United States Department of Labor
Employees' Compensation Appeals Board

DEBORAH M. PLUMMER, Appellant	)	
and	)	**Docket No. 04-2260**
	)	**Issued: August 19, 2005**
U.S. POSTAL SERVICE, POST OFFICE, Baton Rouge, LA, Employer	)	

Appearances:
Harry R. Lane, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On September 8, 2004 appellant filed an appeal from an April 6, 2004 decision of an Office of Workers' Compensation Programs' hearing representative which affirmed the denial of her claim for disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant was disabled for the period July 21, 2000 to August 23, 2002 causally related to her 1999 employment injury.

FACTUAL HISTORY

On November 16, 1999 appellant, then a 39-year-old letter carrier, filed an occupational disease claim alleging left shoulder and cervical pain caused by carrying large volumes of mail on her route. She stopped work as of November 4, 1999. She was treated by Dr. Bradford J. Smith, a Board-certified internist, who diagnosed probable subacromial bursitis with possible

cervical spondylosis.[1] On April 26, 2000 Dr. Warren Williams, Sr., a Board-certified neurosurgeon, obtained a magnetic resonance imaging (MRI) scan of the right shoulder which revealed mild hypertrophy of the acromioclavicular joint causing some mild impingement upon the musculotendinous junction of the supraspinatous tendon. Following the initial denial of her claim for compensation, on July 11, 2002 the Office accepted appellant's claim for cervical sprain and bursitis of the left shoulder.[2]

On November 9, 2002 appellant filed a Form CA-7 claim for compensation from July 21, 2000 to August 23, 2002. The record indicates that appellant initially stopped work on April 17, 2000, utilized leave and was placed on leave without pay as of July 21, 2000. She did not return to work. By decision dated January 21, 2003, the Office denied appellant's claim for wage-loss compensation, finding that the medical evidence did not establish that she was disabled for all work for the period claimed.

Appellant requested an oral hearing before an Office hearing representative which was held on January 21, 2004. Following the hearing, appellant submitted the February 9, 2004 report of Dr. Williams. By decision dated April 6, 2004, the hearing representative found that the medical evidence of record was not sufficient to establish appellant's claim of total disability for the period July 21, 2000 through August 23, 2002 due to her accepted injury. He affirmed the January 21, 2003 decision.

LEGAL PRECEDENT

Under the Act, the term disability is defined as the incapacity because of an employment injury to earn the wages the employee was receiving at the time of injury.[3] Whether a particular injury causes an employee to be disabled for work and the duration of that disability are medical issues which must be proved by the weight of substantial and reliable medical evidence.[4] Generally, findings on physical examination are needed to support a physician's opinion that an employee is disabled for work. When a physician's statements regarding an employee's ability for employment work consist largely of a repetition of the employee's complaints that he or she hurts too much to work, without objective evidence of disability being shown, the physician has not presented a basis for the payment of compensation.[5] The medical evidence of record must directly address the particular period of disability for which compensation is sought; to do otherwise would essentially allow employee's to self-certify their disability and entitlement to compensation.[6]

---

[1] In undated work certificates, Dr. Smith indicated that appellant was able to return to light-duty work with lifting restrictions.

[2] By decision dated December 17, 2001, the Office of Personnel Management advised appellant that she was not found disabled or eligible for disability retirement.

[3] *See Prince E. Wallace*, 52 ECAB 357 (2001).

[4] *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

[5] *Id.*

[6] *Id. See also William A. Archer*, 55 ECAB ___ (Docket No. 04-1138, issued August 27, 2004).

ANALYSIS

The Board finds that the medical evidence of record is not sufficient to establish appellant's claim of disability for the period July 21, 2000 through August 23, 2002. The medical notes from appellant's initial treating physicians, Dr. Smith and Dr. Lawrence J. Messina, a Board-certified orthopedic surgeon, are largely irrelevant to this issue as they treated appellant prior to the period of claimed disability. Appellant had intermittent disability due to medical treatment prior to when she stopped work on April 17, 2000 but the reports of these physicians reveal that she was provided with physical therapy and restricted to limited-duty work. In support of her claim for disability, appellant has relied primarily upon the reports of Dr. Williams.

The record reflects that Dr. Williams first treated appellant on February 28, 2000 for complaints of cervical pain. He noted on neurological examination that the muscular structures of the shoulders and upper extremities showed no loss of functional strength, no atrophy or wasting and no fasciculations of the muscle groups. Deep tendon reflexes were found to be active and symmetrical. Dr. Williams listed a clinical impression of muscle spasm and recommended continued light duty. An April 17, 2000 chart note stated that appellant was seen that day for continued complaints of pain to the shoulders and that she needed an MRI scan. Dr. Williams noted that he was placing her on disability and that she would continue with conservative care. An accompanying disability form certificate noted that the physician found appellant totally incapacitated from April 17 to May 22, 2000. The next chart note, dated May 30, 2000, listed appellant's complaint of pain to her shoulders, back and arms and noted that it would be beneficial to the employing establishment if she was placed "in a least strenuous capacity. Upon permission for [l]ight [d]uty, I strongly recommend that [appellant] continue to have … conservative care visits…. Neurologically, she is intact." Despite this indication that appellant was capable of performing light duty, the accompanying disability certificates reiterated that appellant was totally incapacitated. He continued her disability status in chart notes dated June 6, 9 and 12, 2000, stating that she continued to complain of pain and was neurologically intact. On July 6, 2000 Dr. Williams described appellant's symptoms and noted that she could return to work, subject to specified limitations.

