

when he tripped on a mat behind a machine while in the performance of duty. He stopped work on March 26, 2022.

A return-to-work-note dated March 29, 2022 from Leah Bond, a certified registered nurse practitioner, indicated that appellant was seen for a medical appointment and held him off work until April 12, 2022.

In a development letter dated April 5, 2022, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

On April 25, 2022 the employing establishment controverted appellant's claim, contending that he had not provided sufficient medical evidence to substantiate his traumatic injury claim.

In a medical note dated April 27, 2022, Dr. Ryan McMillen, a podiatrist and podiatric surgeon, examined appellant and diagnosed right ankle instability. He indicated that appellant could return to work with restrictions of lifting, carrying, pushing, and pulling up to 20 pounds, and occasional walking and standing.

By decision dated May 6, 2022, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish that the diagnosed medical condition was causally related to the accepted March 26, 2022 employment incident.

LEGAL PRECEDENT

A claimant 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 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. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the

² *Id.*

³ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued December 13, 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).

employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury.⁶

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.⁷ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 specific employment factors identified by the claimant.⁸

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right lower extremity condition causally related to the accepted March 26, 2022 employment incident.

In support of his claim, appellant submitted an April 27, 2022 medical report from Dr. McMillen who diagnosed right ankle instability and provided work restrictions. While Dr. McMillen provided a medical diagnosis, he did not offer an opinion on whether the diagnosed right ankle instability was causally related to the accepted March 26, 2022 employment incident. The Board has 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.⁹ As such, this evidence is insufficient to establish appellant's burden of proof.

The remaining medical evidence of record consists of a return-to-work note dated March 29, 2022 from Ms. Bond, a certified registered nurse practitioner. The Board has long held that certain healthcare providers such as nurse practitioners are not considered qualified physicians as defined under FECA.¹⁰ Their medical findings, reports and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.¹¹

⁶ *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).

⁷ *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).

⁸ *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).

⁹ *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *see D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁰ Section 8101(2) of FECA provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2); 20 C.F.R. § 5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). *See also J.D.*, Docket No. 21-0164 (issued June 15, 2021) (nurse practitioners are not physicians as defined under FECA).

¹¹ *Id.*

Consequently, this evidence is of no probative value and is also insufficient to establish appellant's burden of proof.

As there is no medical evidence of record establishing that appellant has a right lower extremity condition causally related to the accepted March 26, 2022 employment incident, the Board finds that he has not met his burden of proof.

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 right lower extremity condition causally related to the accepted March 26, 2022 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the May 6, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 16, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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