United States Department of Labor
Employees' Compensation Appeals Board

S.R., Appellant	)	
and	)	**Docket No. 24-0839**
	)	**Issued: October 30, 2024**
U.S. POSTAL SERVICE, PROVIDENCE PROCESSING & DISTRIBUTION CENTER, Providence, RI, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On August 13, 2024 appellant filed a timely appeal from an August 13, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[1] Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of her oral argument request, appellant asserted that the reports from her treating physicians had established causal relationship between her diagnosed right foot condition and the factors of her federal employment. The Board, in exercising its discretion, denies appellant's request for oral argument because arguments on appeal can be adequately addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq*.

ISSUE

The issue is whether appellant has met her burden of proof to establish a right foot condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On May 21, 2024 appellant, then a 32-year-old mail processing clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained an injury to her right foot due to factors of her federal employment, including constant walking, lifting, and carrying throughout an eight-hour shift. She noted that continuous activities on hard work floors were a significant part of her daily routine. The repetitive stress from these activities exacerbated her right plantar foot condition, causing intense pain and discomfort that progressively worsened throughout her workday. Appellant indicated that she began experiencing shocking pains in her right plantar foot in June 2023. She noted that she first became aware of her claimed condition on June 1, 2023, and realized the relationship to her federal employment on August 7, 2023. Appellant stopped work on May 20, 2024.

A May 1, 2024 magnetic resonance imaging (MRI) scan of appellant's right hindfoot, revealed severe plantar fasciitis with intermediate grade tearing of the central band at its calcaneal attachment associated with tissue and marrow edema and plantar calcaneal spur. The MRI scan also revealed evidence of a prior anterior talofibular ligament (ATFL) repair.

In a May 21, 2024 statement, appellant noted that in June 2023, she began experiencing shocking pains in her right foot for which she initially managed with over-the-counter pain remedies. However, the discomfort persisted and worsened throughout her shifts and in August 2023, she sought medical attention which continued in April and May 2024. Appellant explained that the repetitive stress from her job duties was causing the deterioration of the ligaments in her right plantar foot which had progressively worsened, significantly affecting her ability to perform her duties. She noted that she had previously undergone a surgical procedure in October 2020 to repair ligaments in her right ankle. However, appellant explained that the current pain in her right plantar foot began in June 2023 and appeared to be a new development. She noted that her doctors confirmed that the repetitive stress and hard surfaces at work contributed to this new issue.

In a May 29, 2024 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required, and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence.

In a May 30, 2024 development letter, OWCP requested additional information from the employing establishment and afforded 30 days to submit the necessary evidence.

In a June 4, 2024 statement, A.M., a supervisor, related that appellant spent between two to four days in the union office "on steward time" most weeks. She noted that when appellant was working on a machine, she received two 20-minute breaks and a 30-minute lunch break which included a 5-minute washup. A.M. explained that when appellant performed automation duties,

which included feeding mail, sweeping, moving racks, and dispatching runs, she was provided with mats to help when walking on the floors.

In a May 22, 2024 report, Dr. Traci Bologna-Jill, a podiatrist, noted that appellant was treated for a foot issue and could return to work in a sedentary position if she wore a boot at all times and only walked short distances. She noted that if the restrictions could not be adhered to, appellant would need to be out of work for a month until her next appointment on June 25, 2024.

In a report dated June 3, 2024, Wesley Smyth, a family nurse practitioner, related that on October 14, 2020 appellant underwent a Brostrom ankle ligament reconstruction with peroneal tendon tenosynovectomy of the right foot after several years of chronic foot pain. He indicated that he could not comment or speculate on the alleged date or place of injury, but he cited a medical journal indicating that the risk factors for developing plantar fasciitis included limited ankle dorsiflexion and spending most of the workday standing or walking.

In a June 8, 2024 statement, appellant responded to the statement provided by A.M., her supervisor. She noted that when union steward time was approved, it was typically not for a full 8-hour shift. Appellant also noted that the mats provided by the employing establishment did not offer significant relief and only covered certain areas of the floor. In a July 5, 2024 statement, she referred to a medical journal regarding plantar fasciitis.

OWCP forwarded a statement of accepted facts (SOAF), the medical record, and a series of questions to Dr. Arthur S. Harris, a Board-certified orthopedic surgeon serving as the district medical adviser (DMA). In a June 14, 2024 report, Dr. Harris noted that appellant's May 1, 2024 MRI scan of the right foot was consistent with plantar fasciitis and her probable diagnosis was right plantar fasciitis; however, her medical records were insufficient to establish a definitive diagnosis. The DMA also indicated that there were no medical reports establishing a causal relationship between appellant's right foot condition and her work activities.

On June 25, 2024 Dr. Bologna-Jill related that appellant was able to return to work with her continued restrictions.

In a follow-up letter dated July 2, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the May 29, 2024 letter to submit the requested supporting evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In a July 10, 2024 duty status report (Form CA-17), Dr. James McCormick, a podiatrist, diagnosed plantar fasciitis and provided work restrictions.

In a July 17, 2024 attending physician report (Form CA-20), Dr. McCormick noted that appellant's May 1, 2024 MRI scan of the right foot revealed severe plantar fasciitis and tear of the central band. He opined that appellant's foot pain was more likely caused by repetitive strain at work.

A July 18, 2024 attending physician report (Form CA-20) signed by Sarah N. Shaver, a physical therapist, diagnosed plantar fascial fibromatosis and indicated that the condition was due to prolonged standing/walking on concrete floor.

