

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

E.K., Appellant)	
)	
and)	Docket No. 25-0641
)	Issued: August 21, 2025
U.S. POSTAL SERVICE, WILMETTE POST OFFICE, Wilmette, 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 June 24, 2025, appellant filed a timely appeal from a March 31, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ 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.³

¹ Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). The Board, in exercising its discretion, denies appellant's request for oral argument because this matter requires an evaluation of the medical evidence presented. As such, the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. For these reasons, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the March 31, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted employment factors.

FACTUAL HISTORY

On February 11, 2023,⁴ appellant, then a 61-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 22, 2022 sustained injuries to her head, knees, and elbows when a right shin splint that occurred four years prior, caused her to trip and fall while walking on uneven surfaces in the performance of duty.⁵ She stopped work on December 22 and returned to full duty on December 27, 2022.

OWCP received a February 10, 2023 report, wherein Dr. Diana Faltushansky, a physician Board-certified in family medicine, diagnosed strain of “unspecified muscle(s) and tendon(s) at lower leg level, right leg,” and head injury. Dr. Faltushansky prescribed physical therapy. In a work slip of even date, she returned appellant to light-duty work for the period February 11 through 26, 2023, with no climbing stairs or ladders, prolonged walking as tolerated, sitting as needed, and seated work for 50 percent of the work shift.

In a development letter dated February 27, 2023, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for completion. OWCP afforded appellant 30 days to submit the necessary evidence.

Thereafter, OWCP received February 9, 2023 notes regarding appellant’s request to attend a February 9, 2023 medical appointment related to a December 22, 2022 injury.

OWCP also received an unsigned duty status report (Form CA-17) dated February 13, 2023.

OWCP further received laboratory testing orders dated February 10 and 27, 2023 by Dr. Faltushansky.

In a February 27, 2023 work slip, Dr. Faltushansky renewed appellant’s previous work restrictions through March 15, 2023.

In a March 24, 2023 attending physician’s report (Form CA-20), Dr. Joshua M. Alpert, a Board-certified orthopedic surgeon, recounted that appellant had fallen on December 1, 2022. He

⁴ The record also contains an incomplete Form CA-1 dated February 9, 2023.

⁵ OWCP assigned the present claim OWCP File No. xxxxxx530. The record reflects that appellant previously filed an occupational disease claim (Form CA-2) on November 19, 2019 for a right shin splint, sciatica affecting the right hip, tendinitis of the left hand, and pain in the left shoulder blade causally related to factors of her federal employment. OWCP assigned that claim OWCP File No. xxxxxx525. On November 18, 2021 appellant filed a Form CA-1 for an April 20, 2021 injury to the back of her left heel and a bone spur. OWCP assigned that claim OWCP File No. xxxxxx593. On September 20, 2021 appellant filed a Form CA-2 for left Achilles tendon damage. OWCP assigned the claim OWCP File No. xxxxxx059. On October 19, 2023 OWCP administratively combined OWCP File Nos. xxxxxx530 xxxxxx525, xxxxxx593, and xxxxxx059, with the latter designated as the master file.

diagnosed right shin pain and checked a box marked “Yes” to indicate that the diagnosis was caused by the December 1, 2022 fall. Dr. Alpert returned appellant to light duty, effective March 25, 2023.

In a March 29, 2023 statement, appellant asserted that her right lower extremity condition began in 2019 when she stepped down harder than expected while delivering mail. She first sought treatment on October 3, 2019. Appellant’s symptoms continued through 2020, and she reaggravated it if she misstepped. She utilized over-the-counter podiatric care items to address her symptoms. Appellant alleged that she tripped and fell while in the performance of duty on August 16 and December 1 and 22, 2022, and on three other occasions. She asserted that she reported each incident to her supervisors. Appellant contended that her condition had worsened as the employing establishment had forced her to exceed her work restrictions.

