



Appellant submitted CA-7 forms requesting compensation for wage loss for the following periods: May 5 to 12, May 15 to 26 and May 27 to June 9, 2006. She also submitted three CA-7a forms in which she requested a total of 142.16 hours of compensation for the period requested.

By letter dated July 6, 2006, the Office asked appellant to submit medical evidence establishing disability for the periods claimed.

By decision dated October 30, 2006, the Office affirmed in part and denied in part appellant's claim for compensation based on wage loss. The Office accepted appellant's claims for wage loss for the following periods: 5 hours for a doctor's appointment on May 11, 2006; 8 hours for total disability on May 12, 2006;<sup>1</sup> 48 hours from May 15 to 22, 2006, the period for which her treating physician placed her on total disability; 4 hours for undergoing a magnetic resonance imaging scan on May 23, 2006; 4 hours for a doctor's appointment on May 25, 2006; and physical therapy appointments on June 6 and 8, 2006, for a total of 77 hours. The Office denied compensation for additional periods. It stated:

“Although you claimed eight hours of leave without pay on some dates, no more than four hours of compensation should be allowed for routine medical appointments. Longer periods of time may be allowed when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain the medical care.”

The Office found that appellant failed to submit medical evidence to support that she was out on disability or attending a medical examination during all other periods appellant claimed.

By letter dated November 11, 2006, appellant requested reconsideration. She resubmitted the documents pertaining to medical appointments that she had submitted prior to the Office's October 30, 2006 decision. In addition, appellant stated that she filed a grievance and Equal Employment Opportunity (EEO) grievance against her supervisor for sending her home on May 14, 15, 24 and 25, 2006.

By decision dated January 30, 2007, the Office denied modification of the October 30, 2006 decision. The Office stated that appellant had failed to submit medical evidence establishing a longer period for appointments than that for which she had already received compensation.<sup>2</sup> The Office found that appellant also failed to substantiate that the employing establishment failed to provide her with light duty on May 14, 15, 24 and 25, 2006. The Office

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<sup>1</sup> The Office stated that it was crediting her for eight hours of disability based on a Form CA-17 dated May 12, 2006. However, no such document is contained in the instant record. Appellant did submit a Form CA-2a claim for a recurrence of disability, dated May 15, 2006, which indicated that she sustained a recurrence of her work-related condition on May 11, 2006. However, regardless of the exact documentation upon which disability was based, any error is harmless as the Office credited appellant with the eight hours she requested for May 12, 2006.

<sup>2</sup> The Office listed the dates for which she had been denied compensation. In some cases, the Office stated dates for which she was awarded compensation, but had the hours she requested from eight to four.

noted the fact that she filed a grievance or EEO claim but did not establish that the employing establishment failed to provide her with light duty on these dates.<sup>3</sup>

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>4</sup> has the burden of establishing that the essential elements of his or her claim by the weight of the evidence.<sup>5</sup> Under the Act, the term disability is defined as an inability, due to an employment injury, to earn the wages the employee was receiving at the time of injury, *i.e.*, an impairment resulting in loss of wage-earning capacity.<sup>6</sup> For each period of disability claimed, the employee has the burden of establishing that he or she was disabled for work as a result of the accepted employment injury.<sup>7</sup> Whether a particular injury causes an employee to become disabled for work and the duration of that disability are medical issues that must be proved by a preponderance of probative and reliable medical opinion evidence.<sup>8</sup> The fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>9</sup> The Board will not require the Office to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.<sup>10</sup>

### **ANALYSIS**

In support of her claim, appellant submitted CA-7 forms for the period May 5 to June 9, 2006. The Office awarded her wage-loss compensation for 77 hours claimed during this period in its October 30, 2006 decision. However, the Office denied compensation for any additional periods. It denied four hours of compensation on several days for which she had claimed eight hours of leave without pay, noting that she was entitled to no more than four hours of compensation for routine medical appointments. It is noted that, while the Office's procedural manual provides that no more than four hours of compensation should be allowed for routine medical appointments, longer periods of time may be allowed when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain the medical care. Federal (FECA) Procedure Manual, Part 3 -- Medical, *Administrative Matters*, Chapter 3.900.8

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<sup>3</sup> The Office noted that appellant claimed compensation and provided documentation for dates on which she missed work which were not within the claimed period, May 5 to June 9, 2006.

<sup>4</sup> 5 U.S.C. §§ 8101-8193.

<sup>5</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *See Prince E. Wallace*, 52 ECAB 357 (2001).

<sup>7</sup> *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>8</sup> *Gary L. Watling*, 52 ECAB 278 (2001).

<sup>9</sup> *Manual Garcia*, 37 ECAB 767 (1986).

<sup>10</sup> *Amelia S. Jefferson*, 57 ECAB \_\_\_\_ (issued October 26, 2005); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

(June 1999). In this case, the Office determined that, while longer periods of time were allowed when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain the medical care, appellant had failed to provide sufficient medical evidence to support that she was out on disability or attending a medical examination during the other periods appellant claimed. The Board affirms the Office's October 30, 2006 decision, as appellant failed to provide medical evidence establishing that she sustained disability causing wage loss above and beyond the periods awarded by the Office.

Following the October 30, 2006 decision, appellant requested reconsideration. Appellant resubmitted the documents pertaining to medical appointments that she provided prior to the Office's October 30, 2006 decision and claimed that she was sent home by her supervisor on May 14, 15, 24 and 25, 2006. In support of her claim, she stated that as a consequence of being sent home she filed a grievance and EEO claim against her supervisor.

By decision dated January 30, 2007, the Office denied modification of the October 30, 2006 decision. The Office stated that appellant had failed to submit medical evidence establishing a longer period for appointments than that for which she had already received compensation. In addition, the Office correctly noted that appellant failed to provide corroborating evidence that the employing establishment failed to provide her with light duty on May 14, 15, 24 and 25, 2006. The Office noted the fact that she filed a grievance or EEO claim did not establish that the employing establishment failed to provide her with light duty on these dates. The Board affirms the January 30, 2007 decision, as the Office properly denied appellant additional compensation for wage loss.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.<sup>11</sup> Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence. Consequently, appellant has not met her burden of proof to establish that she sustained any additional employment-related disability from May 5 to June 9, 2006. The Board will affirm the Office's October 30, 2006 and January 30, 2007 decisions.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof in establishing that she was entitled to additional compensation for wage loss for intermittent periods from May 5 to June 9, 2006 causally related to her federal employment.

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<sup>11</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 30, 2007 and October 30, 2006 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: December 13, 2007  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board