

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

M.C., Appellant

and

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

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**Docket No. 13-1605
Issued: January 2, 2014**

Appearances:
Thomas R. Uliase, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On June 27, 2013 appellant filed a timely appeal from the March 14, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this decision.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained injury to her left foot causally related to factors of her federal employment.

FACTUAL HISTORY

On July 12, 2012 appellant, then a 37-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging a left foot injury in the performance of duties on July 11, 2012. It occurred as she stepped out of her delivery truck and slipped in sand.

¹ 5 U.S.C. § 8101 *et seq.*

In a report dated July 18, 2012, Dr. Homyar N. Karanjia, a podiatric surgeon, diagnosed plantar fasciitis, possible tear and a possible calcaneal spur fracture. He stated that appellant twisted her foot six days prior when she was getting out of her truck at work. Appellant could work only sedentary duty until the results of a magnetic resonance imaging (MRI) scan were available. Dr. Karanjia also recommended an immobilization boot for appellant.

In an attending physician's report dated July 18, 2012, Dr. Karanjia diagnosed plantar fasciitis, a tear and calcaneal spurs. He checked a box on the form indicating that the condition was caused or aggravated by employment activity, but did not provide an explanation in the space provided. Similarly, in a request for authorization dated July 18, 2012, Dr. Karanjia again checked a box indicating that the condition was caused or aggravated by employment activity, but again did not provide any additional information. On July 26, 2012 he evaluated the results of an MRI scan and diagnosed plantar fasciitis with no tear or fracture. Dr. Karanjia noted that appellant stated that her injury improved about 40 percent over the course of the prior week.

In a workers' compensation note dated July 26, 2012, Dr. Karanjia reiterated the diagnosis and restricting appellant's work to sedentary activity only. He prescribed custom molded foot orthotics.

On July 30, 2012 the employing establishment controverted appellant's claim, stating that the medical evidence did not offer any opinion on the causal relationship between her diagnosis and the claimed traumatic event. Appellant's employer also noted that her account of the mechanism of injury on her Form CA-1, that of slipping in sand, differed from the account she gave during a telephone call, in which she felt pain while walking up to an address for a delivery.

In a report dated August 16, 2012, Dr. Karanjia diagnosed plantar fasciitis and advised appellant to wean out of use of an immobilization boot and to increase her activity. He noted that she would benefit from having an orthotic device fabricated and could return to work on September 4, 2012. In a workers' compensation note dated August 16, 2012, Dr. Karanjia stated that appellant should work modified duty. He stated that she could return to work, but that she was able to case mail only. On September 13, 2012 Dr. Karanjia noted that appellant still had tenderness upon palpitation of the left heel at the insertion of the medial fascial band and medial tubercle. He noted that she would benefit from a physical therapy program.

On September 25, 2012 OWCP requested additional medical evidence from appellant, as the medical record was insufficient to establish causal relationship. It afforded her 30 days to submit additional evidence.

On October 11, 2012 Dr. Karanjia recommended that appellant work only four hours daily between October 15 and 22, 2012; six hours daily between October 22 and 28, 2012; and return to full duty after October 28, 2012. On October 11, 2012 he recommended that she finish her physical therapy regimen, increase her work activity and continue using orthotics. Dr. Karanjia noted that appellant's condition was improving and that she could return to full duty in two weeks.

In a statement dated October 15, 2012, appellant described the events leading to her claimed injury. She stated that her foot twisted inward when she stepped into a sandy area in

front of a building on her delivery route and immediately felt a burning sensation. When appellant moved toward the mailbox, the pain in her heel increased. She described similar conditions that she had prior to this event, stating that she had been treated for plantar fasciitis in her left foot in March 2006. Appellant was also treated by Dr. Karanjia for pain in her Achilles tendon in the fall 2011. She submitted physical therapy notes dated September 18 through October 10, 2012.

By decision dated October 26, 2012, OWCP denied appellant's claim, finding that the medical evidence was not sufficient to establish that her medical condition was causally related to the claimed traumatic event.

On November 5, 2012 appellant's counsel requested an oral hearing before an OWCP hearing representative. Appellant submitted medical records pertaining to prior conditions her left foot.

In a report dated October 5, 2006, Dr. Susan B. Oberlender, a Board-certified radiologist, stated that examination of appellant's left foot revealed no evidence of fracture or dislocation. The articular surfaces were smooth and joint spaces maintained; that the soft tissues of appellant's left foot were unremarkable with a tiny plantar calcaneal spur.

In an undated form report, Dr. Michelle Rowen stated that appellant was out of work from October 5 through 14, 2006 when treated for plantar fasciitis. In a certification of health care provider form dated October 19, 2008, she stated that appellant was out of work from September 15 and 16, 2008, was seen on September 17, 2008 and was treated for plantar fasciitis.

