

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

L.D., Appellant	)	
	)	
and	)	Docket No. 23-0317
	)	Issued: August 23, 2023
U.S. POSTAL SERVICE, PASCAGOULA POST	)	
OFFICE, Pascagoula, MS, 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  
JANICE B. ASKIN, Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On December 28, 2022 appellant filed a timely appeal from a September 22, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 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 has met her burden of proof to establish a right lower extremity condition causally related to the accepted October 27, 2021 employment incident.

**FACTUAL HISTORY**

On December 22, 2021 appellant, then a 41-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 27, 2021 she sprained her right ankle when she stepped on the side of a grate mat as she descended steps, rolling her right ankle while in the

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

performance of duty. She stopped work on October 27, 2021 and returned to work on November 1, 2021.

In a development letter dated January 5, 2022, 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 provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In response, appellant submitted a January 11, 2022 statement by Supervisor A.B., who noted that appellant had telephoned her to report the ankle injury. A.B. stated, "Pictures were taken of her swollen and bruised ankle, and she left to go to the [emergency room]." A.B. asserted that appellant had sustained "an on-the-job injury and was documented as a recordable accident."

Appellant also provided a January 12, 2022 statement asserting that she had fallen to the ground at the time of the October 27, 2021 employment incident and had telephoned her supervisor to report the claimed injury. She attempted to file a compensation claim online on November 18, 2021, but entered an incorrect geographic area code. As appellant could not correct the code, in December 2021, the employing establishment instructed her to file a new claim.

OWCP also received an October 27, 2021 hospital emergency department visit summary, and an incomplete employing establishment incident report.

By decision dated February 8, 2022, OWCP accepted that the October 27, 2021 employment incident occurred, as alleged, but denied appellant's claim as the medical evidence of record was insufficient to establish a medical condition causally related to the accepted October 27, 2021 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On February 22, 2022 appellant requested reconsideration.

By decision dated May 18, 2022, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On June 27, 2022 appellant again requested reconsideration of OWCP's February 8, 2022 decision. In support thereof, she submitted October 27, 2021 hospital emergency department reports signed by Dr. Michael S. Seymour, a physician Board-certified in emergency medicine. Dr. Seymour related that, earlier that day, appellant had stepped into a grate, twisted her leg, lost her balance, and twisted her ankle. On examination, he observed good range of motion of the right foot and ankle and the toes of the right foot, and moderate tenderness to palpation over the right lateral malleolus, extending into the dorsal and lateral aspects of the right foot. Dr. Seymour opined that x-rays of the right foot and ankle were negative for bony abnormality. He diagnosed a right ankle sprain. Dr. Seymour prescribed medication and discharged appellant to return home.

By decision dated September 22, 2022, OWCP denied modification of its February 8, 2022 decision which denied appellant's claim as causal relationship was not established. It found that Dr. Seymour's report was insufficiently rationalized to meet appellant's burden of proof to establish causal relationship.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>2</sup> 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,<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient evidence to establish that the employment incident caused a personal injury.<sup>6</sup>

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>7</sup> 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 incidents identified by the employee.<sup>8</sup>

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right lower extremity condition causally related to the accepted October 27, 2021 employment incident.

Dr. Seymour, in his October 27, 2021 report, related an accurate history of injury and diagnosed a right ankle sprain. However, he did not provide an opinion regarding how the accepted

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<sup>2</sup> *Id.*

<sup>3</sup> *V.L.*, Docket No. 20-0884 (issued February 12, 2021); *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).

<sup>4</sup> *C.H.*, Docket No. 20-1212 (issued February 12, 2021); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *V.L.*, *supra* note 3; *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).

<sup>6</sup> *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *C.H.*, *supra* note 4; *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).

<sup>8</sup> *M.F.*, Docket No. 21-0533 (issued January 31, 2023); *V.L.*, *supra* note 3; *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).

October 27, 2021 employment incident caused the diagnosed condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>9</sup> This report, therefore, is insufficient to establish appellant's claim.

OWCP also received an October 27, 2021 hospital emergency department visit summary. As this evidence was not signed by a physician, it does not constitute medical evidence and is thus insufficient to establish the claim.<sup>10</sup>

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted October 27, 2021 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 right lower extremity condition causally related to the accepted October 27, 2021 employment incident.

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<sup>9</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>10</sup> See *G.T.*, Docket No. 17-1959 (issued June 22, 2016); *D.D.*, 57 ECAB 734 (2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 22, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 23, 2023  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board