United States Department of Labor
Employees' Compensation Appeals Board

K.M., Appellant	)	
and	)	**Docket No. 25-0649**
	)	**Issued: August 19, 2025**
DEPARTMENT OF LABOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, Dallas, TX, 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 June 26, 2025 appellant filed a timely appeal from April 23 and June 17, 2025 merit decisions 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.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted November 25, 2024 employment incident.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the June 17, 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.*

FACTUAL HISTORY

On November 26, 2024 appellant, then a 60-year-old claims examiner, filed a traumatic injury claim (Form CA-1) alleging that, on November 25, 2024, she injured her right ankle and foot when she attempted to adjust her feet and stepped down on the ergonomic footrest under her desk while in the performance of duty. She explained that she heard her ankle pop and crack and thereafter, was unable to walk or bear weight on her foot the following day. On November 26, 2024 the employing establishment issued an authorization for examination and/or treatment (Form CA-16) for appellant's right ankle. Appellant stopped work on November 27, 2024, and returned to full-time modified duty with restrictions on December 2, 2024.

In a development letter dated December 3, 2024, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and afforded her 60 days to submit the necessary evidence.

In a December 4, 2024 response to OWCP's development questionnaire, appellant submitted a copy of her November 26, 2024 e-mail to her supervisor, C.E., notifying her of the November 25, 2024 incident.

The record reflects that on November 27, 2024 appellant was treated by Hedrine Nana, a nurse practitioner. She noted appellant's November 25, 2024 history of injury, provided examination findings and diagnosed right foot pain and sprain of unspecified ligament of right ankle. In an attending physician's report, Part B of the Form CA-16, and in a work excuse note of even date, Ms. Nana diagnosed right foot pain, and provided work restrictions effective November 29, 2024 and an orthopedic referral.

Copies of November 27, 2024 x-rays were also provided. The right ankle x-rays revealed questionable nondisplaced fracture of the proximal diaphysis of the third metatarsal. The right foot x-ray revealed no evidence of fracture or other acute abnormality but moderate degenerative changes at the first metatarsophalangeal (MTP) joint.

A December 17, 2024 magnetic resonance imaging (MRI) scan of the right ankle reported acute, partial-thickness tear in the proximal posterior tibialis tendon (Grade 3); Grade 1 tenosynovitis of the flexor hallucis longus and the perioneus longus; and a small right heel spur. A December 17, 2024 MRI scan of the right foot also revealed acute, partial-thickness tear in the proximal posterior tibialis tendon (Grade 3); a small right heel spur, and mild degenerative joint disease in the first MTP joint.

OWCP also received medical reports from Dr. Robert Hein, a Board-certified family practitioner also Board-certified in pain medicine. In December 4 and 20, 2024 reports, Dr. Hein reported the history of the November 25, 2024 injury. He noted that appellant had placed an ergonomic footrest with her toe pressed down and heel elevated when she heard a snap, crackle and pop sound in her right ankle, which gradually became more painful. The following morning, appellant was unable to walk or to bear weight on her right foot, and experienced sensitivity to touch on her right ankle. Dr. Hein discussed her treatment, current symptoms and provided examination findings. In his December 4, 2024 report, he diagnosed tenosynovitis of right ankle. In his December 20, 2024 report, Dr. Hein provided additional diagnoses of traumatic rupture of right posterior tibial tendon and tendinitis of right flexor hallucis longus. In both reports, he opined

that based on the history of injury, medical records, diagnostic imaging and objective examination findings, there was a causal relationship between appellant's injury and resulting symptomatology which occurred during her normal work duties on November 25, 2024. Dr. Hein released her to work with restrictions.

On January 14, 2025 OWCP requested that Dr. Hein provide a medical explanation as to how the November 25, 2024 work incident caused or aggravated the diagnosed conditions of tenosynovitis of right ankle, traumatic rupture of right posterior tibial tendon and tendinitis of right flexor hallucis longus.

In a follow-up letter dated January 15, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the December 3, 2024 letter to submit the necessary evidence. OWCP also noted that it had sent a January 14, 2025 letter directly to Dr. Hein requesting that he provide a more detailed opinion. It further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In a January 17, 2025 report, Dr. Hein continued to report the history of the November 25, 2024 injury, provide examination finding and diagnosed traumatic rupture of right posterior tibial tendon, tenosynovitis of right ankle, and tendinitis of right flexor hallucis longus. He opined that the injury was the result of acute trauma that was consistent with the reported history of injury and that she needed further orthopedic evaluation by a specialist. Dr. Hein reiterated his opinion that based on the history of injury, medical records, diagnostic imaging and objective examination findings, there was a causal relationship between appellant's injury and resulting symptomatology which occurred during her normal work duties on November 25, 2024.

