United States Department of Labor
Employees' Compensation Appeals Board

R.H., Appellant	)	
and	)	**Docket No. 18-0021**
	)	**Issued: March 22, 2018**
U.S. POSTAL SERVICE, STEWARD STATION POST OFFICE, Richmond, VA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 2, 2017 appellant filed a timely appeal from a September 21, 2017 merit decision 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 to consider the merits of the case.

ISSUE

The issue is whether appellant has established a right foot sprain causally related to the accepted April 14, 2017 employment incident.

FACTUAL HISTORY

On April 27, 2017 appellant, then a 25-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that, on April 14, 2017, she noticed a sharp pain in the bottom of her right foot as she descended a flight of stairs while in the performance of duty. She provided an April 14, 2017 narrative statement again claiming on that date that she ascended 14 steps to

[1] 5 U.S.C. § 8101 *et seq.*

deliver mail and, when descending the 14 steps, she noticed a very sharp pain in the center bottom of her right foot with each stride.[2] Appellant stopped work on April 17, 2017.

In support of her claim, appellant submitted notes dated April 14, 2017 from Dr. Anthony Martinez, a Board-certified family practitioner, who diagnosed metatarsalgia, right foot, and indicated that appellant was totally disabled.

In a report dated April 14, 2017, Dr. Martinez found that appellant recounted right foot pain which occurred at work while she was walking. He noted that she "may have heard a pop." On physical examination Dr. Martinez found diffuse tenderness and swelling. He diagnosed metatarsalgia, right foot and provided work restrictions through April 21, 2017. On April 21, 2017 Dr. Martinez noted that appellant developed foot pain at work after feeling a pop. He repeated his diagnosis and recommended continuing light-duty work.

In a development letter dated May 10, 2017, OWCP requested additional factual and medical evidence in support of appellant's traumatic injury claim. It afforded her 30 days to respond.

Appellant provided a note dated May 17, 2017 from Dr. Andrew Kolb, an osteopath, which indicated that appellant was seeking treatment for a work injury after experiencing significant intermittent right foot pain. Dr. Kolb diagnosed metatarsalgia, right foot. He completed an attending physician's report (Form CA-20) on June 4, 2017 and repeated his diagnosis.

On May 26, 2017 Dr. William K. Fleming, an orthopedic surgeon, completed a duty status report (Form CA-17) noting appellant's history of walking down a flight of stairs and injuring the bottom of her right foot. He diagnosed right foot pain and provided work restrictions. On May 31, 2017 Dr. Fleming completed a Form CA-20 indicating that appellant was walking at work when she heard a pop in her right foot on April 14, 2017. He again diagnosed right foot pain and provided work restrictions.

By decision dated June 14, 2017, OWCP accepted that the April 14, 2017 incident occurred as alleged, but denied the claim as appellant failed to provide evidence containing a medical diagnosis in connection with the April 14, 2017 employment incident. It noted that the diagnosis of pain was not compensable under FECA.

On June 26, 2017 appellant requested reconsideration. On June 21, 2017 Dr. Fleming again completed a Form CA-20 and noted that appellant was walking at work when she heard a pop in her foot on April 14, 2017. He diagnosed sprain of the right foot. Dr. Fleming indicated by checking the box marked "yes" that he believed that appellant's condition was caused or aggravated by employment activity. He added, "Patient sprained her foot while walking at work delivering mail." Dr. Fleming also completed a narrative note on June 21, 2017 and diagnosed right foot pain due to a sprain of the foot. He again noted that the pain in her foot was caused by a sprain which was causally related to her initial injury.

[2] The record indicates that appellant had previously filed four other traumatic injury claims from June 8, 2015 through December 14, 2016.

By decision dated September 21, 2017, OWCP modified its June 14, 2017 decision to reflect that appellant had provided medical evidence diagnosing right foot sprain. However, OWCP found that Dr. Fleming's explanation of causal relationship between appellant's accepted employment incident and his diagnosis was insufficient to support appellant's claim. OWCP noted that the mere fact that the claimed injury occurred as she was walking while delivering mail was insufficient to establish that the diagnosed foot sprain was a work-related injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including the fact 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 period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[4]

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."[5] In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.[6] The second component is whether the employment incident caused a personal injury.[7] An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.[8]

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.[9] 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

[3] *Supra* note 1.

