

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

\_\_\_\_\_  
E.C., Appellant )

and )

U.S. POSTAL SERVICE, POST OFFICE, )  
Nashville, TN, Employer )

) **Docket No. 24-0668**  
) **Issued: September 26, 2024**  
)

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On June 7, 2024 appellant filed a timely appeal from a May 13, 2024 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.<sup>2</sup>

**ISSUE**

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

---

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

<sup>2</sup> The Board notes that, following the May 13, 2024 decision, OWCP received additional evidence. 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 March 6, 2024 appellant, then a 67-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that he injured the sole of his right foot due to factors of his federal employment, including prolonged standing and walking while exchanging, pulling, and assembling boxes. He indicated that the pain was located on the sole of his right foot near his small toe. Appellant noted that he first became aware of his condition and realized its relationship to his federal employment on February 27, 2024. In an attached statement, he noted that he experienced severe foot pain and limping after walking and standing for 8 to 10 hours on the high output package sorter (HOPS) line on February 27, 2024. Appellant related that his foot pain improved with rest during his subsequent days off but worsened again on March 1, 2024 approximately five hours into his shift. He did not stop work.

In a March 13, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for completion. OWCP afforded appellant 60 days to submit the requested evidence. In a separate development letter of even date, it requested that the employing establishment provide additional information regarding appellant's alleged injury, including comments from a knowledgeable supervisor regarding the accuracy of his allegations and an explanation of any areas of disagreement. OWCP afforded the employing establishment 30 days to submit the requested evidence.

In a March 18, 2024 response to OWCP's questionnaire, appellant indicated that he first noticed moderate foot pain at work in December 2023, which worsened to the point that he started to limp after he moved to a different location and was performing different duties. On January 26, 2024 he experienced severe foot pain while walking back and forth along the line and standing on concrete floors while processing boxes. After January 26, 2024, appellant continued to perform those job duties for 8 to 10 hours per day, 5 to 6 days per week. He noted that he had been under the care of a podiatrist since 2019.

In a March 20, 2024 response to OWCP's letter, M.M., an employing establishment manager, indicated on March 1, 2024 that appellant reported pain in the sole of his right foot near his small toe due to putting pressure on his foot while walking and standing. She noted that he worked on the HOPS machine making boxes and indicated that mail handlers spend most of the day on their feet.

OWCP also received an employing establishment job description for the position of mail handler.

In an April 4, 2024 medical report, Dr. Lorena Alvarez, a podiatrist, indicated that appellant related pain in his feet, right worse than left, which he attributed to a recent change in his work duties that required him to be on his feet more often. She noted that he was seen by another provider in her office in February 2024 for a flare up of right foot pain and that he had a history of diabetes, chronic pedal conditions, congenital foot deformities which became symptomatic after he joined the military in 1976, and multiple prior foot surgeries, including bilateral bunionectomies, bilateral hammer toe surgery, and bilateral calcaneal osteotomies beginning in 1992. Dr. Alvarez performed a physical examination of appellant's feet and noted bilateral hammertoe deformity, hallux valgus bunions, subjective complaints of burning, pes cavus

with metatarsal adductus, decreased ankle dorsiflexion right greater than left, thickened toenails, and calluses. She also noted that his right leg was shorter than his left leg. Dr. Alvarez obtained x-rays of the feet and indicated that there was no change in postoperative findings as compared to prior x-rays of June 10, 2019. She diagnosed diabetes, bilateral pes cavus, metatarsal adductus, hallux rigidus, hammertoes, equinus, onychia, and painful calluses. Dr. Alvarez opined that appellant's "current job duties are aggravating his pedal conditions, and more flare-ups expected due to this."

In an April 9, 2024 narrative letter, Dr. Alvarez diagnosed left and right foot pain, calluses, hallux rigidus, hammertoes, and pes cavus. She opined that "the above conditions are exacerbated by prolonged walking and standing" and that appellant's duties at work make him "more prone to developing more flare ups."

By decision dated May 13, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a right foot condition causally related to the accepted factors of his federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</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>4</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>5</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>6</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (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 compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>7</sup>

---

<sup>3</sup> *Supra* note 1.

<sup>4</sup> *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>5</sup> *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).

<sup>6</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Dolores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Dolores C. Ellyett, id.*

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</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 factors identified by the employee.<sup>9</sup>

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.<sup>10</sup>

### ANALYSIS

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

In her April 4, 2024 medical report, Dr. Alvarez diagnosed bilateral pes cavus, metatarsal adductus, hallux rigidus, hammertoes, equinus, onychia and painful calluses. She opined that appellant's "current job duties are aggravating his pedal conditions, and more flare-ups expected due to this." In her April 9, 2024 narrative letter, Dr. Alvarez diagnosed bilateral foot pain, calluses, hallux rigidus, hammertoes, and pes cavus and opined that the conditions were exacerbated by prolonged walking and standing. However, she did not explain a pathophysiological process of how the accepted employment factors caused or contributed to the diagnosed conditions. 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 conditions.<sup>11</sup> Medical rationale is particularly necessary where, as here, there are preexisting conditions involving some of the same body parts.<sup>12</sup> In such cases, the Board has required medical rationale differentiating between the effects of the work-related injury and the preexisting condition.<sup>13</sup> Therefore, Dr. Alvarez's April 4, 2024 medical report and April 9, 2024 narrative letter are insufficient to meet appellant's burden of proof.

---

<sup>8</sup> *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>9</sup> *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).

<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019).

<sup>11</sup> *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).

<sup>12</sup> *R.W.*, Docket No. 19-0844 (issued May 29, 2020); *A.M.*, Docket No. 19-1138 (issued February 18, 2020); *A.J.*, Docket No. 18-1116 (issued January 23, 2019).

<sup>13</sup> *Id.*

As the medical evidence of record is insufficient to establish a right foot condition causally related to the accepted factors of his federal employment, 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 right foot condition causally related to the accepted factors of his federal employment.

**ORDER**

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

Issued: September 26, 2024  
Washington, DC

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

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

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