By decision dated April 3, 2023, OWCP noted that it had converted appellant’s claim to an occupational disease claim, as she attributed the claimed injury or condition to multiple employment incidents. It denied the claim, finding that the medical evidence of record was insufficient to establish a medical condition in connection with the accepted employment incidents. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On April 10, 2023, appellant requested a review of the written record by a representative of OWCP’s Branch of Hearings and Review.

Thereafter, OWCP received a March 24, 2023 report wherein Dr. Alpert recounted a history of right ankle pain following a December 1, 2022 employment incident where appellant tripped, rolled over the top of her right foot, and fell to the ground. She had prior symptoms in the same region that “had been improving, but worsened when she tripped and fell.” Dr. Alpert related appellant’s symptoms of pain on the anterior lateral aspect of the right shin. On examination, he observed tenderness to palpation of the right anterior tibialis. Dr. Alpert obtained x-rays of the feet and ankles, which revealed a well-maintained ankle mortise bilaterally and no evidence of arthritis. He assessed “right leg pain consistent with a shin splint.” Dr. Alpert prescribed physical therapy and medication.

By decision dated September 15, 2023, OWCP’s hearing representative vacated the April 3, 2023 decision and remanded the case for OWCP to administratively combine OWCP File No. xxxxxx530 with OWCP File Nos. xxxxxx525, xxxxxx059, and xxxxxx593, followed by a *de novo* decision.

OWCP subsequently received statements dated September 26 and 29, and October 18, 2023 wherein appellant attributed her right shin splint and left calcaneal bone spur to walking six miles each workday delivering mail, including ascending and descending approximately 1400 steps, while wearing a cross-body mail satchel. She asserted that the December 22, 2022 head injury had affected her vision and cognition.

In a development letter dated October 18, 2023, OWCP requested that the employing establishment provide information regarding appellant’s claim, including comments from a knowledgeable supervisor. It afforded the employing establishment 30 days to respond.

On October 19, 2023, OWCP administratively combined OWCP File Nos. xxxxxx530, xxxxxx525, xxxxxx593, and xxxxxx059, with the latter designated as the master file.

In a November 1, 2023 statement, an employing establishment postmaster alleged that appellant refused to wear appropriate footwear while delivering or casing mail, delivered mail unsafely, and had refused medical attention. The postmaster asserted that an investigation revealed that a postal customer's doorbell camera at the location of the alleged incident did not capture the incident, and that the postal customer at that location worked from home but "did not hear anything." The employing establishment provided a copy of appellant's official position description, which indicated that she was required to carry mail weighing up to 35 pounds in a shoulder satchel or other equipment, load and unload containers of mail weighing up to 70 pounds, and to collect and deliver mail on foot or by vehicle under varying weather conditions.

By *de novo* decision dated January 11, 2024, OWCP accepted the alleged employment factors. However, it denied her occupational disease claim, finding that the medical evidence of record was insufficient to establish a medical condition in connection with the accepted employment factors. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

In a March 14, 2024 Form CA-17, Dr. David Barnes, an osteopath Board-certified in family medicine, recounted decreased range of motion and tenderness of the left foot and right leg. He returned appellant to full-time duty with restrictions. Dr. Barnes directed that appellant be allowed to wear shoes with no backs, restricted lifting, pulling, and pushing to 10 pounds, limited standing to four hours, walking to two hours, climbing to one hour, and noted that appellant could not carry a bag.

On April 23, 2024, appellant requested reconsideration.

In Forms CA-17 dated May 9 and June 6, 2024, Dr. Barnes reiterated his previous restrictions.

