

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On February 19, 2010 appellant, then a 39-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging injuries to her left arm, left hip and lower back sustained that day when she slipped and fell down icy steps while delivering mail. She stopped work that day and sought emergency room treatment.<sup>2</sup> Appellant submitted claims for wage-loss compensation (Form CA-7) from February 20 to 26, 2010.

In February 19, 2010 reports, Dr. Brad S. Goldman, a physician Board-certified in emergency medicine, diagnosed left hip and elbow abrasions due to the fall that day, with a history of preexisting fibromyalgia. X-rays of the left elbow and left hip were normal.

On March 3, 2010 appellant sought emergency room treatment for left thumb pain. X-rays of the left thumb and hand were normal. Dr. Candice Zeisler, a physician specializing in emergency medicine, diagnosed a left thumb sprain and left thumb pain. Appellant was given a splint for her left thumb.

In a March 16, 2010 report, Dr. Mark J. Pellegrino, an attending Board-certified physiatrist, opined that appellant's left thumb pain was caused by a median nerve stretch injury sustained in the February 19, 2010 incident. On examination, appellant exhibited hyperesthesia in the left thumb and palm. Dr. Pellegrino diagnosed a left thumb sprain and aggravation of preexisting fibromyalgia of the left thumb and hip. He held appellant off work through May 1, 2010.

On April 2, 2010 OWCP accepted abrasions of the left elbow and hip. In April 2 and 28 and May 17, 2010 letters, it advised appellant to submit additional information regarding the causal relationship of the left thumb and fibromyalgia conditions to the accepted February 19, 2010 slip and fall.

Appellant submitted a March 1, 2010 report from Dr. Pellegrino, noting generalized musculoskeletal pain on palpation and a scab on the left elbow. He diagnosed left elbow and hip contusions and aggravation of preexisting fibromyalgia of the left arm, thumb and hip. In April 20 and 29, 2010 reports, Dr. Pellegrino diagnosed a possible left thumb dislocation, left wrist pain and left carpal tunnel syndrome due to the February 19, 2010 injury.<sup>3</sup> He held appellant off work through August 1, 2010 and recommending imaging studies.

By decision dated June 23, 2010, OWCP denied appellant's claim for wage-loss compensation on the grounds that the medical evidence did not establish total disability for work from February 20, 2010 onward due to the accepted February 19, 2010 accident. It further found that the medical evidence was insufficient to establish left thumb and wrist injuries.

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<sup>2</sup> On February 22, 2010 appellant claimed a schedule award. There is no final decision of record regarding a schedule award. The schedule award issue is not before the Board on the present appeal.

<sup>3</sup> An April 12, 2010 electromyography (EMG) and nerve conduction velocity (NCV) study showed mild left carpal tunnel syndrome "most likely due to stretch injury involving the left elbow and wrist when she fell on February 19, 2010." The study showed subclinical carpal tunnel syndrome on the right.

Appellant requested an oral hearing held on October 5, 2010. At the hearing, she asserted that she could not use her left arm and had difficulty with activities of daily living. Appellant submitted reports from Dr. Pellegrino dated from June 11 to November 24, 2010 noting unchanged left upper extremity symptoms without objective findings. On July 13, 2010 Dr. Pellegrino released appellant to restricted duty with limitations on lifting and grasping. On November 24, 2010 he held appellant off work through April 1, 2011.

In a June 22, 2010 report, Dr. Ira Richterman, an attending Board-certified orthopedic surgeon to whom appellant was referred by Dr. Pellegrino, provided a history of injury with preexisting fibromyalgia. He noted limited left elbow motion. Dr. Richterman diagnosed unspecified sprains and strains of the left forearm. He stated that appellant's "subjective complaints far outweigh[ed] her objective findings."

Appellant claimed compensation for total disability through September 24, 2010.

By decision dated December 22, 2010, OWCP's hearing representative affirmed OWCP's June 23, 2010 decision as modified. OWCP accepted that appellant sustained a left thumb sprain and mild acute left carpal tunnel syndrome due to the February 19, 2010 accident. It further found that the medical evidence was insufficiently rationalized to establish that appellant was disabled for work on and after February 20, 2010.

### **LEGAL PRECEDENT**

An employee seeking compensation under FECA has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence.<sup>4</sup>

To establish a causal relationship between a claimed period of disability and the accepted employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such a causal relationship.<sup>5</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>6</sup> Rationalized medical evidence is evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated 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>7</sup>

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<sup>4</sup> *Donna L. Miller*, 40 ECAB 492, 494 (1989); *Nathaniel Milton*, 37 ECAB 712, 722 (1986).

<sup>5</sup> *Manuel Gill*, 52 ECAB 282 (2001).

<sup>6</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>7</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

## ANALYSIS

OWCP accepted that appellant sustained abrasions of the left elbow and hip, a left thumb sprain and mild left carpal tunnel syndrome on February 19, 2010 when she slipped and fell on icy steps. Appellant stopped work on February 19, 2010 and did not return. She claimed wage-loss compensation for total disability through September 24, 2010. By decisions dated June 23 and December 22, 2010, OWCP denied appellant's claims for monetary compensation on the grounds that the medical evidence did not establish that the accepted injuries totally disabled appellant for work for the claimed period.

Dr. Pellegrino, an attending Board-certified physiatrist, submitted reports from March 16 through November 24, 2010 diagnosing contusions of the left elbow and hip, left carpal tunnel syndrome and a left thumb sprain. OWCP accepted these conditions as related to the February 19, 2010 slip and fall. Initially, Dr. Pellegrino held appellant off work through August 1, 2010. He then released her to limited duty on July 13, 2010. On November 24, 2010 Dr. Pellegrino found appellant totally disabled for work through April 1, 2011. He did not explain how and why the accepted conditions would totally disable her for work at any time. Dr. Pellegrino did not provide rationale explaining why he released appellant to light duty in July 2010 but then found her disabled for work in the absence of objective findings. Also, he attributed some of her symptoms to an aggravation of preexisting fibromyalgia, a condition OWCP did not accept as work related. Therefore, Dr. Pellegrino's opinion is insufficient to meet appellant's burden of proof.<sup>8</sup>

Appellant also submitted a June 22, 2010 report from Dr. Richterman, an attending Board-certified orthopedic surgeon, who diagnosed left forearm sprains and strains, with subjective complaints far outweighing objective findings. As Dr. Richterman did not find her disabled for work for any period, his opinion is insufficient to meet appellant's burden of proof.

The Board notes that OWCP advised appellant by April 2 and 28 and May 17, 2010 letters of the additional evidence needed to establish her claim, including rationalized medical evidence supporting that the accepted injuries totally disabled her for the claimed period. As appellant did not submit such evidence, she failed to meet her burden of proof.

On appeal, counsel asserts that OWCP's December 22, 2010 decision was "contrary to fact and law." As stated, the medical evidence is insufficiently rationalized to establish total disability for work on and after February 20, 2010.

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.

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<sup>8</sup> *Manuel Gill, supra* note 5.

**CONCLUSION**

The Board finds that appellant has not established that her claimed disability for work on and after February 20, 2010 is causally related to the accepted left hip and upper extremity injuries.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 22, 2010 is affirmed.

Issued: October 14, 2011  
Washington, DC

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

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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