United States Department of Labor
Employees' Compensation Appeals Board

E.C., Appellant	)	
and	)	**Docket No. 24-0782**
	)	**Issued: September 13, 2024**
U.S. POSTAL SERVICE, OAKLAND PROCESSING & DISTRIBUTION CENTER, Oakland, CA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On July 22, 2024 appellant filed a timely appeal from an April 18, 2024 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 over the merits of this case.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish a left ankle or foot condition causally related to the accepted October 24, 2023 employment incident.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the April 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 52-year-old clerk/special delivery messenger, filed a traumatic injury claim (Form CA-1) alleging that on October 24, 2023, she sprained her left ankle when she suddenly stopped walking to avoid being hit by a forklift while in the performance of duty. She stopped work on October 31, 2023.

An x-ray of appellant's left foot obtained on October 30, 2023 revealed severe degenerative changes at the first metatarsophalangeal joint with no fractures.

In a note dated November 15, 2023, Dr. John Crockett, a family medicine specialist, related that appellant was treated on November 1, 2023 for an October 24, 2023 work injury which had not improved. He advised that she should be excused from work from November 6 to 14, 2023 and that she should follow up with a foot/ankle specialist or go to an emergency room if her condition did not improve in a week.

In a note dated November 15, 2023, Dr. David Griffith, a Board-certified family practitioner, noted that she had been seen at the emergency department on that date for a work-related injury that occurred on October 24, 2023. He advised that she be excused from work from November 15 through 18, 2023.

In a development letter dated November 21, 2023, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical information needed, including a detailed factual description of the alleged employment incident, and provided a questionnaire for completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP received December 4, 2023 work restrictions bearing an illegible signature. Appellant submitted an unsigned and undated letter from Diablo Foot & Ankle, which was received by OWCP on December 6, 2023.

In a follow-up development letter dated December 13, 2023, 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 November 21, 2023 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. No additional evidence was received.

By decision dated January 22, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted October 24, 2023 employment incident.

OWCP continued to receive medical evidence. An x-ray of appellant's left foot obtained on November 15, 2023 revealed degenerative changes of the first digit of the metatarsal phalangeal joint with no acute process.

In a report dated November 16, 2023, Dr. Griffith related appellant's history of twisting her left foot at work on October 24, 2023 and continued swelling and persistent pain. On physical examination of the foot and ankle, he observed no tenderness over the knee, leg, or ankle, and

slight swelling over the medial aspect of the distal midfoot over the first and second metatarsals. Dr. Griffith diagnosed left foot injury.

In a note dated January 10, 2024, Dr. Shayan Essapoor, a podiatrist, prescribed a fracture boot to be worn until February 7, 2024. She noted that appellant had suffered from continued pain and limitation secondary to a stress fracture of her second metatarsal, which had not recovered due to overuse. In an undated note, Dr. Essapoor requested that appellant be retroactively excused from work from January 12 through 16, 2024.

In a medical information and restriction assessment dated February 7, 2024, Dr. Essapoor noted a diagnosis of stress fracture of the left foot. She recommended work restrictions of no walking or standing for more than 90 minutes and no carrying of heavy loads greater than 25 pounds. Dr. Essapoor anticipated that the restrictions would continue until March 1, 2024.

In an attending physician's report (Form CA-20) dated February 28, 2024, Dr. Essapoor diagnosed a stress fracture of the left foot and plantar fasciitis. She opined that these conditions were caused or aggravated by work and overuse, explaining that increased walking, standing, and carrying of heavy loads could cause symptoms associated with a stress fracture. Dr. Essapoor checked a box, indicating that appellant was totally disabled from work commencing October 24, 2023, and anticipated that appellant could return to modified work.

On March 6, 2024 appellant requested reconsideration. She explained that when she returned to work on December 4, 2023, her immediate supervisor told her that she was not allowed to work when wearing her prescribed orthopedic boot due to policies of the employing establishment.

