

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

R.C., Appellant)	
)	
and)	Docket No. 20-0356
)	Issued: February 11, 2022
U.S. POSTAL SERVICE, ROYAL OAK POST OFFICE, Royal Oak, MI, Employer)	
)	

Appearances:
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 3, 2019 appellant filed a timely appeal from a November 6, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a bilateral foot condition causally related to the accepted November 13, 2015 employment incident.

FACTUAL HISTORY

On November 14, 2015 appellant, then a 47-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that on November 13, 2015 he sustained injuries to both feet due to prolonged standing without proper floor mats while in the performance of duty. He stopped work on November 14, 2015 and returned to work on November 23, 2015.

In a November 14, 2015 attending physician's report, Part B of an authorization for examination and/or treatment (Form CA-16), Dr. David Pommerening, Board-certified in preventive occupational and environmental medicine, noted that appellant had sore feet and diagnosed pes planus. In a work status report of even date, he diagnosed pes planus and advised that appellant could return to full-time work on November 15, 2015. In a duty status report (Form CA-17) of even date, Dr. Pommerening opined that prolonged standing without proper floor mats caused pain in appellant's feet. He again diagnosed pes planus and provided work restrictions.

In a work status report also dated November 14, 2015, Dr. Naveed Siddique, Board-certified in emergency medicine, diagnosed foot pain and advised that appellant could return to work on November 18, 2015 with restrictions. In a November 18, 2015 work status report, he diagnosed left foot pain and advised that appellant could return to work on November 23, 2015 with restrictions.

In a letter dated November 25, 2015, the employing establishment controverted appellant's claim.

In a development letter dated December 1, 2015, OWCP informed appellant of the deficiencies in his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a factual questionnaire for completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In a November 14, 2015 medical report, Dr. Pommerening noted that appellant presented with sore heels and flatfeet. He indicated that appellant had no floor mats at work for the past two days. Dr. Pommerening conducted a physical examination, which revealed tenderness in calcaneus and spring ligament. He diagnosed pes planus.

Dr. Timothy Baessler, a podiatrist, noted in a December 3, 2015 medical report that appellant had untreated flatfeet. He indicated that appellant usually used floor mats at work, but his feet started to hurt when these were taken away from him. Dr. Baessler noted that appellant continue to feel pain in both heels. He diagnosed left tendinitis and bilateral plantar fasciitis.

By decision dated January 6, 2016, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition causally related to the accepted employment incident.

On February 3, 2016 appellant requested reconsideration and submitted additional evidence.

In a January 21, 2016 letter, Dr. Siddique noted that appellant was seen on November 14 and 18, 2015. He diagnosed bilateral plantar fasciitis and recommended using floor mats for any prolonged standing at work.

By decision dated April 27, 2016, OWCP denied modification of its January 6, 2016 decision.

In a July 11, 2016 medical report, Dr. Siddique noted that appellant was seen on November 14, 18, and 24, 2015 for foot pain and bilateral plantar fasciitis. He indicated that appellant had been referred to a podiatrist and treated with steroid injections. Dr. Siddique explained that plantar fasciitis occurred when the long fibrous plantar fascia ligament along the bottom of the foot developed tears in the tissue resulting in pain and inflammation. He further explained that occupations that kept both feet walking or standing on hard surfaces were risk factors for plantar fasciitis. Dr. Siddique opined that appellant's employment could have been a direct cause of his medical condition due to prolonged standing or walking on hard surfaces.

On February 6, 2017 appellant, through counsel, requested reconsideration.

In August 29, 2016 prescription notes, Dr. Baessler advised appellant to wear tennis shoes indefinitely due to his foot problems and excused him from work from August 29 to September 5, 2016.

By decision dated February 15, 2017, OWCP denied modification of its April 27, 2016 decision.

On March 23, 2017 appellant, through counsel, requested reconsideration.

In a March 1, 2017 form report, Dr. Lawrence Brown, a podiatrist, noted appellant's history of injury, indicating that appellant injured his foot while in the performance of his duties, including prolonged standing and walking, without floor mats between November 13 and 14, 2015. He diagnosed bilateral plantar fascial fibromatosis (ICD code M72.2). Dr. Brown responded "Yes" regarding whether he believed, based on reasonable medical probability, that the accepted November 13, 2015 employment incident caused appellant's diagnosed condition.

By decision dated June 20, 2017, OWCP denied modification of its February 15, 2017 decision.

On February 21, 2018 appellant, through counsel, requested reconsideration and submitted additional evidence.

