

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

A.S., Appellant)	
)	
and)	Docket No. 21-1263
)	Issued: July 24, 2023
U.S. POSTAL SERVICE, POST OFFICE,)	
Bedford Park, IL, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On August 19, 2021 appellant filed a timely appeal from May 25, June 3, and August 18, 2021 merit decisions 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.

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish disability from work commencing April 6, 2021, causally related to his accepted February 1, 2021 employment injury; and (2) whether he has met his burden of proof to expand the acceptance of his claim to include additional conditions as causally related to the accepted February 1, 2021 employment injury.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On February 5, 2021 appellant, then a 43-year-old human resource clerk, filed a traumatic injury claim (Form CA-1) alleging that he injured the bottom of his right foot on February 1, 2021 when he slipped on ice while in the performance duty. He stopped work on February 2, 2021 and returned to modified-duty work for six hours a day on February 3, 2021.

In a medical report dated February 1, 2021, Dr. Maria Vlahos, an occupational medicine specialist, indicated that appellant complained of pain in the right foot which he attributed to slipping on ice.² On examination, she observed mild swelling in the arch along the sole, tenderness in the medial midfoot, and mild limitation in flexion and extension of all of the toes at the metatarsophalangeal (MTP) joints. Dr. Vlahos diagnosed a right foot strain and recommended physical therapy and modified duty.

On March 2, 2021 OWCP accepted appellant's traumatic injury claim for a strain of unspecified muscle and tendon at the right ankle and foot.

OWCP thereafter received a February 24, 2021 report by Dr. Vlahos indicating that appellant continued to report right foot pain, but had returned to working regular duty. On physical examination, she noted mild swelling in the arch and sole of the right foot, tenderness in the medial midfoot, and limited flexion and extension of the toes at the MTP joints. Dr. Vlahos diagnosed a strain of unspecified muscle or tendon at the right ankle and foot and recommended that appellant undergo a magnetic resonance imaging (MRI) scan of the right foot.

In a follow-up report dated March 4, 2021, Dr. Vlahos indicated that, at the time, appellant was working modified duty.

A March 8, 2021 MRI scan of the right forefoot dated March 8, 2021 demonstrated normal findings.

On March 8, 2021 appellant accepted a position as a modified city carrier casing and pulling down routes and performing simple grasping with the right hand for up to six hours per day.

In a follow-up report dated March 11, 2021, Dr. Vlahos reviewed appellant's MRI scan, performed a physical examination, and referred him to a podiatrist.

In an operative report dated March 17, 2021, Dr. Vittorio Caterino, a podiatrist, excised a tumor of appellant's right foot. He diagnosed an "unknown soft tissue mass" at the plantar aspect of the right foot.

On April 14, 2021 appellant filed a claim for compensation (Form CA-7) for the period April 6 through 9, 2021.

² In follow-up reports dated February 3 and 10, 2021, Dr. Vlahos indicated that appellant was working modified duty.

In a development letter dated April 20, 2021, OWCP requested that appellant submit medical evidence to support the claimed period of disability from April 6 through 9, 2021 as causally related to the accepted February 1, 2021 employment injury. It afforded him 30 days to submit the requested evidence.

Beginning April 28, 2021, appellant filed CA-7 forms claiming wage-loss compensation for disability from work commencing April 10, 2021.

In a development letter dated April 29, 2021, OWCP informed appellant of the deficiencies of his claim for compensation. It advised him of the type of evidence necessary to establish his claim and afforded him 30 days to respond.

On May 5, 2021 OWCP received a partially legible duty status report (Form CA-17) from a provider with an illegible signature, which noted a history of a sprain of the right foot, and that appellant had undergone corrective foot surgery on March 17, 2021.³

By decision dated May 25, 2021, OWCP denied appellant's disability claim, finding that the medical evidence of record was insufficient to establish that he was unable to work from April 6 through 9, 2021 due to his accepted employment injury. It further found that he had not submitted sufficient medical evidence to support expansion of the acceptance of his claim to include a tumor in his right foot.

On June 2, 2021 appellant requested for reconsideration of OWCP's May 25, 2021 decision.

In a June 2, 2021 report, Dr. Caterino indicated that he first examined appellant for solid masses⁴ on the plantar aspect of his right foot on March 13, 2021 that had occurred "following a work-related foot injury." He diagnosed plantar fibroma, which he indicated was "a condition caused by overstress and/or tear of the plantar fascia...." Dr. Caterino advised that he had performed surgical excision of the masses on March 17, 2021 that appellant was rehabilitating from surgery, and that he expected him to make a full recovery.

By decision dated June 3, 2021, OWCP denied appellant's claim for disability from work commencing April 10, 2021, finding that the medical evidence of record was insufficient to establish that he was unable to work during the claimed period due to his accepted employment injury.

By decision dated August 18, 2021, OWCP denied modification of its May 25, 2021 decision.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including the fact that any disability or specific condition for

³ The remainder of the document is not legible.

⁴ The Board notes that Dr. Caterino's operative report indicates that he removed a single mass.

which compensation is claimed is causally related to the employment injury.⁵ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.⁶ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.⁷

Under FECA the term “disability” means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.⁸ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.⁹

To establish causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such causal relationship.¹⁰ 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 the specific employment factors identified by the claimant.¹¹

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹²

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish disability from work commencing April 6, 2021, causally related to his accepted February 1, 2021 employment injury.

⁵ *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

⁶ *See M.B.*, Docket No. 18-1455 (issued March 11, 2019); *D.W.*, Docket No. 18-0644 (issued November 15, 2018); *Amelia S. Jefferson*, 57 ECAB 183 (2005).

⁷ *See* 20 C.F.R. § 10.5(f); *T.W.*, Docket No. 22-0790 (issued March 9, 2023); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

⁸ 20 C.F.R. § 10.5(f).

