



## **FACTUAL HISTORY**

On July 11, 2022 appellant, then a 39-year-old working in compliance and inspection support, filed a traumatic injury claim (Form CA-1) alleging that on July 2, 2022 he sustained a large wound above his right ankle while in the performance of duty. He indicated that luggage hit his leg as he was loading bags onto the infeed belt for x-ray inspection. On the reverse side of the claim form, appellant's supervisor acknowledged that appellant was injured in the performance of duty; however, he also indicated that the closed-circuit television (CCTV) video did not reveal an injury. Appellant stopped work on July 2, 2022.

OWCP received a narrative statement submitted by the employing establishment dated July 14, 2022. A co-worker indicated that he recalled that on July 2, 2022 appellant stated that his leg hurt, but he did not recall that appellant sustained injury nor did it appear to him that appellant was injured.

By development letter dated July 21, 2022, OWCP indicated that the evidence provided was insufficient to establish that appellant actually experienced the employment incident alleged to have caused injury. It also noted that there was no diagnosis of any condition, nor a physician's opinion as to how the alleged injury resulted in a medical condition. A questionnaire was provided to appellant to substantiate the factual elements of his claim. Appellant was requested to provide a narrative report from a physician containing a detailed description of findings and a diagnosis, as well as a medical explanation from a physician as to how the work incident caused or aggravated a medical condition. OWCP afforded appellant 30 days to respond.

OWCP received an attending physician's report (Form CA-20) dated July 25, 2022 and signed by Dr. Ketan D. Shah, a podiatric foot and ankle surgery specialist. Appellant was diagnosed with a right ankle ulcer. Dr. Shah checked a box marked "Yes" in response to the question of whether the alleged condition was caused or aggravated by an employment activity, and further noted standing/ambulating as a contributing employment activity. A work status note of even date from Dr. Shah indicated a diagnosis of right ankle wound from a work-related injury. Appellant was placed off work until July 30, 2022.

OWCP received an attending physician's report (Form CA-20) dated August 12, 2022 and signed by Dr. Shah who reiterated his diagnosis of right ankle ulcer, and noted that standing and repetitive hitting of luggage on appellant's leg were contributing employment activities. A duty status report (Form CA-17) of even date and signed by Dr. Shah indicated a right ankle ulcer diagnosis and kept appellant off work.

An additional duty status report (Form CA-17) dated August 24, 2022 and signed by Dr. Shah reiterated appellant's diagnosis and continued to keep appellant off work.

On July 9, 2022 appellant was admitted into a hospital and diagnosed with an infected foot wound. Diabetes, hypertension, and obesity were noted in appellant's relevant history. The case management progress note was not signed.

In a letter dated July 29, 2022, the employing establishment controverted appellant's claim, contending that alleged injury and disability of appellant did not result from or arise out of factors of work and his claim should thus be denied. The employing establishment further contended that the medical evidence did not provide information on how any work activity or event contributed to the alleged right ankle condition.

In a letter dated August 16, 2022, the employing establishment again controverted appellant's claim, contending that the medical documentation failed to provide a physician's medical opinion as to causal relationship between the condition and factors or conditions of employment. It further contended that, upon investigation of CCTV footage, there did not appear to be contact between appellant's lower extremities and the luggage. The employing establishment also submitted medical documentation from appellant with the letter.

Appellant filed a claim for compensation (Form CA-7) on September 9, 2022, claiming leave without pay from July 22 to 27, 2022.

By decision dated September 13, 2022, OWCP accepted that the July 2, 2022 employment incident occurred as alleged, and that a medical condition was diagnosed in connection with the incident. However, it denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed condition and the accepted July 2, 2022 employment incident.

### **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, 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 an employee sustained a traumatic injury in the performance of duty, it must first 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 that allegedly occurred. The second component is whether the employment incident caused a personal injury. An employee may establish that an

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<sup>3</sup> *Id.*

<sup>4</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *B.H.*, Docket No. 20-0777 (issued October 21, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

injury occurred in the performance of duty as alleged but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.<sup>6</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> A physician's opinion on whether there is a causal relationship between the diagnosed condition and the employment injury must be based on a complete factual and medical background.<sup>8</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's employment injury.<sup>9</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a right ankle condition causally related to the accepted July 2, 2022 employment incident.

Appellant submitted attending physician's reports (Form CA-20) dated July 25 and August 12, 2022 and signed by Dr. Shah. On July 25, 2022 Dr. Shah diagnosed appellant with a right ankle ulcer condition and checked a box marked "Yes" on the question of whether he believed the condition was caused or aggravated by an employment activity. He further noted standing/ambulating as a contributing employment activity. On August 12, 2022 Dr. Shah reiterated his diagnosis of right ankle ulcer but noted that standing and repetitive hitting of luggage on appellant's leg were contributing employment activities. While he opined that appellant's condition was caused or aggravated by an employment injury, he did not sufficiently explain the nature of the relationship between the diagnosed condition and appellant's employment injury. Medical opinion evidence should offer a medically-sound explanation of how the specific employment incident or work factors physiologically caused injury.<sup>11</sup> These reports are, therefore, insufficient to establish appellant's claim.

Appellant also submitted a work status note dated July 25, 2022 and duty status reports (Form CA-17) dated August 12 and 24, 2022. On July 25, 2022 Dr. Shah diagnosed right ankle wound and placed appellant off work. On August 12, 2022 he indicated a right ankle ulcer

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<sup>6</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *R.P.*, Docket No. 21-1189 (issued July 29, 2022); *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>8</sup> *R.P.*, *id.*; *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>9</sup> *Id.*

<sup>10</sup> *T.M.*, Docket No. 22-0220 (issued July 29, 2022); *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *see also J.L.*, Docket No. 18-1804 (issued April 12, 2019).

<sup>11</sup> *O.E.*, Docket No. 20-0554 (issued October 16, 2020); *L.R.*, Docket No. 16-0736 (issued September 2, 2016).

diagnosis and kept appellant off work. On August 24, 2022 Dr. Shah reiterated appellant's diagnosis and continued to keep appellant off work. These reports do not offer an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion on causal relationship is of no probative value.<sup>12</sup>

On July 9, 2022 appellant was admitted into a hospital and diagnosed with an infected foot wound. Diabetes, hypertension, and obesity were noted in appellant's relevant history. However, the case management progress note was not signed. The Board has held that medical evidence containing an illegible signature, or which is unsigned, has no probative value, as it is not established that the author is a physician.<sup>13</sup>

As the medical evidence of record is insufficient to establish causal relationship between the diagnosed medical condition and the accepted July 2, 2022 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 right ankle condition causally related to the accepted July 2, 2022 employment incident.

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<sup>12</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>13</sup> *G.D.*, Docket No. 22-0555 (issued November 18, 2022). See *T.C.*, Docket No. 21-1123 (issued April 5, 2022); *Z.G.*, 19-0967 (issued October 21, 2019); see *R.M.*, 59 ECAB 690 (2008); *Merton J. Sills*, 39 ECAB 572, 575 (1988); *Bradford L. Sullivan*, 33 ECAB 1568 (1982).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 13, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 17, 2023  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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