In an undated letter, Dr. Brown explained that plantar fascia was a firm structure that held the bones of the arch of the foot. He further explained that with pronation, the plantar fascia stretched and pulled at its weakest point at the heel. Dr. Brown indicated that appellant had excessive pronation, which was noted on gait analysis. He opined that being a postal worker had put appellant more at risk for a foot condition than an average person.

By decision dated May 18, 2018, OWCP denied modification of its June 20, 2017 decision.

On October 22, 2018 appellant, through counsel, requested reconsideration.

In a July 13, 2018 medical report form, Dr. Siddique noted that appellant's feet became painful, especially in both heels, after prolonged standing on hard surfaces without proper floor mats in November 2015. He observed pes planus and inflammation in both feet. Dr. Siddique diagnosed bilateral plantar fasciitis. He responded "Yes" regarding whether he believed that the accepted November 13, 2015 employment incident caused appellant's diagnosed condition.

In an October 18, 2018 medical note, Dr. Siddique provided light-duty restrictions.

By decision dated October 31, 2018, OWCP denied modification of its May 18, 2018 decision.

On August 12, 2019 appellant, through counsel, requested reconsideration and submitted additional evidence.

In an undated medical report, Dr. Siddique noted that an x-ray report revealed bilateral heel spurs. He also indicated that appellant was born with flatfeet and had to often walk and stand immensely while at work. Dr. Siddique reported that appellant had been standing without a floor mat during work between November 13 and 14, 2015 for approximately four to seven hours. He also detailed appellant's job duties, which required walking approximately 4 to 12 miles a day. Dr. Siddique diagnosed bilateral plantar fasciitis. He opined that prolonged standing without an anti-fatigue floor mat and performing his job duties on November 13, 2015 was the direct and proximate cause of appellant's diagnosed condition.

By decision dated November 6, 2019, OWCP denied modification of its October 31, 2018 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 timely filed within the applicable time limitation of FECA,⁴ 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

³ *Id.*

⁴ *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).

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

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. Second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁷

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁸ 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 nature of the relationship between the diagnosed condition and the specific employment incident identified by the employee.⁹

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.¹⁰

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a bilateral foot condition causally related to the accepted November 13, 2015 employment incident.

In his July 11, 2016 report, Dr. Siddique opined that appellant's employment "could have" been a direct cause of his medical condition due to prolonged standing or walking on hard surfaces. He further explained that plantar fasciitis occurred when the long fibrous plantar fascia ligament along the bottom of the foot developed tears in the tissue. Similarly, in an undated report, Dr. Brown opined that appellant's profession as a carrier technician had put him more at risk for a

⁵ *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).

⁶ *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).

⁷ *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).

⁸ *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).

⁹ *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).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *N.C.*, Docket No. 19-1191 (issued December 19, 2019); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

foot condition than an average person. The Board has held that medical opinions that are speculative or equivocal are of diminished probative value.¹¹ Thus, these reports are insufficient to meet appellant's burden of proof to establish his claim.

In his March 1, 2017 form report, Dr. Brown noted appellant's history of injury and diagnosed bilateral plantar fascial fibromatosis. He responded "Yes" to whether he believed, based on reasonable medical probability, that the accepted November 13, 2015 employment incident was the competent medical cause of appellant's condition. While Dr. Brown affirmatively supported causal relationship, he did not offer medical rationale sufficient to explain how or why the accepted November 13, 2015 employment incident could have resulted in or contributed to the diagnosed condition. Likewise, in his July 13, 2018 medical report, Dr. Siddique diagnosed bilateral plantar fasciitis and responded "Yes" to whether he believed that the accepted November 13, 2015 employment incident caused appellant's diagnosed condition. The Board has held that a physician's opinion on causal relationship which consists of answering "Yes" to a form question, without explanation or rationale, is of diminished probative value and is insufficient to establish a claim.¹² As these reports lack reasoned explanation of how prolonged standing caused or contributed to appellant's conditions, Dr. Brown's March 1, 2017 report and Dr. Siddique's July 13, 2018 medical report are also insufficient to establish appellant's claim.

Dr. Siddique noted in an undated report that x-rays revealed bilateral heel spurs. He also diagnosed bilateral plantar fasciitis and further indicated that appellant was born with flatfeet. Dr. Siddique opined that prolonged standing without an anti-fatigue floor mat and performing his job duties on November 13, 2015 were the direct and proximate causes of appellant's diagnosed condition. He, however, did not provide a pathophysiological explanation as to how the accepted November 13, 2015 employment incident either caused or contributed to his diagnosed condition.¹³ A conclusory opinion provided by a physician without the necessary rationale explaining how or why the incident was sufficient to result in the diagnosed medical condition is of diminished probative value and insufficient to establish a claim.¹⁴ Moreover, the Board has consistently held that complete medical rationalization is particularly necessary when there are preexisting conditions involving the same body part,¹⁵ and has required medical rationale differentiating between the effects of the work-related injury and the preexisting condition in such cases.¹⁶ Thus, the Board finds that this undated report from Dr. Siddique is insufficient to establish causal relationship.

