

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

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**I.P., Appellant**

**and**

**DEPARTMENT OF COMMERCE, 2010  
DECENNIAL CENSUS, Dallas, TX, Employer**

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**Docket No. 11-939  
Issued: November 4, 2011**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On March 4, 2011 appellant filed a timely appeal from the January 28, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her claim for periods of work-related disability. Pursuant to the Federal Employees' Compensation Act (FECA)<sup>1</sup> and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she sustained disability from April 25 to September 12, 2010 due to her March 7, 2010 employment injury.

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<sup>1</sup> 20 C.F.R. § 8101 *et seq.*

## **FACTUAL HISTORY**

OWCP accepted that on March 7, 2010 appellant, then a 34-year-old enumerator, sustained right knee and left foot contusions due to a fall on her knees while at work. Appellant stopped work on March 7, 2010 and returned to regular duty on March 8, 2010.<sup>2</sup>

Appellant stopped work from April 25 to September 12, 2010 and, between August and September 2010, she filed several claims for compensation, CA-7 forms, alleging disability due to her March 7, 2010 employment injury.

Appellant submitted an August 14, 2010 form report from Dr. Zaida I. Vega-Calzada, an attending Board-certified family practitioner, who reported history of the March 7, 2010 fall and diagnosed tendinitis of appellant's left ankle. Dr. Vega-Calzada checked a "yes" box indicating that this condition was caused or aggravated by the employment activity and found that appellant was totally disabled from March 7 to April 13, 2010 and partially disabled from April 13 to May 12, 2010. In an August 17, 2010 form report, Dr. Olga W. Bermudez, an attending Board-certified physical medicine and rehabilitation physician, stated that it was reported that appellant fell on her knees on March 7, 2010 and had knee and leg bruises and a left ankle strain. She diagnosed a left calf and ankle strain and checked a "yes" box indicating that this condition was caused or aggravated by the employment activity (noting that the accident occurred during working hours). Dr. Bermudez found that appellant was totally disabled from March 7 to 17, 2010.<sup>3</sup>

In an October 20, 2010 letter, OWCP requested that appellant submit additional factual and medical evidence in support of her claim.

Appellant submitted a March 7, 2010 emergency room report containing a diagnosis of right knee contusion and a March 21, 2010 form report containing a diagnosis of right knee contusion and a finding that she could return to regular work on March 7, 2010. In an October 27, 2010 form report, Dr. Bermudez indicated that it had been accepted that appellant sustained work-related left ankle and foot pain, calf strain and foot contusion. She recommended work restrictions including walking for less than an hour and standing for less than an hour. In an October 27, 2010 form report, Dr. Vega-Calzada, recommended work restrictions including walking for no more than an hour and standing for no more than two hours.

In a January 28, 2011 decision, OWCP denied appellant's claim on the grounds that she did not submit sufficient medical evidence to establish that she sustained disability from April 25 to September 12, 2010 due to her March 7, 2010 employment injury.

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<sup>2</sup> There is no indication in the record that appellant was placed on light-duty work.

<sup>3</sup> The record also contains physical therapy notes from mid 2010 and a report with illegible treatment notes and an illegible signature.

### LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of her claim including the fact 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 period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>4</sup> The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the compensable employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 the specific employment factors identified by the claimant.<sup>5</sup>

Whether a particular employment injury causes disability for employment and the duration of that disability are medical issues, which must be proved by a preponderance of reliable, probative and substantial medical evidence.<sup>6</sup>

### ANALYSIS

OWCP accepted that on March 7, 2010 appellant sustained right knee and left foot contusions due to a fall on her knees while at work. Appellant stopped work on March 7, 2010 and returned to regular duty on March 8, 2010. She stopped work from April 25 to September 12, 2010 and filed several CA-7 forms alleging that she had disability from April 25 to September 12, 2010 due to her March 7, 2010 employment injury.

The Board finds that appellant did not submit sufficient medical evidence to establish that she sustained disability from April 25 to September 12, 2010 due to her March 7, 2010 employment injury.

Appellant submitted an August 14, 2010 form report in which Dr. Vega-Calzada, an attending Board-certified family practitioner, reported the history of her March 7, 2010 fall and diagnosed tendinitis of her left ankle. Dr. Vega-Calzada checked a “yes” box indicating that this condition was caused or aggravated by the employment activity and found that appellant was totally disabled from March 7 to April 13, 2010 and partially disabled from April 13 to May 12, 2010.

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<sup>4</sup> *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

<sup>5</sup> *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

<sup>6</sup> *W.D.*, Docket No. 09-658 (issued October 22, 2009).

This report is of limited probative value with respect to appellant's claim of disability between April 25 and September 12, 2010 due to her March 7, 2010 employment injury because it has not been accepted that she sustained left ankle tendinitis on March 7, 2010 and Dr. Vega-Calzada did not provide a rationalized opinion relating this condition to the March 7, 2010 employment injury. The Board has held that, when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.<sup>7</sup> Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports her conclusion with sound medical reasoning. As Dr. Vega-Calzada did no more than check "yes" to a form question, her opinion on causal relationship is of little probative value and is insufficient to discharge appellant's burden of proof.

In an August 17, 2010 form report, Dr. Bermudez, an attending Board-certified physical medicine and rehabilitation physician, diagnosed a left calf and ankle strain and checked a "yes" box indicating that this condition was caused or aggravated by the employment activity (noting that the accident occurred during working hours). She found that appellant was totally disabled from March 7 to 17, 2010. This report is of limited probative value with respect to appellant's claim of work-related disability between April 25 and September 12, 2010 because it has not been accepted that she sustained a left calf and ankle strain on March 7, 2010. Dr. Bermudez did not provide a rationalized opinion relating this condition to the March 7, 2010 employment injury. She only checked a "yes" box and noted that the accident occurred during working hours. Moreover, Dr. Bermudez only indicated disability for a period that is not claimed by appellant in connection with the present case.

After OWCP requested additional evidence on October 20, 2010, appellant submitted a March 7, 2010 emergency room report containing a diagnosis of right knee contusion and a March 21, 2010 form report containing a diagnosis of right knee contusion and a finding that she could return to regular work on March 7, 2010. However, these reports are of no probative value on the relevant issue of the present case because they do not relate to the period of claimed work-related disability, April 25 to September 12, 2010. Appellant also submitted October 27, 2010 reports of Dr. Bermudez and Dr. Vega-Calzada recommending work restrictions. These reports also do not relate to the period of claimed work-related disability and do not contain any clear opinion that a work-related condition necessitated these restrictions.

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 did not meet her burden of proof to establish that she sustained disability from April 25 to September 12, 2010 due to her March 7, 2010 employment injury.

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<sup>7</sup> *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 28, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 4, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board