a medical diagnosis causally related to the accepted incident. OWCP, thus, found that the requirements had not been met to establish an injury as defined by FECA.

On April 28, 2020 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review. During the hearing, held on August 14, 2020, she testified that, within hours of the March 14, 2019 employment incident, she sought treatment at a hospital emergency department and informed those treating her that she had been injured at work. Appellant noted difficulty obtaining her medical records due to the COVID-19 pandemic. She had returned to full-duty work.

Following the hearing, appellant submitted a March 27, 2019 report by Dr. Bell. Dr. Bell related appellant's account that, while at work on March 16, 2019, she inverted her right ankle "after jumping from a [three-and-a-half] foot stand where she was unjamming a conveyor belt." Appellant was seen in a hospital emergency department where x-rays demonstrated a fibular fracture, avulsion of the medial malleolus, and mild instability. She was placed into a posterior splint and issued crutches. On examination Dr. Bell observed diffuse mild-to-moderate swelling throughout the right ankle with mild tenderness to palpation. He obtained right ankle x-rays, which demonstrated widening at the medial clear space, a slightly wide syndesmosis, and a small avulsion of the medial malleolus. Dr. Bell diagnosed a right fibula fracture with medial malleolar avulsion. He placed appellant into a short leg fiberglass cast pending surgery.

OWCP also received an incomplete report from Dr. Bell dated July 17, 2019.<sup>3</sup> Dr. Bell noted that on April 4, 2019 appellant underwent open reduction and internal fixation of the right malleolus with placement of syndesmotic screw. He last examined appellant on June 12, 2019 when he transitioned her into an ankle corset and returned her to full-duty work.

By decision dated October 29, 2020, OWCP's hearing representative affirmed the April 24, 2020 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> 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,<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.<sup>8</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>9</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the

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<sup>3</sup> The portion of the July 17, 2019 record is labeled as "Page 1 of 3." Pages 2 and 3 of the report are not of record.

<sup>4</sup> *Supra* note 2.

<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right ankle condition causally related to an accepted March 14, 2019 employment incident.

In support of her claim, appellant submitted two reports from Dr. Bell. In his March 27, 2019 report, Dr. Bell noted a March 16, 2019 history of injury in which appellant inverted her right ankle when descending from a machine at work after she repaired a jam. However, the accepted employment incident occurred on March 14, 2019. Additionally, appellant alleged that she struck her right ankle against “the metal leg under the machine,” not that she inverted her ankle as Dr. Bell described. Medical opinions based on an incomplete or inaccurate history are of diminished probative value.<sup>11</sup>

In both his March 27 and July 17, 2019 reports, Dr. Bell diagnosed a right fibula fracture with medial malleolar avulsion. However, he did not explain how the accepted employment incident would cause those injuries. Dr. Bell did not provide medical rationale supporting causal relationship between the described inversion injury and the diagnosed fibula fracture and malleolar avulsion. 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.<sup>12</sup> Thus, these reports are insufficient to establish appellant’s claim.

Appellant also submitted a surgical scheduling form from Dr. Bell’s medical office. This form does not constitute probative medical evidence as it was not signed or reviewed by a physician.<sup>13</sup>

The Board, thus, finds that she has not met her burden of proof to establish that her diagnosed medical conditions of right fibula fracture with medial malleolar avulsion were caused or aggravated by the accepted March 14, 2019 employment incident.

On appeal counsel contends that OWCP’s October 29, 2020 decision denied an obvious injury. As stated above, the medical evidence of record is insufficient to meet appellant’s burden of proof.

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<sup>10</sup> *M.A.*, Docket No. 20-1201 (issued April 26, 2021); *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>11</sup> *J.R.*, Docket No. 20-0903 (issued April 22, 2021); *see D.B.*, Docket No. 19-0663 (issued August 27, 2020); *Bernadine P. Taylor*, 54 ECAB 342 (2003).

<sup>12</sup> *M.A.*, *supra* note 10; *see V.S.*, Docket No. 19-1370 (issued November 30, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>13</sup> *Merton J. Sills*, 39 ECAB 572, 575 (1988); *M.W.*, Docket No. 19-1667 (issued June 29, 2020).

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 her burden of proof to establish a right ankle condition causally related to an accepted March 14, 2019 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 29, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 29, 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