On September 10, 2010 Dr. Karanjia diagnosed left Achilles tendinitis. Appellant related that she had pain in her left Achilles tendon since April 2010. Dr. Karanjia noted that, as with any type of Achilles tendon injury, "there is always a chance of tearing or even rupture." In treatment records dated July 19 through October 14, 2011, he reiterated the diagnosis of Achilles tendinitis. On July 19, 2011 Dr. Karanjia stated that appellant still had Achilles tendinitis and advised her to continue stretching exercises. On August 23, 2011 he noted that she had been casted for orthotics and that he would schedule an MRI scan to rule out the possibility of a tear of the Achilles tendon. On September 22, 2011 Dr. Karanjia advised that the MRI scan showed a partial tear.

The July 25, 2012 MRI scan report by Dr. Thomas Yu stated an impression of chronic Achilles tendinosis and a partial tear, as well as a heel spur. There was no additional internal derangement identified or bony injury noted.

A hearing held before an OWCP hearing representative on February 5, 2013. Appellant testified that she first began having trouble with her left foot when she was a part-time flexible employee. She had previously been diagnosed with plantar fasciitis by Dr. Rowen but the condition had completely resolved within five or six months. Appellant did not report it as a work-related injury because there was no specific incident at that time. She asserted that her foot was asymptomatic before the incident on July 11, 2012, but she had previously seen Dr. Karanjia for treatment of her left Achilles tendon in September 2010. On July 11, 2012 appellant slipped

in sand after stepping out of her truck, which caused acute pain, but that she was able to finish her route. The next day she was unable to put weight on her foot and the injury did not resolve by the time she went back to work on July 16, 2012. Appellant noted that the location of this injury, where the bottom of her foot and her Achilles tendon met, was different from her prior injuries.

In a narrative report dated February 1, 2013, Dr. Karanjia stated:

“[Appellant] was working at the U.S. Postal Service on July 11, 2012 when she stepped out of her postal vehicle injuring her left foot and heel. The pain that she was experiencing in the plantar aspect of her left heel was consistent with the injury that had occurred.... I believe [that appellant’s] injury at work stepping out of the mail truck did cause her to have problems in her left heel. This report was made with reasonable amount of medical certainty.”

He stated that appellant’s initial diagnosis was a plantar fasciitis with possible tear and possible calcaneal spur fracture of the left heel.

By decision dated March 14, 2013, the hearing representative affirmed the October 26, 2012 decision of OWCP denying appellant’s claim for compensation on the grounds that she had not established a causal relationship between her condition and the accepted work incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are 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 on a traumatic injury or an occupational disease.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.⁵ First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁶ Second, the

² *Id.*

³ *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364, 366 (2006).

⁴ *S.P.*, 59 ECAB 184, 188 (2007); *Joe D. Cameron*, 41 ECAB 153, 157 (1989).

⁵ *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3 at 5 n.5.

⁶ *D.B.*, 58 ECAB 464, 466 (2007); *David Apgar*, 57 ECAB 137, 140 (2005).

employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁷

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.⁸ An award of compensation may not be based on appellant's belief of causal relationship. 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 employment factors or incidents is sufficient to establish a causal relationship.⁹

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.¹⁰ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and compensable employment factors.¹¹ 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 factors identified by the employee.¹²

ANALYSIS

Appellant alleged that she sustained plantar fasciitis of the left foot as the result of slipping in sand upon exiting her mail delivery truck on July 11, 2012. OWCP found the evidence sufficient to establish that the incident occurred as alleged, but also found that the medical evidence of record was not sufficient to establish the condition was causally related to the July 11, 2012 employment incident. The issue is whether appellant has established that she sustained a left foot condition causally related to the July 11, 2012 employment incident. The Board finds that she has failed to meet her burden of proof.

In support of her claim, appellant submitted various reports from Dr. Karanjia from 2012 pertaining to plantar fasciitis; reports from Drs. Karanjia, Oberlender and Rowen pertaining to prior conditions affecting the same bodily member; and physical therapy notes.

⁷ *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734, 737 (2008); *Bonnie A. Contreras*, *supra* note 3 at 5 n.5.

⁸ *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

⁹ *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

¹⁰ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D'Wayne Avila*, 57 ECAB 642, 649 (2006).