In a letter dated March 7, 2024, Dr. Essapoor indicated that appellant was injured at work on October 24, 2023 when she stopped walking abruptly to avoid being hit by a forklift. She noted that she first evaluated appellant on December 4, 2023 and reviewed x-rays of the left foot obtained on October 30, 2023. Dr. Essapoor noted that the x-rays revealed a periosteal formation in the medial aspect of the left second metatarsal, causing concern for a left second metatarsal stress fracture.

By decision dated April 18, 2024, OWCP denied modification of its January 22, 2024 decision.

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

[3] *Id*.

[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).

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 whether the employee 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.[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 her burden of proof to establish a left ankle or foot condition causally related to the accepted October 24, 2023 employment incident.

Reports dated November 15, 2023 from Dr. Crockett, and November 15 and 16, 2023 from Dr. Griffith, did not contain an opinion on causal relationship. 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.[10] This evidence is therefore insufficient to establish the claim.

Appellant submitted a series of letters, notes, and reports from Dr. Essapoor. Her letter dated March 7, 2024 related a history that appellant was injured at work on October 24, 2023, and that on review of diagnostic testing, she observed a periosteal formation in the medial aspect of the left second metatarsal, causing concern for a left second metatarsal stress fracture. The Board

[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).

[10] *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).

has held that a medical opinion is of limited probative value if it is conclusory in nature.[11] The notes and reports from Dr. Essapoor dated January 10 and February 7, 2024, did not contain opinions regarding the cause of appellant's diagnosed conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.[12] As such, the above-noted letters, notes, and reports are insufficient to establish appellant's claim.

Appellant submitted a Form CA-20 dated February 28, 2024 from Dr. Essapoor, in which she diagnosed a stress fracture of the left foot and plantar fasciitis. Dr. Essapoor indicated her belief that these conditions were caused or aggravated by work and overuse, explaining that increased walking, standing, and carrying of heavy loads could cause symptoms associated with a stress fracture. While Dr. Essapoor discussed duties of appellant's employment, she failed to specifically attribute them to her diagnosed conditions. Instead, she used the term "could" to relate her diagnosed conditions to duties of appellant's employment. The Board has held that medical opinions that suggest that a condition "can" or "could" be caused by work activities are speculative or equivocal in nature, and thus are of diminished probative value.[13] As such, the February 28, 2024 Form CA-20 is insufficient to establish appellant's claim.

X-rays of the left foot obtained on October 30 and November 15, 2023 revealed degenerative changes without fracture or acute process. The Board has held that diagnostic tests, standing alone, lack probative value on the issue of causal relationship as they do not provide an opinion on causal relationship.[14] As such, these x-ray results are insufficient to establish appellant's claim.

The record contains December 4, 2023 work restrictions bearing an illegible signature, and an unsigned and undated letter from Diablo Foot & Ankle, which was received by OWCP on December 6, 2023. The Board has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence, as the author cannot be identified as a physician.[15] Therefore, this evidence is of no probative value and is insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a left ankle or foot condition causally related to the accepted October 24, 2024 employment incident, the Board finds that appellant has not met her burden of proof.

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

[12] *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *L.B.*, *supra* note 10; *D.K., supra* note 10; *Willie M. Miller*, 53 ECAB 697 (2002).

[13] *C.R.*, Docket No. 24-0590 (issued July 29, 2024); *L.H.*, Docket No. 24-0326 (issued May 7, 2024); *D.L.*, Docket No. 23-0853 (issued November 15, 2023).

[14] *See C.F.*, Docket No. 18-1156 (issued January 22, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

[15] *See D.C.*, Docket No. 24-0464 (issued July 29, 2024); *A.S.*, Docket No. 21-1263 (issued July 24, 2023); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

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 left ankle or foot condition causally related to the accepted October 24, 2023 employment incident.

ORDER

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

Issued: September 13, 2024
Washington, DC

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

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

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