[4] *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

[5] 20 C.F.R. § 10.5(ee).

[6] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[7] *Id*.; *M.P.*, Docket No. 17-1221 (issued August 21, 2017).

[8] *Shirley A. Temple*, 48 ECAB 404, 407 (1997); *M.P., id.*

[9] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

identified by the employee.[10] 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 causal relationship.[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish that her right foot sprain was causally related to the accepted April 14, 2017 employment incident.

Appellant filed a traumatic injury claim on April 27, 2017 alleging that on April 14, 2017 she injured her right foot descending stairs while performing her federal employment duties. OWCP accepted that the April 14, 2017 incident occurred as alleged, but denied appellant's claim as she had not submitted rationalized medical opinion evidence sufficient to establish causal relationship between her diagnosed medical condition and the April 14, 2017 incident.

Appellant initially submitted medical evidence from Drs. Kalb and Martinez relating diagnoses of right foot pain and metatarsalgia, right foot. The Board has held that a symptom is not a diagnosis and the mere diagnosis of "pain" does not constitute the basis for payment of compensation.[12] This medical evidence from Drs. Kalb and Martinez therefore lacks probative value and is insufficient to establish appellant's traumatic injury claim.

Medical evidence submitted to support a claim for compensation should reflect a correct history of injury and should offer a medically-sound explanation of how the employment incident caused or aggravated the diagnosed condition.[13] Appellant did not submit the necessary medical evidence to meet her burden of proof.

Beginning with his June 21, 2017 reports, Dr. Fleming clarified his diagnoses as right foot sprain, an acceptable diagnosis under FECA. He also provided a history of injury noting that appellant was walking at work when she heard a pop in her foot on April 14, 2017. The Board notes that this history of injury differs from appellant's claim that she experienced a sharp pain in her foot while descending stairs. Dr. Fleming's inconsistent history of injury limits the probative value of his opinion.[14] He indicated by checking the box marked "yes" that he believed that appellant's condition was caused or aggravated by employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking a box marked "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.[15] Dr. Fleming failed

[10] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[11] *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

[12] *Robert Broome*, 55 ECAB 339 (2004); *see also L.L.*, Docket No. 17-1764 (issued December 28, 2017).

[13] *S.H.*, Docket No. 17-1447 (issued January 11, 2018); *D.D.*, Docket No. 13-1517 (issued April 14, 2014); *Michael S. Mina*, 57 ECAB 379 (2006).

[14] *See S.L.*, Docket No. 16-0222 (issued August1, 2016).

[15] *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

to sufficiently explain how appellant's diagnosed right foot sprain occurred, noting only that she sprained her foot while walking at work delivering mail. Medical evidence that offers a conclusion, but does not provide any rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[16] While Dr. Fleming provided a medical diagnosis of right foot sprain, he did not, however, provide any rationalized explanation as to how physiologically the accepted incident would have caused appellant's diagnosed conditions.[17]

An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.[18] Appellant's honest belief that the April 14, 2017 employment incident caused a right foot injury, however sincerely held, does not constitute medical evidence sufficient to establish causal relationship.[19] As she has failed to provide a rationalized medical opinion sufficient to establish causal relationship between her claimed injury and the accepted April 14, 2017 employment incident, she has failed to meet 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 established that her right foot sprain was causally related to the accepted April 14, 2017 employment incident.

[16] *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

[17] *See S.H., supra* note 13; *E.R.*, Docket No. 16-1634 (issued May 25, 2017).

[18] *See S.H., supra* note 13; *D.D.*, 57 ECAB 734 (2006).

[19] *See S.H., supra* note 13; *H.H.*, Docket No. 16-0897 (issued September 21, 2016).

ORDER

IT IS HEREBY ORDERED THAT the September 21, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 22, 2018
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board