On September 7, 2000 Dr. Williams treated appellant for complaints of left-side cervical pain with swelling and tenderness. He indicated that he refilled her medication and stated: "Paperwork for her job description was filled out on today's visit." Commencing October 19, 2000, Dr. Williams submitted periodic form reports listing appellant's complaints and medications. His physical examination that date addressed appellant's complaints regarding left buttock pain and contained findings on examination relative to her lower extremities. Dr. Williams repeated his impression of the April, 2000 MRI scan diagnostic studies. He also completed several CA-17 form reports on which he noted that appellant was disabled for work.

On February 17, 2003 Dr. Williams completed a medical narrative in which he reviewed appellant's history as a letter carrier and listed the diagnoses as lumbar sprain/strain; cervical sprain/strain, chronic left shoulder and pain to the left side of the body (hip pain). He reviewed diagnostic studies of appellant's left shoulder and hips obtained on February 5, 2002. Dr. Williams opined that appellant remained totally disabled due to narrowing of C6-7 and C5-6 and a bone spur of the left shoulder. He noted appellant's medications and that she would

continue on conservative care. A February 9, 2004 narrative report reviewed appellant's medical treatment since February 2000 and listed the diagnoses of cervical/lumbar pain strain, left shoulder pain/strain, tendinosis, impingement syndrome of the left shoulder, degenerative joint disease of the shoulders; and cervical degenerative disc disease. Dr. Williams stated:

> "In my opinion, she was partially incapacitated and unable to perform her primary delivery duties from April 17, 2000 through July 5, 2001. Due to a progression of her condition, I am of the opinion that she has been totally incapacitated and unable to perform any gainful employment from July 5, 2001 to the present date. It is impossible to determine if her condition will improve without more aggressive treatment and/or surgery. It is undeterminable as to when, and/or at what level, she may achieve [m]aximum [m]edical [i]mprovement. Currently she is treated with medications and physical therapy to help reduce swelling, pressure and pain.
>
> "After a review of her factual and medical background, I am of the opinion that the conditions suffered by [appellant] are consistent with a person who has continued employment requiring the bearing of considerable weight upon the shoulders and neck for given distances over a long period of time. Such employment will cause increased stress and strain on the weight-bearing portions of the musculoskeletal system and will cause increased wear and tear over and above that expected on a similarly aged and disposed person not under such performance requirements."

The Board finds that the reports of Dr. Williams are not sufficient to establish appellant's disability from July 21, 2000 through August 23, 2002 due to residuals of her accepted injury. In this case, the Office accepted her claim for a cervical strain and bursitis of the left shoulder. Appellant was treated conservatively and returned to perform light-duty work. The periodic chart notes and form reports completed by Dr. Williams during this period largely consist of a listing of appellant's complaints of pain and her medications. Dr. Williams did not provide any explanation in his reports as to why appellant was unable, initially as of April 17, 2000, to work the limited duty which she had been performing. His chart note of May 30, 2000 commented on her capacity for light duty but the accompanying disability certificate again listed total incapacity for employment. Dr. Williams' narrative reports do not shed much light on this aspect of the case, as he repeated his opinion that appellant was disabled from performing the regular duties of a letter carrier but did not discuss her capacity for the limited duty or the light-duty work she had been performing prior to when she stopped work. Commencing October 20, 2000 Dr. Williams began to discuss appellant's disability for work as it pertained to her low back and buttock complaints. His subsequent narrative reports in 2003 and 2004 listed a number of physical conditions involving the lumbar spine and lower extremities which have not been accepted by the Office as causally related to the accepted injury or to her federal employment as a letter carrier. In his 2004 report, he stated that appellant "was partially incapacitated and unable to perform her primary delivery duties from April 17, 2000 to July 5, 2001." This opinion is not well rationalized in light of Dr. Williams' various certificates indicating total incapacity for employment nor did he provide a description of the nature and extent of appellant's capacity for limited duty. Certainly this comment does not support total disability for the period through July 5, 2001. Thereafter, the physician stated that appellant was unable to perform any gainful

employment; but again, he based his discussion on her regular job duties and not the limited work she had been performing. Moreover, there is no discussion of how the accepted conditions of cervical strain and bursitis of the left shoulder would progress over time to cause or contribute to the diagnosed conditions of degenerative joint disease of the shoulders and cervical disc disease.

The medical evidence from Dr. Williams is largely based on appellant's complaints of pain without adequate medical rationale to explain why she was disabled from performing her limited-duty work on or after April 17, 2000. The medical evidence lacks sufficient objective evidence of disability for the claimed period of July 21, 2000 through August 23, 2002 due to the accepted employment-related conditions. The narrative reports do not contain medical opinion which specifically addresses the period for which compensation is sought. For these reasons, appellant has not met her burden of proof.

CONCLUSION

The Board finds that appellant has not established her entitlement to wage-loss compensation for the period July 21, 2000 through August 23, 2002.

ORDER

IT IS HEREBY ORDERED THAT the April 6, 2004 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 19, 2005
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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