¹¹ *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

¹² *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

Dr. Karanjia diagnosed plantar fasciitis. The Board finds, however, that Dr. Karanjia failed to adequately address the issue of causal relationship. He did not explain the mechanism by which the July 11, 2012 employment incident caused or aggravated appellant's plantar fasciitis. Dr. Karanjia did not provide medical rationale to explain how her plantar fasciitis had been caused or aggravated by slipping in sand after exiting her delivery truck on July 11, 2012. His reports fail to offer an opinion on whether appellant's July 11, 2012 employment incident caused or aggravated her plantar fasciitis and so these reports are of limited probative value on the issue of causal relationship.¹³ On July 18, 2012 Dr. Karanjia checked the boxes on form reports indicating that appellant's condition was caused or aggravated by employment activity; but they lack any explanation or rationale for his conclusion. Therefore, the reports are entitled to limited probative value.¹⁴ On February 1, 2013 Dr. Karanjia did not state a final diagnosis nor explains the nature of the relationship between appellant's diagnosed condition and the accepted incident. Instead, the report mentioned only her initial diagnosis of plantar fasciitis with possible tear and possible calcaneal spur fracture of the left heel and listed generally "problems in her left heel." Dr. Karanjia's February 1, 2013 report is also not based on a complete factual history. It failed to discuss her documented prior plantar fasciitis conditions or treatment by Dr. Rowen in 2006 and 2008. Lacking thorough medical rationale on the issue of causal relationship, Dr. Karanjia's reports are of limited probative value and are not sufficient to establish that appellant sustained an employment-related injury in the performance of duty on July 11, 2012.¹⁵

Appellant submitted reports pertaining to her left foot treatment. On October 5, 2006 Dr. Oberlender stated that examination of appellant's left foot revealed no evidence of fracture or dislocation; that the articular surfaces were smooth and joint spaces maintained; that the soft tissues of appellant's left foot were unremarkable; and that there was a tiny plantar calcaneal spur. Dr. Rowen, who stated that appellant was out of work from October 5 through 14, 2006, when she was treated for plantar fasciitis. In a certification of health care provider from her dated October 19, 2008, she stated that appellant was out of work from September 15 and 16, 2008, was seen on September 17, 2008 and was treated for plantar fasciitis. In a report dated September 10, 2010, Dr. Karanjia diagnosed appellant's with left Achilles tendinitis. He noted that she stated that she had pain in her left Achilles tendon since April 2010 and explained to her that, as with any type of Achilles tendon injury, "there is always a chance of tearing or even rupture." This prior medical evidence of treatment is not relevant to how the incident of July 11, 2012 caused a diagnosed condition.

In an MRI scan report dated July 25, 2012, Dr. Yu stated his impression that appellant had chronic Achilles tendinosis and a partial tear, as well as a heel spur, but that there was no additional internal derangement identified and no bony injury noted. He offered no medical opinion on causal relation.

¹³ See *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Ellen L. Noble*, 55 ECAB 530, 534 (2004).

¹⁴ See *Mary E. Marshall*, 56 ECAB 420, 427 n.9 (2005) (medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof).

¹⁵ See *S.S.*, 59 ECAB 315, 322 (2008); see also *M.W.*, 57 ECAB 710, 719 (2006); *Richard A. Neidert*, 57 ECAB 474, 482 n.23 (2006); *Cecelia M. Corley*, 56 ECAB 662, 669 n.8 (2005) (medical conclusions based on an inaccurate or incomplete factual history are of diminished probative value); *Mary E. Marshall*, *id.*

Appellant also submitted physical therapy notes. A physical therapist is not a “physician” as defined under the FECA. Their reports do not qualify as probative medical evidence to support a claim for federal workers’ compensation, unless such reports are countersigned by a physician.¹⁶ None of the physical therapy notes were countersigned by a physician. Therefore, these records do not constitute probative medical evidence supportive of appellant’s claim.

An award of compensation may not be based on surmise, conjecture or speculation. Neither, the fact that appellant’s conditions became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.¹⁷ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

OWCP advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Consequently, appellant has not met her burden of proof in establishing that she claimed plantar fasciitis condition was causally related to the July 11, 2012 employment incident.

On appeal, appellant’s counsel contends that appellant had submitted *prima facie* evidence of her traumatic injury from Dr. Karanjia. For the reasons stated above, the Board finds that this argument is not substantiated.

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 failed to establish that she sustained a left foot condition causally related to the accepted July 11, 2012 employment incident.

¹⁶ See 5 U.S.C. § 8101(2); *Vickey C. Randall*, 51 ECAB 357, 360 n.4 (2000) (regarding physical therapists).

¹⁷ See *D.U.*, Docket No. 10-144 (issued July 27, 2010); *D.I.*, 59 ECAB 158, 162 (2007); *Robert Broome*, 55 ECAB 339, 341 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 14, 2013 is affirmed.

Issued: January 2, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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