United States Department of Labor
Employees' Compensation Appeals Board

R.M., Appellant	)	
and	)	**Docket No. 23-0052**
	)	**Issued: July 10, 2023**
U.S. POSTAL SERVICE, POST OFFICE, Portland, ME, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 18, 2022 appellant filed a timely appeal from a June 17, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish a right leg condition causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On September 21, 2021 appellant, then a 44-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he developed a right leg condition due to factors of his federal employment, including working over 60 hours per week and walking while delivering mail. He noted that he first became aware of the condition on September 13, 2021, and realized its

[1] 5 U.S.C. § 8101 *et seq*.

relation to his federal employment on September 14, 2021. Appellant stopped work on September 14, 2021 and returned on September 22, 2021.

In an accompanying narrative statement, appellant explained that he had been working 60-plus-hour weeks for the previous three weeks and had walked over 12 miles per day during this period.

In support of his claim, appellant submitted a September 16, 2021 attending physician's report (Form CA-20) signed by Jenner Greil, a nurse practitioner. Ms. Greil noted appellant's date of injury as September 13, 2021, with onset of right shin pain. She observed tenderness at distal tibialis anterior and diagnosed right anterior stress syndrome. Ms. Greil checked a box marked "Yes" to indicate her belief that appellant's condition was caused or aggravated by an employment activity. A work status note of even date from Ms. Greil held appellant off work until September 21, 2021, at which point he could return to modified duty. In a duty status report (Form CA-17) of even date, Ms. Greil reiterated her diagnosis and work restrictions.

In a development letter dated September 27, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

OWCP subsequently received a September 14, 2021 report, wherein Bonnie Troubh, a physician assistant, related that appellant complained of right ankle/lower leg pain as a result of repetitive activity at work. Ms. Troubh found anterior and lateral tenderness in the right lower leg and opined that appellant's condition was work related. She recommended a shin splint, referred appellant to physical therapy, and restricted appellant to modified duty.

A work status note dated September 24, 2021 from Ms. Greil allowed appellant to return to full-duty work, with modified hours. A Form CA-17 of even date reiterated appellant's diagnosis of right anterior stress syndrome and work restrictions.

In an October 6, 2021 Form CA-17, Ms. Greil reiterated her diagnosis and released appellant to full duty.

By decision dated November 4, 2021, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition due to the accepted employment factors. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 15, 2022 appellant requested reconsideration.

Appellant resubmitted Ms. Greil's September 24 and October 6, 2021 Form CA-17s, that were countersigned by Dr. James Harper, a family medicine specialist.

By decision dated June 17, 2022, OWCP modified its November 4, 2021 decision to find that the evidence of record was sufficient to establish a diagnosed medical condition in connection with the accepted employment factors. The claim remained denied, however, as the medical evidence was insufficient to establish causal relationship between the diagnosed condition and the accepted employment factors.

LEGAL PRECEDENT

An employee seeking benefits under FECA[2] 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, 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.[3] 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.[4]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors by the claimant.[5]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[6] 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 factors.[7] Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by the accepted employment factors is sufficient to establish causal relationship.[8]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right leg condition causally related to the accepted factors of his federal employment.

Appellant submitted September 24 and October 6, 2021 Form CA-17s countersigned by Dr. Harper. These reports, however, did not provide an opinion regarding causal relationship

[2] *Id*.

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

[4] *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[5] *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

[6] *D.S.*, Docket No. 21-1388 (issued May 12, 2022); *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[7] *D.S. id.*; *D.J.*, Docket No. 19-1301 (issued January 29, 2020).

[8] *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *see also J.L.*, Docket No. 18-1804 (issued April 12, 2019).

between the diagnosed condition and the accepted employment factors. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.[9] These reports are, therefore, insufficient to establish appellant's claim.

In a September 14, 2021 report, appellant was seen by Ms. Troubh who assessed shin splint and referred appellant to physical therapy. She opined that appellant's condition was work related. However, certain healthcare providers such as physician assistants, nurse practitioners, physical therapists, and social workers are not considered "physician[s]" as defined under FECA and their reports do not constitute competent medical evidence.[10] This evidence is therefore insufficient to establish the claim.

OWCP received reports signed by Ms. Greil. As stated above, reports not signed by physicians as defined under FECA do not constitute competent medical evidence and thus are insufficient to establish appellant's claim.[11]

As the medical evidence of record is insufficient to establish causal relationship between appellant's diagnosed medical condition and the accepted employment factors, 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 leg condition causally related to the accepted factors of his federal employment.

[9] *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *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. § 10.5(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 H.S.*, Docket No. 20-0939 (issued February 12, 2021) (physician assistants are not considered physicians as defined under FECA).

[11] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the June 17, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 10, 2023
Washington, DC

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

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

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