¹¹ *V.W.*, Docket No. 19-1537 (issued May 13, 2020); *see E.B.*, Docket No. 18-1060 (issued November 1, 2018).

¹² *See J.R.*, Docket No. 18-1679 (issued May 6, 2019); *M.C.*, Docket No. 18-0361 (issued August 15, 2018); *Calvin E. King, Jr.*, 51 ECAB 394 (2000); *see also Frederick E. Howard, Jr.*, 41 ECAB 843 (1990).

¹³ Federal (FECA) Procedure Manual, *supra* note 10 at Chapter 2.805.3e (January 2013); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹⁴ *S.B.*, Docket No. 20-0088 (issued June 4, 2020); *J.O.*, Docket No. 19-0326 (issued July 16, 2019).

¹⁵ *K.R.*, Docket No. 18-1388 (issued January 9, 2019).

¹⁶ *See, e.g., A.J.*, Docket No. 18-1116 (issued January 23, 2019); *M.F.*, Docket No. 17-1973 (issued December 31, 2018); *J.B.*, Docket No. 17-1870 (issued April 11, 2018).

In medical reports, a work status report, and CA-17 forms dated November 14, 2015, Dr. Pommerening noted that appellant experienced foot pain after prolonged standing without floor mats at work on November 13, 2015. He diagnosed pes planus and provided work restrictions. However, Dr. Pommerening did not provide an opinion on the cause of appellant's diagnosed condition. Similarly, in his January 21, 2016 letter, Dr. Siddique diagnosed bilateral foot pain and bilateral plantar fasciitis, advised that appellant could return to work with restrictions, and recommended using floor mats for any prolonged standing. However, he did not offer an opinion regarding the cause of appellant's conditions. The Board has long held that 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 Thus, this evidence is insufficient to establish appellant's claim.

In a December 3, 2015 report, Dr. Baessler noted that appellant had untreated flatfeet and after prolonged standing without floor mats became painful. He diagnosed left tendinitis and bilateral plantar fasciitis. In his August 29 2016 prescription notes, Dr. Baessler advised appellant to wear tennis shoes indefinitely and excused him from work until September 5, 2016. However, Dr. Baessler failed to provide an opinion regarding the cause of appellant's conditions. As noted above, reports that lack an opinion regarding the cause of appellant's conditions are of no probative value and insufficient to establish causal relationship.¹⁸ The Board also notes that Dr. Baessler, in his December 3, 2015 report, indicated that appellant's bilateral foot condition did not become symptomatic until November 13, 2015, suggesting that the accepted employment incident caused his diagnosed conditions. The Board has held that an opinion finding causal relationship simply because an employee was asymptomatic before the injury, but symptomatic after, is insufficient, without supporting medical rationale, to establish causal relationship.¹⁹

In his November 14 and 18, 2015 work status reports, Dr. Siddique diagnosed foot pain and advised that appellant could return to work on November 23, 2015 with restrictions. The Board has held that pain is a symptom and not a compensable medical diagnosis.²⁰

As none of the medical evidence submitted constitutes rationalized medical evidence sufficient to establish causal relationship between the accepted November 13, 2015 employment incident and appellant's diagnosed conditions, the Board finds that appellant has not met his burden of proof.²¹

¹⁷ See *G.L.*, Docket No. 18-1057 (issued April 14, 2020); *J.M.*, Docket No. 18-0853 (issued March 9, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁸ *Id.*

¹⁹ See *J.F.*, Docket No. 19-1694 (issued March 18, 2020); *M.B.*, Docket No. 19-0840 (issued October 2, 2019); *C.C.*, Docket No. 17-1841 (issued December 6, 2018); *John F. Glynn*, 53 ECAB 562 (2002); *Thomas Petrylak*, 39 ECAB 276, 281 (1987).

²⁰ *T.O.*, Docket No. 19-1291 (issued December 11, 2019); *T.G.*, Docket No. 19-0904 (issued November 25, 2019).

²¹ *R.G.*, Docket No. 18-0792 (issued March 11, 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 his burden of proof to establish a bilateral foot condition causally related to the accepted November 13, 2015 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the November 6, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 11, 2022
Washington, DC

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

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

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