In a July 23, 2024 report, Dr. Michael Neary, a podiatrist, related that he had reviewed appellant's medical records of August 7, 2023. He indicated that she reported shocking pain in her right foot after four to five hours at work, she had undergone surgery to the ankle with Brostrom reconstruction and excision of osteophyte in December 2020, completed physical therapy, was wearing orthotics, and that she did not report any traumatic injury at work. Dr. Neary noted that appellant did not complain of pain prior to her ankle surgery. He saw her again on March 20, 2024, and an MRI scan revealed severe plantar fasciitis of the central band of the plantar fasciitis calcaneal attachment measuring seven millimeters in thickness with intermediate grade deep tearing. Dr. Neary explained that the plantar fascia is the strongest ligamentous support of the arch and that standing can worsen the pain or delay healing.

By decision dated August 13, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed medical conditions and the accepted factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] 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,[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 establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which

[3] *Id*.

[4] *See S.F.*, Docket No. 23-0264 (issued July 5, 2023); *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).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is casually related to the identified employment factors.[7]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[8] The opinion of the physician must be based upon a complete factual and medical background, 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 incident.[9]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right foot condition causally related to the accepted factors of her federal employment.

OWCP received a May 22, 2024 note from Dr. Bologna-Jill who related that appellant was treated for a foot issue and could return to work with restrictions. A June 25, 2024 return to work note from Dr. Bologna-Jill also indicated that appellant was able to return to work with restrictions. The reports from Dr. Bologna-Jill did not provide a specific diagnosis or an opinion as to the cause of appellant's condition and as such are insufficient to meet appellant's burden of proof. The Board has held that a medical report lacking a firm diagnosis causally related to the accepted factors of employment is of no probative value.[11] Therefore, these reports are insufficient to establish the claim.

A July 10, 2024 Form CA-17 report from Dr. McCormick diagnosed plantar fasciitis and provided work restrictions. His July 17, 2024 Form CA-20 report noted that appellant's May 1, 2024 MRI scan revealed severe plantar fasciitis and tear of the central band. Dr. McCormick opined that appellant's foot pain more likely was caused by repetitive strain at work. The Board has held that medical evidence should offer a medically-sound and rationalized explanation by the physician of how employment duties physiologically caused or aggravated the diagnosed

[7] *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

[8] *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[9] *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see Victor J. Woodhams*, 41 ECAB 345 (1989).

[10] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

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

conditions.[12] Dr. McCormick did not provide a rationalized opinion that appellant's diagnosed condition was physiologically caused by the accepted work factors. While he indicated that pain was more likely caused by repetitive strain at work, the Board notes that pain is a symptom and not a diagnosis.[13] The Board also notes that an opinion of "more likely caused" is speculative and fails to meet the standard for an opinion based on reasonable medical certainty.[14] These reports from Dr. McCormick are therefore insufficient to establish causal relationship.

Dr. Neary provided a July 23, 2024 report in support of appellant's claim. He reported that appellant underwent right ankle surgery in December 2020. Dr. Neary noted that currently appellant's MRI scan revealed severe plantar fasciitis of the central band of the plantar fasciitis calcaneal attachment measuring seven millimeters in thickness with intermediate grade deep tearing. While he explained that the plantar fascia is the strongest ligamentous support of the arch and standing can worsen the pain or delay healing, he did not opine that appellant's plantar fasciitis condition was caused by the accepted work factors. 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.[15] As such, this report is insufficient to establish appellant's claim.

OWCP properly forwarded a SOAF and the medical records to the DMA, Dr. Harris, for review. In a June 14, 2024 report, the DMA noted that appellant's May 1, 2024 MRI scan was consistent with plantar fasciitis and that her probable diagnosis was right plantar fasciitis. However, he advised that the medical records were insufficient to establish a definitive diagnosis and also noted that there were no medical reports to establish a causal relationship between appellant's right foot condition and her work activities.

OWCP also received a June 3, 2024 report from Mr. Smyth, a family nurse practitioner, and a July 18, 2024 Form CA-20 report signed by Ms. Shaver, a physical therapist. Certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are

[12] *S.B.*, Docket No. 24-0064 (issued February 28, 2024); *T.L.*, Docket No. 23-0073 (issued January 9, 2023); *V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

[13] Findings of pain or discomfort alone do not satisfy the medical aspect of the fact of injury medical determination. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.4a(6) (November 2023).

[14] *Supra* note 9.

[15] *See R.J.*, Docket No. 24-0885 (issued September 30, 2024); *G.M.*, Docket No. 24-0388 (issued May 28, 2024); *C.R.*, Docket No. 23-0330 (issued July 28, 2023); *K.K.*, Docket No. 22-0270 (issued February 14, 2023); *S.J.*, Docket No. 19-0696 (issued August 23, 2019); *M.C.*, Docket No. 18-0951 (issued January 7, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

not considered physicians as defined under FECA.[16] Consequently, these notes and reports will not suffice for purposes of establishing entitlement to FECA benefits.

OWCP received a May 1, 2024 MRI scan report. The Board has also held that diagnostic reports, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion as to whether the accepted employment incident caused a diagnosed condition.[17] Consequently, this evidence is insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish causal relationship between appellant's diagnosed right foot condition and the accepted factors of her federal employment, the Board finds that she 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 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 foot condition causally related to the accepted factors of her federal employment.

[16] 5 U.S.C. § 8101(2) provides that physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law, 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *see also M.F.*, Docket No. 19-1573 (issued March 16, 2020) (medical reports signed solely by a physician assistant or a nurse practitioner are of no probative value as these care providers are not considered physicians as defined under FECA); *A.C.*, Docket No. 24-0661 (issued September 11, 2024); medical reports signed solely by a nurse, physician assistant, or physical therapist are of no probative value, as such healthcare providers are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

[17] *W.L.*, Docket No. 20-1589 (issued August 26, 2021); *A.P.*, Docket No. 18-1690 (issued December 12, 2019).

ORDER

IT IS HEREBY ORDERED THAT the August 13, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 30, 2024
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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