

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On September 9, 2022² appellant, then a 43-year-old city mail carrier, filed an occupational disease claim (Form CA-2) alleging that she developed plantar fasciitis due to factors of her federal employment. She related that she worked five to six days per week and that her duties required her to stand on her feet and case mail for two to three hours per day, walk for six to eight hours per day, and lift packages weighing up to 75 pounds. Appellant indicated that she first became aware of her condition and realized its relation to factors of her federal employment on April 4, 2022. She stopped work on August 18, 2022.

In support of her claim, appellant submitted a May 9, 2022 note from an unidentified healthcare provider returning her to work without restrictions on May 10, 2022. In notes dated August 10, 22, and 24, 2022, Dr. Lawrence Horl, a podiatrist, held appellant off work from August 8 to 10, 2022 and returned her to work on August 29, 2022.

In a September 1, 2022 visit note, Dr. David Zaret, a Board-certified orthopedic surgeon, noted that in April 2022 appellant had developed left plantar foot pain that radiated to her left knee. He indicated that the cause of the injury was work related and noted that she had been off work as a letter carrier since August 2022. Dr. Zaret diagnosed left plantar fasciitis and acute pain of the left knee. He opined that the incident described by appellant was the competent cause of the injury. In notes of even date, Dr. Zaret held appellant off work until September 8, 2022 and referred her for physical therapy.

A September 2, 2022 x-ray report of appellant's left knee noted an impression of no acute fracture or dislocation.

OWCP also received September 2, 2022 treatment instructions for musculoskeletal pain and a note of even date from Dr. Robert Matthew Bramante, a Board-certified emergency physician, finding that appellant could return to work on September 5, 2022 with work restrictions of no prolonged standing.

In a September 7, 2022 note, Dr. Cini Thayil, Board-certified in emergency medicine, released appellant to resume work on September 10, 2022 with restrictions of no heavy lifting.

In a September 9, 2022 statement, appellant related that she worked 10 to 12 hours a day nearly every day, stood for 2 to 3 hours per day to case her route, and walked 6 to 9 hours per day delivering mail and packages. On April 4, 2022 she sought treatment because her feet throbbed and she was diagnosed with plantar fasciitis. Appellant related that the physician indicated that her injury was caused by constant standing and walking at work. She noted that her condition began on April 4, 2022 in her right foot but noticed that it was present in her left foot when she visited the podiatrist on May 5, 2022. In August the pain intensified, and appellant's physician informed her that the injury will continue to occur if she engaged in excessive walking and standing. Thereafter, appellant experienced sharp pain in her left foot in the morning and was unable to walk on that foot. The plantar fasciitis also affected her calf muscle and knee, causing

² Appellant filed an additional Form CA-2 on September 10, 2022.

pain on the left side. Appellant's injury worsened such that she required physical therapy and further treatment.

In a September 15, 2022 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a factual questionnaire for her completion. In a second development letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor. It afforded both parties 30 days to submit the requested evidence.

Thereafter, OWCP received an undated response from an unidentified employing establishment supervisor noting that appellant had been consistently calling out of work and had provided a physician's note regarding her foot. The supervisor indicated that appellant was a city carrier with daily duties including lifting packages weighing up to 70 pounds, pushing and pulling a mail hamper for up to 30 minutes to load into a mail truck, bending and stooping for up to 2 hours, standing for up to 2 hours, walking for up to 6 hours, and carrying a mail satchel weighing up to 35 pounds for up to 6 hours. The employing establishment supervisor related that appellant only requested that she not be given overtime work due to her foot condition, a request that they honored.

In a September 2, 2022 visit note, Dr. Bramante evaluated appellant for left knee pain. He indicated that she worked as a mail carrier and had a prior diagnosis of left plantar fasciitis. Dr. Bramante indicated that her left knee pain increased with walking. He diagnosed chronic left plantar fasciitis with left knee strain and pain.

In a September 7, 2022 visit note, Dr. Thayil noted that appellant had a two-week history of knee pain. She recommended rest, ice, elevation, over-the-counter pain medication as needed, and a follow-up appointment with an orthopedist.

In an October 12, 2022 visit note, Dr. Eric Price, a Board-certified orthopedic surgeon, performed a physical examination and reviewed imaging studies of appellant's left knee, discussed surgical options, and assessed internal derangement of the left knee and loose body of the left knee. He advised that appellant was a candidate for an excision of the loose body of the left knee. Dr. Price related, "The left knee is consequential to her initial issue of plantar fasciitis of the left foot when she began to alter her gait to decrease her pain" and fulfill her job duties. He advised that appellant was unable to work, and that the incident described was the competent cause of injury.

In an October 13, 2022 statement, appellant noted that she walked to deliver mail and packages for six to eight hours per day, five to six days a week, which caused her to develop plantar fasciitis that subsequently spread to her calf muscle and knee. She related that her injury was an occupational disease, that standing while casing mail for periods of time irritated her injury, and that she did not have activities outside of her job.

