

FACTUAL HISTORY

On March 23, 2020 appellant filed an occupational disease claim (Form CA-2) alleging that she sustained a right foot contusion and a right shoulder strain. She noted that she first became aware of her conditions on January 9, 2020 and realized their relation to her federal employment on March 13, 2020. Appellant further explained that her right foot contusion occurred on January 9, 2020 when her right foot struck uneven pavement while she was delivering mail, and her right shoulder strain occurred on March 13, 2020 when she tried to keep her mail satchel from falling while she was carrying mail. On the reverse side of the claim form, appellant's supervisor noted that appellant reported her injury and stopped work on March 8, 2020.

In support of her claim, appellant submitted a form dated March 18, 2020 indicating that she was seen that day in the hospital emergency department. A form dated March 19, 2020 from the emergency department related that appellant would be unable to work for three days. The signature on the form was illegible. OWCP also received discharge instructions for a foot contusion and shoulder sprain.

Appellant submitted a letter dated March 23, 2020 in which she explained that on or about January 9, 2020 she sustained a right foot contusion while delivering mail because her right foot continued to hit uneven pavement. She further explained that her right foot contusion occurred during the heavy holiday season during which there were extremely high volumes of mail and the delivery times were not adjusted to accommodate the increase. In addition, appellant explained that on March 13, 2020 she sprained her right shoulder while trying to keep her mail satchel from falling.

Appellant submitted a letter dated March 25, 2020 from another emergency department noting that she was seen by the treatment team that day and may return to work on March 28, 2020.

In a development letter dated April 14, 2020, OWCP advised appellant that her claim was converted to a traumatic injury case and that only the claim for her foot contusion would be addressed.³ It advised her that additional factual and medical evidence was necessary to establish her claim as no diagnosis of any condition resulting from her injury had been received. OWCP requested that she submit a narrative medical report from her attending physician. It afforded appellant 30 days to submit the necessary evidence.

In response, appellant submitted a prescription note dated May 5, 2020 from Dr. Milliardaire Syverain, an internal medicine specialist. Dr. Syverain stated that appellant suffered from a right shoulder and right foot injury at work and prescribed physical therapy for three times a week for six weeks.

³ The Board notes that OWCP assigned appellant's right shoulder claim File No. xxxxxx875. An appeal of a December 8, 2020 decision under that file is pending before the Board in Docket No. 21-0683 and will be adjudicated separately.

By decision dated May 20, 2020, OWCP accepted that appellant filed a timely claim and that the injury and/or events occurred as described, but denied her claim as the medical evidence did not establish a diagnosis causally related to the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 of FECA,⁵ 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.⁶ 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.⁷

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.⁸ 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, place, and in the manner alleged.⁹ The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.¹⁰

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on 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 incident.¹¹

⁴ *Supra* note 2.

⁵ *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁸ *Y.D.*, Docket No. 19-1200 (issued April 6, 2020); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388 (2008).

⁹ *M.O.*, Docket No. 19-1398 (issued August 13, 2020); *D.W.*, Docket No. 19-0968 (issued October 9, 2019); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

¹⁰ *Id.*

¹¹ *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a diagnosed right foot condition causally related to the accepted January 19, 2020 employment incident.

In support of her claim, appellant submitted an emergency department form report dated March 18, 2020, which noted that appellant was seen that day in the emergency room. A March 19, 2020 form from the same provider was also received, which held appellant off work for three days. Appellant also submitted a letter dated March 25, 2020 from another emergency department which related that appellant was seen by the treatment team on March 25, 2020 and could return to work on March 28, 2020. However, none of these documents specifically provided a physician's diagnosis of appellant's right foot condition. The Board has held that a medical report is of no probative value if it does not provide a firm diagnosis of a particular medical condition, or offer a specific opinion as to whether the accepted employment incident caused or aggravated the claimed condition.¹²

OWCP also received discharge instructions from a provider, however such instructions are of limited probative value as they are general in nature and not specific to appellant.¹³

Appellant also submitted a prescription note dated May 5, 2020 from Dr. Syverain which related that she had suffered a right foot injury at work and required physical therapy three times per week for six weeks. The Board has held that the term "injury" does not constitute a firm diagnosis.¹⁴ As the reports OWCP received lack a firm diagnosis and medical rationale establishing causal relationship, they are insufficient to establish appellant's claim.¹⁵

Appellant has not submitted rationalized medical evidence establishing that she sustained a diagnosed right foot condition causally related to the accepted January 9, 2020 employment incident. The Board thus finds that she has not met her burden of proof to establish her claim.¹⁶

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 foot condition causally related to the accepted January 9, 2020 employment incident.

¹² *L.E.*, Docket No. 19-0470 (issued August 12, 2019); *M.J.*, Docket No. 18-1114 (issued February 5, 2019).

¹³ *R.A.*, Docket No. 17-0011 (issued March 20, 2018).

¹⁴ *T.M.*, Docket No. 19-1283 (issued December 2, 2019).

¹⁵ *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

¹⁶ *M.S.*, Docket No. 20-0437 (issued July 14, 2020).

ORDER

IT IS HEREBY ORDERED THAT the May 20, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 3, 2021
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