OWCP also received a December 31, 2024 physical therapy report.

By decision dated February 12, 2025, OWCP denied appellant's traumatic injury claim, finding that she did not sustain an injury in the performance of duty on November 25, 2024, as alleged.

In a February 14, 2025 report, Dr. Hein noted the history of injury, provided examination findings and diagnosed traumatic rupture of right posterior tibial tendon, tenosynovitis of right ankle, and tendinitis of right flexor hallucis longus. He continued to opine that the injury was the result of acute trauma consistent with the reported history of injury and that she needed further orthopedic evaluation by a specialist. Dr. Hein also opined that based on the history of injury, medical records, diagnostic imaging and objective examination findings, there was a causal relationship between appellant's injury and resulting symptomatology which occurred during her normal work duties on November 25, 2024.

On March 5, 2025 appellant requested reconsideration and submitted additional medical evidence.

In February 7 and March 7, 2025 reports, Dr. Calvin Rushing, a podiatric foot and ankle surgeon, noted the history of injury, appellant's symptoms and provided examination findings. He diagnosed tenosynovitis of right ankle and tendinitis of right flexor hallucis longus. Dr. Rushing opined that the injury was the result of acute trauma consistent with the reported history of injury.

He also opined that based upon the history of injury, medical records, diagnostic imaging, and objective examination findings, appellant's injury was causally related to the work event.

A March 20, 2025 right ankle x-ray revealed normal right ankle series. A March 20, 2025 right foot x-ray revealed moderate degenerative joint disease in the first MTP joint and moderate sized right heel spur.

By decision dated April 23, 2025, OWCP modified its February 12, 2025 decision to find that appellant had established that she was in the performance of duty and that the November 25, 2024 employment incident occurred, as alleged. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between a medical condition and the accepted November 25, 2024 employment incident.

On June 3, 2025 appellant requested reconsideration.

In March 25 and May 13, 2025 reports, Dr. Hein noted the history of injury, provided examination findings and diagnosed traumatic rupture of right posterior tibial tendon, tenosynovitis of right ankle, and tendinitis of right flexor hallucis longus. He indicated that the injury was the result of an acute trauma that was consistent with the reported history of injury. Dr. Hein continued to opine that based upon the history of injury, medical records, diagnostic imaging, and objective examination findings, appellant's injury was causally related to the work event.

In a June 6, 2025 report, Dr. Hein noted the history of injury, provided examination findings and diagnosed traumatic rupture of right posterior tibial tendon, tenosynovitis of right ankle, and tendinitis of right flexor hallucis longus. He indicated that the injury was the result of an acute trauma that was consistent with the reported history of injury. Dr. Hein noted that appellant would be referred to a podiatrist and released to work with restrictions. With regard to causation, he opined that, after review of the history of injury, diagnostic imaging, and physical examination findings, it was with medical certainty that she sustained injuries to her right foot and right ankle, including traumatic rupture of the right posterior tibial tendon, tenosynovitis of the right ankle, and tendinitis of the right flexor hallucis longus during her normal scope of duties on November 25, 2024. Dr. Hein explained that appellant injured her foot and ankle by pressing the ergonomic footrest which worsened her primary osteoarthritis of the right foot, which was asymptomatic before the date of injury.

By decision dated June 17, 2025, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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

[3] *Supra* note 1.

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 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 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 whether the employee actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.[7]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[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 specific employment incident identified by the employee.[9]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted November 25, 2024 employment incident.

In support of her claim, appellant submitted medical reports from Dr. Hein, who diagnosed conditions of tenosynovitis of right ankle, traumatic rupture of right posterior tibial tendon and

[4] *E.K.,* Docket No. 22-1130 (issued December 30, 2022); *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).

[5] *L.C.,* Docket No. 19-1301 (issued January 29, 2020); *J.H.,* Docket No. 18-1637 (issued January 29, 2020); *R.C.,* 59 ECAB 427 (2008); *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] *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).

[8] *See C.M.,* Docket No. 25-0408 (issued April 16, 2025); *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).

[9] *F.S.,* Docket No. 23-0112 (issued April 26, 2023); *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).