By decision dated November 2, 2022, OWCP found that the evidence of record was sufficient to establish the implicated employment factors. However, it denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish causal

relationship between her diagnosed medical conditions and the accepted factors of her federal employment.

OWCP continued to receive evidence, including a September 1, 2022 visit note in which Dr. Price noted that appellant experienced left plantar foot pain in April 2022 without trauma that was now radiating to her knee, and that she was currently out of work as a letter carrier. He obtained details of the injury and noted the cause as work related. Dr. Price diagnosed left plantar fasciitis and acute pain of the left knee and recommended physical therapy. He indicated that the incident described was the competent cause of the condition and that appellant's complaints were consistent with the injury.

In a September 8, 2022 visit note, Dr. Price performed a physical examination and assessed acute left knee pain, internal derangement of the left knee, sprain of collateral ligament of the left knee, and left plantar fasciitis. He noted that appellant's injury began as plantar fasciitis and that the pain moved into her left calf and knee. Dr. Price indicated that the pain had begun gradually due to repetitive motion and, under injury details, provided that the cause was work related.

On February 3, 2023 appellant requested reconsideration of the November 2, 2022 decision and submitted additional evidence.

In a February 7, 2023 visit note, Dr. Price treated appellant and diagnosed a sprain of the left knee, a loose body of the left knee, and status post arthroscopy of the left knee. In a referral of even date, he ordered physical therapy. Dr. Price noted that he had performed an excision of a loose body on January 12, 2023.

By decision dated March 27, 2023, OWCP denied modification of its November 2, 2022 decision.

On April 18, 2023 appellant requested reconsideration of the March 27, 2023 decision. No additional evidence or argument was submitted.

By decision dated April 24, 2023, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT -- ISSUE 1

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 *Supra* note 1.

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 establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (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 employment factors identified by the employee.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.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 factor(s) identified by the employee.⁹

ANALYSIS -- ISSUE 1

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

In support of her claim, appellant submitted a September 7, 2022 note and visit note from Dr. Thayil returning her to work, providing work restrictions of no heavy lifting, and noting her complaints of left knee pain. The Board has consistently held that pain is a symptom and not a compensable medical diagnosis.¹⁰ The Board has also held that 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. As such, Dr. Thayil's notes are insufficient to establish appellant's claim.¹¹

⁵ *L.W.*, Docket No. 23-0176 (issued July 24, 2023); *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 *G.J.*, Docket No. 23-0577 (issued August 28, 2023); *T.D.*, Docket No. 20-0921 (issued November 12, 2020); *see also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *T.B.*, Docket No. 23-0279 (issued August 14, 2023); *S.A.*, Docket No. 18-0399 (issued October 16, 2018); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *G.S.*, Docket No. 22-0036 (issued June 29, 2022); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 7.

¹⁰ *See B.T.*, Docket No. 22-0022 (issued May 23, 2022); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *B.P.*, Docket No. 12-1345 (issued November 13, 2012).

¹¹ *See D.Y.*, Docket No. 20-0112 (issued June 25, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

In a report dated September 1, 2022, Dr. Zaret obtained a history of appellant developing left plantar foot pain in April 2022 that had radiated into her left knee. He indicated that the cause of the injury was work related and that she had not worked as a letter carrier since August 2022. Dr. Zaret diagnosed left plantar fasciitis and acute left knee pain. He opined that the incident described by appellant was the competent cause of the injury. Dr. Zaret, however, did not specifically attribute the diagnosed conditions to her work duties or explain the pathophysiologic mechanism by which the accepted employment duties caused, aggravated, or accelerated the diagnosed conditions.¹² Consequently, his report is insufficient to meet appellant's burden of proof to establish her claim.

In a September 2, 2022 letter, visit note, and treatment instructions, Dr. Bramante provided work restrictions and diagnosed acute pain of the left knee and left plantar fasciitis. He noted that appellant worked as a mail carrier and that her left knee pain increased with walking. Dr. Bramante, however, did not provide an opinion on causal relationship. As discussed, medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value. Dr. Bramante's reports, therefore, are insufficient to establish the claim.¹³

On September 1, 2022 Dr. Price noted that appellant related a history of left plantar foot pain beginning in April 2022 that had since radiated to the knee, and that she was out of work as a letter carrier. He noted that the cause of the injury was work related. Dr. Price diagnosed left plantar fasciitis and acute pain of the left knee and opined that the incident described was the competent cause of the condition and that appellant's complaints were consistent with the injury. On September 8, 2022 he noted that appellant's injury began as plantar fasciitis and that the pain moved into her left calf and knee. Dr. Price indicated that the injury had begun gradually due to repetitive motion and that the cause was work related. He diagnosed acute left knee pain, internal derangement of the left knee, sprain of collateral ligament of the left knee, and left plantar fasciitis. In these reports, however, Dr. Price offered only a conclusory statement that the cause was work related. He did not relate a specific history of injury or explain the mechanics of how the accepted employment factors were competent to cause appellant's diagnosed conditions.¹⁴ The Board has held that a medical report is of limited probative value on a given medical issue if it contains an opinion which is unsupported by medical rationale.¹⁵ Thus, these reports are insufficient to establish appellant's claim.