⁹ *See L.S.*, Docket No. 22-0821 (issued March 20, 2023); *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

¹⁰ *See L.S., id.*; *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

¹¹ *Y.S.*, Docket No. 19-1572 (issued March 12, 2020); *T.K.*, Docket No. 18-1239 (issued May 29, 2019).

¹² *See N.O.*, Docket No. 22-0644 (issued March 8, 2023); *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

On June 2, 2021 Dr. Caterino diagnosed plantar fibroma, and noted that this was a condition caused by over-stress and/or tear of the plantar fascia. He performed a surgical excision of masses on March 17, 2021. Dr. Caterino, however, did not provide an opinion indicating that appellant was unable to work during the claimed period due to the accepted February 1, 2021 employment conditions.¹³ The Board has held that medical evidence that does not provide an opinion as to whether a period of disability is due to an accepted employment-related condition is insufficient to meet a claimant's burden of proof.¹⁴ Therefore, Dr. Caterino's report is insufficient to establish appellant's claim for disability beginning April 6, 2021 and continuing.

In her February and March 2021 reports, Dr. Vlahos diagnosed a strain of unspecified muscle or tendon at the right ankle and foot. She did not, however, provide an opinion on appellant's disability from work during the claimed periods beginning April 6, 2021 and continuing. As discussed, medical evidence that does not address the specific dates of disability claimed is of limited probative value.¹⁵ Therefore, these reports are insufficient to establish appellant's disability claim.¹⁶

OWCP also received a partially legible Form CA-17 from a provider with an illegible signature. The Board has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence as the author cannot be identified as a physician.¹⁷ Therefore, this report is also of no probative value and is insufficient to establish appellant's claim.

Finally, appellant submitted results from diagnostic testing. The Board has held that diagnostic studies, standing alone, are of limited probative value as they do not address whether the employment injury caused appellant to be disabled during the claimed period.¹⁸ These reports are, therefore, insufficient to establish the claim.

As appellant has not submitted rationalized medical evidence establishing causal relationship between the claimed period of disability and the accepted employment injury, the Board finds that he has not met his burden of proof.

¹³ See *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹⁴ *R.J.*, Docket No. 19-0179 (issued May 26, 2020); *M.A.*, Docket No. 19-1119 (issued November 25, 2019); *S.I.*, Docket No. 18-1582 (issued June 20, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ See *D.P.*, Docket No. 22-0184 (issued June 7, 2022); *T.S.*, Docket No. 20-1229 (issued August 6, 2021); *J.M.*, Docket No. 19-1169 (issued February 7, 2020); *A.L.*, 19-0285 (issued September 24, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁶ *Id.*

¹⁷ *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *D.T.*, Docket No. 20-0685 (issued October 8, 2020); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁸ See *A.D.*, Docket No. 21-0143 (issued November 15, 2021); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

LEGAL PRECEDENT -- ISSUE 2

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.¹⁹ When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the claimant's own intentional misconduct.²⁰ Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.²¹

To establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, an employee must submit rationalized medical evidence.²² 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 the specific employment factors identified by the claimant.²³

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met his burden of proof to establish that his claim should be expanded to include an additional condition as causally related to his accepted employment injury.

In his June 2, 2021 report, Dr. Caterino diagnosed plantar fibroma, and opined that the condition was caused by over-stress and/or tear of the plantar fascia. He did not, however, describe the accepted February 1, 2021 employment incident in detail or explain the pathophysiological process through which the employment incident could have caused appellant's tumor or plantar fibroma. The Board has held that medical evidence that states a conclusion, but does not offer a rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.²⁴ Therefore, Dr. Caterino's June 2, 2021 report is insufficient to establish expansion of the claim.²⁵

¹⁹ *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

²⁰ *See J.M.*, Docket No. 19-1926 (issued March 19, 2021); *I.S.*, Docket No. 19-1461 (issued April 30, 2020); *see also Charles W. Downey*, 54 ECAB 421 (2003).

²¹ *J.M., id.*; *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

²² *See V.A.*, Docket No. 21-1023 (issued March 6, 2023); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

²³ *E.P.*, Docket No. 20-0272 (issued December 19, 2022); *I.J.*, 59 ECAB 408 (2008).

²⁴ *See C.T.*, Docket No. 22-0013 (issued November 22, 2022); *R.B.*, Docket No. 22-0173 (issued July 26, 2022); *A.P.*, Docket No. 20-1668 (issued March 2, 2022); *D.H.*, Docket No. 17-1913 (issued December 13, 2018).

²⁵ *B.W.*, Docket No. 21-0536 (issued March 6, 2023); *M.M.*, Docket No. 20-1557 (issued November 3, 2021).

In his March 17, 2021 operative report, Dr. Caterino diagnosed an “unknown soft tissue mass of the plantar aspect of the right foot.” He did not, however, offer an opinion as to the cause of that condition. Medical evidence which does not offer an opinion regarding the cause of an employee’s condition is of no probative value on the issue of causal relationship.²⁶ This evidence is, therefore, of no probative value and insufficient to establish expansion of the claim.

As the medical evidence of record is insufficient to establish expansion of the acceptance of the claim to include an additional condition as causally related to appellant’s accepted employment injury, 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 disability from work beginning April 6, 2021 and continuing, causally related to his accepted February 1, 2021 employment injury. The Board further finds that he has not met his burden of proof to establish that his claim should be expanded to include an additional condition causally related to or as a consequence of his accepted February 1, 2021 employment injury.

²⁶ *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *J.H.*, Docket No. 19-0383 (issued October 1, 2019).

ORDER

IT IS HEREBY ORDERED THAT the May 25, June 3, and August 18, 2021 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 24, 2023
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board