

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

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C.W., Appellant)	
)	
and)	Docket No. 24-0339
)	Issued: May 6, 2024
U.S. POSTAL SERVICE, BRENTWOOD POST)	
OFFICE, Washington, DC, Employer)	
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 14, 2024 appellant filed a timely appeal from a January 18, 2024 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 case.²

ISSUE

The issue is whether appellant has met his burden of proof to establish a left lower extremity condition causally related to the accepted September 6, 2023 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the January 18, 2024 decision, OWCP received additional evidence. 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 October 30, 2023 appellant, then a 43-year-old custodian, filed a traumatic injury claim (Form CA-1) alleging that on September 6, 2023 he sustained a left foot sprain, as well as a fractured ankle and fractured foot when his foot rolled on a rock and off a curb when cutting grass while in the performance of duty. He stopped work on October 7, 2023.

In an after-visit summary dated October 10, 2023, Dr. Michael Blanton, an emergency medicine specialist, noted that appellant had been seen on that date for a left ankle injury. He noted that the imagery obtained of appellant's left ankle demonstrated an old small fracture on the left lateral side and that there did not appear to be any new fracture. Dr. Blanton diagnosed left ankle sprain.

In a development letter dated November 1, 2023, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of medical and factual evidence needed, and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. In a follow-up development letter dated December 6, 2023, OWCP performed an interim review of the case file and advised that the evidence remained insufficient to support his claim. It reminded him that he had been afforded 60 days from November 1, 2023 to submit the required information.

In a work status form dated November 21, 2023, Dr. Daniel Perez, a podiatrist, recommended that appellant remain off work.

A magnetic resonance imaging (MRI) scan of appellant's left ankle obtained on December 1, 2023 demonstrated nonspecific periarticular marrow edema with effusions and soft tissue inflammatory change throughout the hindfoot; a high-grade partial tear of the anterior talofibular ligament with probable scarring of the calcaneofibular and posterior talofibular ligaments; a small nonacute avulsion fracture inferior to the medial malleolus with hypointense scarring throughout the deltoid and spring ligament; inframalleolar peroneal tenosynovitis without tear; and a synovial cyst at the posterior medial aspect of the tibiotalar joint abutting the neurovascular bundle proximal to the tarsal tunnel.

In a note dated December 19, 2023, Dr. Perez reiterated his recommendation that appellant not return to work until further evaluation.

By decision dated January 18, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed conditions and the accepted employment incident of September 6, 2023.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 that 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. The second component is whether the employment incident caused an injury and can be established only by medical evidence.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.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left lower extremity condition causally related to the accepted September 6, 2023 employment incident.

In support of his November 1, 2023 traumatic injury claim, appellant submitted an after-visit summary dated October 10, 2023 from Dr. Blanton. Dr. Blanton diagnosed left ankle sprain. While this after-visit summary related the medical diagnosis of left ankle sprain, he did not offer a medical opinion regarding the cause of appellant's diagnosed condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is

⁴ *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); *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 *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 *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).

of no probative value on the issue of causal relationship.¹⁰ Therefore, this evidence is insufficient to establish the claim.

Appellant also submitted a diagnostic report of an MRI scan obtained on December 1, 2023. The Board has held that diagnostic test reports, standing alone, lack probative value as they do not provide an opinion on causal relationship between the employment incident and a diagnosed condition.¹¹

OWCP also received notes dated November 21 and December 19, 2023 from Dr. Perez, which indicated that appellant could not return to work, but which did not contain a medical diagnosis. It is appellant's burden of proof to obtain and submit medical documentation containing a firm diagnosis causally related to the accepted employment incident.¹² These notes are therefore of no probative value to establish causal relationship.

As the medical evidence of record is insufficient to establish a left lower extremity condition causally related to the accepted September 6, 2023 employment incident, the Board finds that appellant has not met his 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 his burden of proof to establish a left lower extremity condition causally related to the accepted September 6, 2023 employment incident.

¹⁰ *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ *T.H.*, Docket No. 18-1736 (issued March 13, 2019).

¹² *J.P.*, Docket No. 20-0381 (issued July 28, 2020); *R.L.*, Docket No. 20-0284 (issued June 30, 2020).

ORDER

IT IS HEREBY ORDERED THAT the January 18, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 6, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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