Thereafter, OWCP received a February 19, 2024 report, wherein Dr. Barnes noted appellant's position as a letter carrier, with requirements of prolonged standing, and prolonged walking on varied terrain including concrete and uneven surfaces. Dr. Barnes recounted a history of severe bilateral plantar foot pain commencing in January 2019. He indicated that a January 31, 2019 magnetic resonance imaging (MRI) scan of the right ankle demonstrated Achilles tendinitis and an infracalcaneal spur, and an MRI scan of the left ankle of even date demonstrated subtle peritendinitis of Achilles tendon, infracalcaneal spur, and a mild effusion in the calcaneocuboid. On examination, Dr. Barnes observed tenderness to palpation and tautness of the muscle fibers of the plantar fascia bilaterally, tenderness over the midfoot to the heel with deep palpation bilaterally, spasm and tenderness in the left Achilles near the heel, moderately decreased inversion, mildly decreased eversion, and moderately decreased dorsiflexion of the bilateral feet due to pain, discomfort in the plantar aspect of both feet with heel and toe walking, and orthopedic testing of the feet and ankles within normal limits. He opined that "the pounding of walking," "walking on uneven/nonconcrete/hilly/rocks in all types of weather will create wear and tear" on the bones of the feet that will lead to cumulative trauma, resulting in conditions such as appellant experienced. "The repetitive traumas of standing, walking, going up and down stairs etc. has created wear and tear of both plantar fascia," affecting appellant's gait, "which in turn has created tendinitis of both Achilles" as demonstrated by an MRI scan. Dr. Barnes diagnosed bilateral plantar fasciitis and

bilateral Achilles tendinitis. He prescribed orthotics, intra-articular injections, and a transcutaneous electrical nerve stimulation (TENS) unit.

On July 1, 2024, appellant requested reconsideration.

By decision dated July 19, 2024, OWCP modified the January 11, 2024 decision to find that appellant had established a medical condition was diagnosed in connection with the accepted employment factors. However, the claim remained denied, as the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed conditions and the accepted employment factors.

On July 25, 2024, appellant requested reconsideration.

In a July 12, 2024 report, Dr. Barnes recounted appellant's history of a right shin splint and the December 22, 2022 trip and fall incident when she also struck her head. He diagnosed anterior tibial syndrome of the right leg, and concussion without loss of consciousness. Dr. Barnes attributed these diagnoses to repetitive traumas from standing, walking, and ascending and descending stairs, which caused wear and tear of the right tibialis anterior tendon, resulting in a right shin splint, which precipitated the December 22, 2022 trip and fall. He further explained that walking on uneven surfaces caused the normal walking gait to be altered which greatly affects the muscles of the calves. Dr. Barnes opined that "by walking on uneven ground great forces are placed on the tiny bones of the feet. After time, the forces generated create great wear and tear on the foot leading to what she is suffering from currently."

By decision dated July 30, 2024, OWCP denied modification.

Thereafter, OWCP received a March 15, 2023 work slip wherein Dr. Michael Chiu, a Board-certified orthopedic surgeon, provided work restrictions against using stairs or ladders for two weeks.

In a March 24, 2023 Form CA-20 report, Dr. Alpert diagnosed right shin pain related to a December 1, 2022 fall while at work.

In an April 18, 2023 medical form, Dr. Alpert indicated that appellant's condition began on December 1, 2022. He restricted appellant to desk work only through April 21, 2023, with limited walking through May 19, 2023.

In a Form CA-17 dated April 11, 2024, Dr. Barnes reiterated his previous restrictions.

OWCP received a series of October 13, 2024 statements wherein appellant recounted the history of injury and treatment, and asserted that the medical evidence of record established causal relationship.

In an October 28, 2024 report, Dr. James R. Seeds, a Board-certified orthopedic surgeon, recounted a history of right lower leg pain following a 2019 employment injury, aggravated by an April 20, 2021 work-related fall due to a bone spur on the left calcaneus, and a December 22, 2022 workplace fall. He summarized a history of treatment. Dr. Seeds diagnosed recurrent anterior tibial stress syndrome (shin splints), with tenderness of the anterior tibialis, pain with dorsiflexion, and pain with prolonged walking. He opined that as appellant's "occupation involves walking for

long periods of time, this does make sense that her symptoms were aggravated at first" by her federal employment prior to her stopping work in late 2023. Dr. Seeds recommended physical therapy.

