

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

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**E.V., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Westfield, NJ, Employer**

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**Docket No. 06-1166  
Issued: September 6, 2006**

*Appearances:*  
*E.V., pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On April 17, 2006 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs' dated April 5, 2006, which denied her claim for a right foot injury causally related to her federal employment. Pursuant to 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 met her burden of proof to establish that she sustained a right foot injury causally related to factors of employment.

**FACTUAL HISTORY**

On September 15, 2005 appellant, then a 48-year-old city carrier, filed a Form CA-2, occupational disease claim, alleging that factors of her federal employment caused a right foot condition. She stated that she had had a right heel spur for two years that became very painful on June 13, 2005. She also had an accepted left foot condition for which she had surgery in

March 2004. The employing establishment indicated that appellant had been working limited duty since June 15, 2005. She did not stop work.

In reports dated June 15 and 16, 2005, Dr. Marshall Cooper, a podiatrist, advised that appellant needed light duty for a right foot heel spur. In a July 25, 2005 report, he diagnosed right foot plantar fasciitis, opining that it was due to “long amounts of standing and walking on a hard cement floor.” Surgery was recommended. In an August 10, 2005 report, the doctor advised that he examined appellant on June 14, 2005 for a complaint of a painful right heel of one month’s duration, noting that she previously had a similar complaint and surgical treatment of her left foot. Dr. Cooper reiterated his diagnosis of right plantar fasciitis and stated: “this condition correlates with the constant standing on hard surfaces [and] the added weight of a mailbag will make this problem worse.”

The employing establishment controverted the claim, stating that appellant’s light duty consisted of driving a postal vehicle to mailboxes, picking up mail and delivering express mail with no lifting over 10 pounds with no constant standing or walking involved.

By letter dated October 13, 2005, the Office informed appellant of the evidence needed to support her claim. In a November 18, 2003 report, Dr. Cooper noted bilateral heel pain and, on March 8, 2004, diagnosed bilateral fasciitis. He recommended light duty with no long periods of walking or standing until after surgery. In an October 28, 2005 report, Dr. Matthew B. Welch, a podiatrist, noted appellant’s complaint of severe pain and swelling in the right heel and pain in the bottom of her foot. Examination revealed severe pain on palpation of the bottom of the right heel and the presence of a heel spur demonstrated by clinical and radiographic examinations. He recommended that she not work. In an October 31, 2005 report, Dr. Cooper advised that appellant had problems with right plantar fasciitis beginning in December 2003, which had worsened such that she could not walk without pain. He reiterated that standing on hard surfaces and carrying a mailbag would make the problem worse and recommended surgery.<sup>1</sup>

In a November 1, 2005 statement, appellant noted that following her accepted left foot surgery she worked limited duty but returned to her regular carrier position, which required standing and walking of more than eight hours a day delivering mail and that this caused pain in her right foot. She described her light-duty position that began in June 2005, stating that she would drive to collect mail from 26 mailboxes, separate the mail and deliver express mail.

By letter dated January 9, 2006, Frank Pace, an employing establishment manager, advised that appellant returned to full duty on September 20, 2004. He stated that anti-fatigue mats were provided so that a carrier was not standing on a hard surface while casing mail. He noted that she had been on light duty since June 14, 2005, which he described as delivering express mail, emptying collection boxes and delivering for two hours a day, ending the day by cleaning out a branch office of all outgoing mail. He advised that this did not require heavy lifting or an excessive amount of time standing and walking on a hard cement floor. On November 3, 2005 Dr. R. Robles-Galvez, an employing establishment physician Board-certified in internal medicine, advised that appellant should continue to work with restrictions. In reports

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<sup>1</sup> Appellant also submitted some illegible treatment notes.

dated February 22, 2006, Dr. Cooper advised that appellant should continue to work restricted duty. On March 22, 2006 he reported that she was having right foot surgery on that day.

By decision dated April 5, 2006, the Office denied the claim finding the medical evidence of record insufficient to establish that appellant's right foot condition was causally related to her federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.<sup>3</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.<sup>4</sup>

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>5</sup> Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.<sup>6</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>4</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>5</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>6</sup> *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>7</sup>

### ANALYSIS

The Board notes that, while Dr. Cooper's reports lack detailed medical rationale sufficient to discharge appellant's burden of proof to establish that her right foot condition is causally related to factors of her federal employment as a city carrier, this does not mean that they may be completely disregarded by the Office. It merely means that their probative value is diminished. Beginning in November 2003, Dr. Cooper diagnosed bilateral plantar fasciitis and noted that appellant had an accepted left foot condition. In March 2004, she had authorized surgery on her left foot. Although she returned to her regular duties delivering mail in September 2004, in June 2005 Dr. Cooper advised that she should again work limited duty. At that time he diagnosed a right heel spur and plantar fasciitis which, he opined was due to long standing and walking on a hard cement floor. He recommended surgery and, on August 10, 2005, reiterated his diagnosis and advised that the condition correlated with the constant standing on hard surfaces and the added weight of a mailbag would make this problem worse.

It is well established that when a factor of employment aggravates, accelerates or otherwise combines with a preexisting, nonoccupational pathology, the employee is entitled to compensation.<sup>8</sup> The medical evidence supports that appellant's regular duties of delivering mail from September 2004 to June 2005 aggravated her right foot condition, as did her continued limited-duty assignment where she had to pick up mail from 26 collection boxes, deliver express mail and continue with some mail handler duties. In the absence of medical evidence to the contrary, Dr. Cooper's reports are sufficient to establish a *prima facie* case such that the Office should further develop the record to determine if appellant's right foot condition was caused or aggravated by her federal employment.<sup>9</sup>

It is well established that proceedings under the Act are not adversarial in nature and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.<sup>10</sup> The case will be remanded to the Office for further development of the medical evidence to determine if appellant's right foot condition was caused or aggravated by factors of her federal employment. After such development as deemed necessary, the Office shall issue an appropriate decision.

### CONCLUSION

The Board finds this case is not in posture for decision regarding whether appellant's right foot condition was caused by factors of her federal employment.

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<sup>7</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>8</sup> *Chris Wells*, 52 ECAB 445 (2001).

<sup>9</sup> *Jimmy A. Hammons*, 51 ECAB 219 (1999); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *See Jimmy A. Hammons, id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 5, 2006 be set aside and the case remanded for further proceedings consistent with this opinion of the Board.

Issued: September 6, 2006  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board