[10] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *K.G.,* Docket No. 18-1598 (issued January 7, 2020); *M.S.,* Docket No. 19-0913 (issued November 25, 2019).

tendinitis of right flexor hallucis longus and opined that the injury was the result of acute trauma that was consistent with the reported history of injury. In reports dated December 4, 2024 through May 13, 2025, Dr. Hein opined that based on the history of injury, medical records, diagnostic imaging and objective examination findings, there was a causal relationship between appellant's injury and resulting symptomatology which occurred during her normal work duties on November 25, 2024. However, he did not provide sufficient rationale to support his conclusions. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/ disability was causally related to the accepted employment incident.[11] This evidence is therefore insufficient to establish the claim.

In his June 6, 2025 report, Dr. Hein again opined that based on the history of injury, medical records, diagnostic imaging and objective examination findings, there was a causal relationship between appellant's injury and resulting symptomatology which occurred during her normal work duties on November 25, 2024. He explained that appellant had injured her foot and ankle by pressing the ergonomic footrest which worsened her primary osteoarthritis of the right foot, which was asymptomatic before the date of injury. However, the Board has held that a medical opinion supporting causal relationship because an employee was asymptomatic before the employment incident is insufficient, without supporting medical rationale, to establish a claim.[12] Further, as noted above, in any case where a preexisting condition involving the same part of the body is present, and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the medical evidence must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[13] This evidence is therefore insufficient to establish appellant's claim.[14]

In February 7 and March 7, 2025 reports, Dr. Rushing, noted the history of injury of the November 25, 2024 employment incident and diagnosed tenosynovitis of right ankle and tendinitis of right flexor hallucis longus. While he opined that the November 25, 2024 injury was the result of acute trauma consistent with the reported history of injury, Dr. Rushing did not explain, with rationale, how the accepted employment incident caused or aggravated appellant's diagnosed conditions. As noted, the Board has held that a medical opinion is of limited probative value on the issue of causal relationship if it is unsupported by medical rationale.[15] As such, this evidence is insufficient to establish appellant's claim.

Appellant also submitted reports by a nurse practitioner and physical therapist. The Board has held that certain healthcare providers such as nurses, physician assistants, and physical therapists are not considered physicians as defined under FECA and, therefore, are not competent

[11] *See N.F.,* Docket No. 25-0430 (issued May 7, 2025); *Y.D.,* Docket No. 16-1896 (issued February 10, 2017).

[12] *J.P.,* Docket No. 25-0507 (issued June 10, 2025); *P.G.,* Docket No. 24-0511 (issued June 26, 2024); *C.C.,* Docket No. 17-1841 (issued December 6, 2018); *Thomas Petrylak,* 39 ECAB 276, 281 (1987).

[13] *J.P., id.*; *D.T.,* Docket No. 23-1094 (issued January 5, 2024).

[14] *J.P., id.*; *supra* notes 10 and 11.

[15] *Supra* note 12; *T.M.,* Docket No. 25-0467 (issued May 21, 2025); *B.M.,* Docket No. 19-1341 (issued August 12, 2020); *Delores C. Ellyett,* 41 ECAB 992 (1990).

to provide a medical opinion. Therefore, this evidence is of no probative value and is insufficient to establish appellant's claim.[16]

The remainder of the evidence of record consisted of diagnostic studies, including x-rays and MRI scans. The Board has held, however, that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment incident resulted in a medical condition.[17]

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted November 25, 2024 employment incident, the Board finds that appellant has not met her 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 her burden of proof to establish a medical condition causally related to the accepted November 25, 2024 employment incident.[18]

[16] 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) (May 2023); *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 B.D.,* Docket No. 22-0503 (issued September 27, 2022) (nurse practitioners are not considered physicians as defined under FECA and their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits); *L.S.,* Docket No. 19-1231 (issued March 30, 2021) (a nurse practitioner is not considered a physician as defined under FECA); *V.R.,* Docket No. 19-0758 (issued March 16, 2021) (a physical therapist is not considered a physician under FECA); *C.K.,* Docket No. 19-1549 (issued June 30, 2020) (physical therapists are not considered physicians as defined under FECA).

[17] *L.A.,* Docket No. 22-0463 (issued September 29, 2022); *D.K.,* Docket No. 21-0082 (issued October 26, 2021); *O.C.,* Docket No. 20-0514 (issued October 8, 2020); *R.J.,* Docket No. 19-0179 (issued May 26, 2020).

[18] The Board notes that the employing establishment issued a November 26, 2024 Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *S.G.,* Docket No. 23-0552 (issued August 28, 2023); *J.G.,* Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane,* 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the June 17, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 19, 2025
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