On October 30, 2024, appellant requested reconsideration.

By decision dated November 7, 2024, OWCP denied modification.

On January 2, 2025, appellant requested reconsideration.

Thereafter, OWCP received a December 19, 2024 report wherein Dr. Barnes recounted that on December 22, 2022, appellant tripped and fell while at work due to "shin splints" in her right lower extremity that caused her right great toe to drag. Dr. Barnes opined that following 10 months of treatment with little improvement, it was "obvious there is more serious tendon damage." He explained that the extensor hallucis longus tendon "runs down the calf and across the foot to the big toe. It helps lift the foot." Dr. Barnes further explained that appellant's assertion that "her toe dragged and made her trip numerous times makes sense." On examination, he noted tenderness to palpation and spasm in the right tibialis anterior, difficult dorsiflexion and plantar flexion of the right foot, and restricted inversion, eversion, and dorsiflexion of the right foot due to pain.

By decision dated March 31, 2025, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁶ 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,⁷ 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.⁸ 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.⁹

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

⁶ *Supra* note 2.

⁷ *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).

⁸ See *S.R.*, Docket No. 25-0326 (issued March 11, 2025); *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).

⁹ *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).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.¹⁰

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹¹ The opinion of the physician must be based upon 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.¹²

ANALYSIS

The Board finds that this case is not in posture for decision.

In a July 12, 2024 report, Dr. Barnes related appellant's history of injury and diagnosed anterior tibial syndrome of the right leg and concussion without loss of consciousness. He attributed these diagnoses to repetitive traumas from standing, walking, and ascending and descending stairs, which caused wear and tear of the right tibialis anterior tendon, resulting in a right shin splint, which precipitated the December 22, 2022 trip and fall. Dr. Barnes further explained that walking on uneven surfaces caused the normal walking gait to be altered which greatly affects the muscles of the calves. He opined that "by walking on uneven ground great forces are placed on the tiny bones of the feet. After time, the forces generated create great wear and tear on the foot leading to what she is suffering from currently." The Board finds that, while Dr. Barnes' report is insufficiently rationalized to establish appellant's claim, it is sufficient to require further development of the medical evidence.¹³

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹⁴ OWCP has an obligation to see that justice is done.¹⁵

¹⁰ See *S.R.*, *supra* note 8; *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett, id.*

¹¹ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

¹² *P.V.*, Docket No. 25-0547 (issued June 23, 2025); see *S.R.*, *supra* note 8; *D.C.*, Docket No. 19-1093 (issued June 25, 2020); see *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

¹³ *T.P.*, Docket No. 25-0294 (issued April 2, 2025); *B.S.*, Docket No. 22-1289 (issued August 20, 2024); *J.L.*, Docket No. 23-0733 (issued October 12, 2023); *C.S.*, Docket No. 22-1087 (issued May 1, 2023); *D.V.*, Docket No. 21-0383 (issued October 4, 2021); *K.S.*, Docket No. 19-0506 (issued July 23, 2019); *H.T.*, Docket No. 18-0979 (issued February 4, 2019); *D.W.*, Docket No. 17-1884 (issued November 8, 2018); *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *John J. Caralone*, 41 ECAB 354 (1989).

¹⁴ See *C.C.*, Docket No. 18-1453 (issued January 28, 2020); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹⁵ See *T.P.*, *supra* note 13; *B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, *supra* note 13; *John J. Caralone*, *supra* note 13.

This case must, therefore, be remanded for further development. On remand OWCP shall refer appellant, along with the case record and a statement of accepted facts, to a specialist in the appropriate field of medicine for a second opinion regarding whether she sustained a medical condition causally related to the accepted employment factors. If the referral physician opines that appellant's conditions are not causally related, he or she must provide a fully-rationalized opinion explaining why their opinion differs from that of Dr. Barnes. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the March 31, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: August 21, 2025
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