In a report dated October 12, 2022, Dr. Price reviewed imaging studies of appellant's left knee and diagnosed internal derangement and a loose body of the left knee. He opined that the left knee injury was a consequence of an altered gait caused by her left foot plantar fasciitis. Dr. Price did not attribute the diagnosed conditions to accepted work factors. Medical evidence

¹² *T.B.*, Docket No. 23-0037 (issued August 23, 2023); *L.B.*, Docket No. 21-0353 (issued May 23, 2022); *see S.O.*, Docket No. 21-0002 (issued April 29, 2021); *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹³ *See supra* note 11.

¹⁴ *See R.V.*, Docket No. 21-0976 (issued July 18, 2023).

¹⁵ *A.K.*, Docket No. 21-0278 (issued July 12, 2021); *J.A.*, Docket No. 20-1195 (issued February 3, 2021).

which does not explain the nature of the relationship between the diagnosed conditions and the specific employment factors is insufficient to meet the claimant's burden of proof.¹⁶

In notes dated August 10, 22, and 24, 2022, Dr. Horl held appellant off work from August 8 to 10, 2022 and returned her to work on August 29, 2022. He did not provide an opinion on causal relationship. 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.¹⁷ Therefore Dr. Horl's opinions are insufficient to establish appellant's claim.

Appellant also submitted records from unidentified healthcare providers. However, the Board has long held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.¹⁸

The remaining evidence of record includes a September 2, 2022 x-ray report. The Board has held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship.¹⁹ Thus, this evidence is also insufficient to establish the claim.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted factors of appellant's federal employment, the Board finds that she has not met her burden of proof.²⁰

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.

LEGAL PRECEDENT -- ISSUE 2

Section 8128(a) of FECA does not entitle a claimant to review of an OWCP decision as a matter of right.²¹ OWCP has discretionary authority in this regard and has imposed certain limitations in exercising its authority.²² One such limitation is that the request for reconsideration

¹⁶ See *S.P.*, Docket No. 23-0327 (issued August 8, 2023); *M.G.*, Docket No. 22-1119 (issued November 15, 2022); *L.B.*, *supra* note 11.

¹⁷ See *supra* note 11.

¹⁸ *L.B.*, *supra* note 12; *T.D.*, Docket No. 20-0835 (issued February 2, 2021); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁹ *W.M.*, Docket No. 19-1853 (issued May 13, 2020); *L.F.*, Docket No. 19-1905 (issued April 10, 2020).

²⁰ See *T.J.*, Docket No. 19-1339 (issued March 4, 2020); *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *D.N.*, Docket No. 19-0070 (issued May 10, 2019); *R.B.*, Docket No. 18-1327 (issued December 31, 2018).

²¹ 5 U.S.C. § 8128(a).

²² 20 C.F.R. § 10.607.

must be received by OWCP within one year of the date of the decision for which review is sought.²³ A timely application for reconsideration, including all supporting documents, must set forth arguments and contain evidence that either: (i) shows that OWCP erroneously applied or interpreted a specific point of law; (ii) advances a relevant legal argument not previously considered by OWCP; or (iii) constitutes relevant and pertinent new evidence not previously considered by OWCP.²⁴ When a timely application for reconsideration does not meet at least one of the above-noted requirements, OWCP will deny the request for reconsideration without reopening the case for a review on the merits.²⁵

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

Appellant did not show that OWCP erroneously applied or interpreted a specific point of law and did not advance a relevant legal argument not previously considered by OWCP. Consequently, she was not entitled to a review of the merits based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).

Further, appellant did not submit any additional evidence with her April 18, 2023 request for reconsideration. Because she did not provide any relevant and pertinent new evidence not previously considered by OWCP, she is not entitled to a review of the merits based on the third requirement under 20 C.F.R. § 10.606(b)(3).²⁶

The Board, accordingly, finds that appellant did not meet any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.²⁷

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment. The Board further

²³ *Id.* at § 10.607(a). For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (February 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

²⁴ *Id.* at § 10.606(b)(3).

²⁵ *Id.* at § 10.608(a), (b).

²⁶ *Id.* at § 10.606(b)(3)(iii); *see also S.H.*, Docket No. 19-1897 (issued April 21, 2020); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *Edward Matthew Diekemper*, 31 ECAB 224-25 (1979).

²⁷ *See D.M.*, Docket No. 18-1003 (issued July 16, 2020); *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *Susan A. Filkins*, 57 ECAB 630 (2006) (when a request for reconsideration does not meet at least one of the three requirements enumerated under section 10.606(b), OWCP will deny the request for reconsideration without reopening the case for a review on the merits).

finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the March 27 and April 24, 2023 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 28, 2024
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