

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DENISE M. HERNDON and U.S. POSTAL SERVICE,
SHARED SERVICE CENTER, Pittsburgh, PA

*Docket No. 03-636; Submitted on the Record;
Issued April 4, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant is entitled to intermittent periods of wage-loss compensation from June 28 through August 20, 2001.

On July 8, 2001 appellant, then a 40-year-old window clerk, filed a notice of occupational disease alleging that she suffered from a shoulder condition due to factors of her employment. The Office of Workers' Compensation Programs accepted the claim for left shoulder impingement.

In a Form CA-20, attending physician's report, dated December 18, 2001, Dr. Michael Levine, a Board-certified orthopedist, diagnosed impingement syndrome of the left shoulder aggravated or caused by appellant's employment. The dates of treatment were listed as May 22 through August 21, 2001. He noted that appellant was capable of light duty on May 22, 2001 and was returned to full duty effective August 22, 2001.

In a CA-7A "Time Analysis Form" dated May 2, 2002, appellant requested wage-loss compensation for the following dates in which she allegedly received physical therapy treatment: June 28, July 3, July 23, 25 and 26, August 2, 15 and 20, 2001. Appellant noted on the form that she used "O" leave, which is leave other than sick or annual leave. However, she did not list on the form the total number of hours of leave that she had used on each of the dates provided.

In a Form CA-7A dated May 3, 2002, appellant specified the number of hours of sick leave she used on the following dates for physical therapy treatment: July 5, 6, 11 to 13, 16, 18, 20, 23 and 25, 2001. There is also a form completed for August 13, 2001 showing two hours of sick leave claimed for physical therapy treatment.

In a July 15, 2002 letter, the Office again requested that appellant submit the proper absence analysis and the Form CA-7b as requested.

In a decision dated June 30, 2002, the Office denied compensation for intermittent periods of wage loss from June 28 through August 20, 2001 on the grounds that appellant “did not provide an absence analysis showing the total amount of hours claimed for each intermittent date during the period claimed.”

The Board finds that appellant is not entitled to compensation for intermittent periods of wage loss claimed for the period of June 28 through August 20, 2001.

The Board has recognized that an employee is entitled to disability compensation for loss of wages incurred while appellant is unable to perform her regular duty or for wage loss incurred while receiving medical treatment for a work-related injury.¹ However, a person who claims benefits under the Federal Employees’ Compensation Act has the burden of proof in establishing the essential elements of his or her claim, including the fact that an injury occurred in the performance of duty as alleged and that disability for employment was sustained as a result thereof.²

In the instant case, although appellant established that she sustained a left shoulder impingement on December 1, 2000, her CA-7 claim for compensation for wage loss was properly denied by the Office since appellant did not provide the specific dates and hours claimed for compensation during the period of June 28 through August 20, 2001. The Office advised appellant on May 9, 2002 that the forms she submitted for wage-loss compensation were incomplete and informed her of the need to provide a more detailed absence analysis pursuant to the Form CA-7b. Because the Office did not receive the updated information as requested, and it was appellant’s burden to provide the Office with the correct dates and hours of claimed wage loss, the Office correctly denied her claim for compensation.

¹ See generally *Myrtle B. Carlson*, 17 ECAB 644 (1966).

² See *Robin L. Brainard*, 43 ECAB 329 (1991); *Dean E. Pierce*, 40 ECAB 1249 (1989); *Daniel R. Hickman*, 34 ECAB 1220 (1983).

The decision of the Office of Workers' Compensation Programs dated June 30, 2002 is hereby affirmed.³

Dated, Washington, DC
April 4, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

³ This decision does not preclude appellant from submitting additional evidence or information to the Office pursuant to a request for reconsideration.