

duty work. The Office accepted the claim for left knee contusion which was subsequently expanded to include lumbar strain/sprain.¹

In a medical treatment form dated September 22, 2005, Dr. John A. White, a treating Board-certified orthopedic surgeon, diagnosed chondromalacia of the patella and released appellant to work with restrictions.²

In an October 24, 2005 time analysis form, the employing establishment indicated that appellant was claiming compensation for 16 hours of leave without pay for October 13 and 14, 2005. The employing establishment noted that appellant was paid 8 hours of sick leave for October 12, 2005 and used 16 hours of leave without pay for October 13 and 14, 2005. It noted that appellant failed to provide any medical evidence supporting her claim for total disability for the period in question.

In a November 10, 2005 letter, the Office advised appellant that her Form CA-7 had been received and that medical evidence establishing disability for the period claimed was needed to process the claim. It informed her that she had 30 days to submit the requested information.

On November 17, 2005 appellant filed a claim for compensation, Form CA-7, for the period October 12 to 14, 2005. The employing establishment related that she had been released to full duty with restrictions and failed to submit any medical evidence to support her claim for disability.

In a December 1, 2005 report, Dr. Larry S. Eisenfeld, a treating Board-certified orthopedic surgeon, noted that appellant injured herself on July 26, 2005 when her foot was caught in a floor mat and she fell onto both knees. He noted that appellant presented herself that date for an evaluation of her left knee pain. Dr. Eisenfeld diagnosed left medial meniscus tear, left patella chondromalacia and maltracking and left knee contusion. He released appellant to full-duty work effective December 1, 2005 and referred her for physical therapy for her knee.

In a December 15, 2005 report, Dr. Eisenfeld noted that appellant was treated for left patella chondromalacia on that date. Under work status, he noted that she had been returned to full duty with no restrictions on December 1, 2005.

In reports dated January 12 to November 16, 2006, Dr. Eisenfeld's diagnoses included unchanged left contusion, left medial meniscus tear, stable left patella maltracking and left patella chondromalacia. He noted that appellant had been returned to full duty with no restrictions on December 1, 2005.

¹ The employing establishment noted that physical therapy was prescribed by appellant's treating physician and was covered by a July 26, 2005 Form CA-16.

² On October 28, 2005 the Office was informed that Dr. White would no longer provide treatment for appellant. The Office approved appellant's request to change her treating physician to Dr. Larry S. Eisenfeld, Board-certified orthopedic surgeon.

By decision dated March 15, 2006, the Office denied appellant's claim for compensation for the period October 12 to 14, 2005. It found that she failed to submit the medical evidence to establish total disability for the dates claimed.

In a letter dated February 1, 2007, appellant requested reconsideration of the denial of her claim for wage-loss compensation.

By decision dated April 30, 2007, the Office denied modification of the March 15, 2006 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of proof to establish the essential elements of her claim by the weight of the evidence.⁴ For each period of disability claimed, the employee has the burden of establishing that she was disabled for work as a result of the accepted employment injury.⁵ 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.⁶

Under the Act the term "disability" means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.⁷ Disability is, thus, not synonymous with physical impairment which may or may not result in an incapacity to earn wages.⁸ An employee who has a physical impairment causally related to her federal employment, but who nonetheless has the capacity to earn the wages she was receiving at the time of injury, has no disability and is not entitled to compensation for loss of wage-earning capacity.⁹ When, however, the medical evidence establishes that the residuals or sequela of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in her employment, she is entitled to compensation for any loss of wages.

A claimant must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the

³ 5 U.S.C. §§ 8101-8193.

⁴ See *Amelia S. Jefferson*, 57 ECAB ____ (Docket No. 04-568, issued October 26, 2005); see also *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968).

⁵ See *Amelia S. Jefferson*, *supra* note 4. See also *David H. Goss*, 32 ECAB 24 (1980).

⁶ See *Edward H. Horton*, 41 ECAB 301 (1989).

⁷ *S.M.*, 58 ECAB ____ (Docket No. 06-536, issued November 24, 2006). *Bobbie F. Cowart*, 55 ECAB 746 (2004); *Conard Hightower*, 54 ECAB 796 (2003); 20 C.F.R. § 10.5(f).

⁸ *Roberta L. Kaaumoana*, 54 ECAB 150 (2002).

⁹ *Merle J. Marceau*, 53 ECAB 197 (2001).

implicated employment factor(s).¹⁰ The opinion of the physician must be based on a complete factual and medical background, 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.¹¹

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 their disability and entitlement to compensation.¹²

ANALYSIS

Appellant filed a claim for wage-loss compensation alleging that she was disabled for work from October 12 to 14, 2005. However, she did not submit medical evidence demonstrating total or partial disability for this period of time due to her accepted conditions of left knee contusion and lumbar strain/sprain.

Dr. Eisenfeld did not address the issue of appellant's disability in any of his reports. He merely noted that she was being treated for a left knee condition and that appellant had returned to full-duty work on December 1, 2005 with no restrictions. Dr. Eisenfeld made no mention of appellant being disabled for the period October 12 to 14, 2005. Moreover, it does not appear that he began treating appellant until December 1, 2005. Dr. Eisenfeld's reports are of diminished probative value as he does not address the period of disability at issue.¹³ There is no other probative medical evidence of record which addresses whether appellant was disabled on the dates claimed or explains that she lost time from work due to medical treatment for her accepted conditions. Appellant has failed to submit any rationalized medical opinion evidence establishing that she was unable to work on the dates claimed. She has failed to establish that she was disabled and thus, is not entitled to wage-loss compensation for the days claimed. Appellant has not established her claim for wage-loss compensation for the period October 12 to 14, 2005.

CONCLUSION

The Board finds that appellant has not established entitlement to wage-loss benefits for the period October 12 to 14, 2005.

¹⁰ *A.D.*, 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006).

¹¹ *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

¹² *See William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

¹³ *Sandra D. Pruitt*, 57 ECAB ____ (Docket No. 05-739, issued October 12, 2005).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 30, 2007 is affirmed.

Issued: December 14, 2007
Washington, DC

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

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

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