



The attending physician, Dr. Jacob Salomon, a surgeon, indicated in an October 30, 2006 note that appellant was unable to work from October 30 to November 15, 2006. He listed, “Back disc herniation [and] plantar fasciitis.”

On December 22, 2006 appellant filed a claim for compensation (Form CA-7). The specific period claimed is illegible but the beginning month was December 2006 to sometime in January 2007. The claim form indicated that appellant had stopped work on October 30, 2006 and had begun using leave without pay as of December 3, 2006. In a note dated January 9, 2007, Dr. Salomon indicated that appellant would be disabled from January 9 to March 1, 2007. He stated, “Herniated lumbar disc [with] radiculopathy.”

By letter dated January 23, 2007, the Office requested that appellant submit additional evidence. In a report dated February 2, 2007, Dr. Salomon stated that appellant had returned to work, following the March 22, 2006 lumbar strain, but he was standing and walking at work from April to October 2006 and experienced bilateral heel pain. He reported that appellant was diagnosed with bilateral plantar fasciitis “and is being treated for this as well as his chronic back pain, which is due to aggravation of herniated lumbar discs.” Dr. Salomon concluded that plantar fasciitis should be an accepted work-related condition. In a separate report dated February 2, 2007, he reported bilateral sacroiliac pain and muscle spasm, with the mechanism of causation described as “direct trauma to back.” Dr. Salomon indicated that a magnetic resonance imaging scan revealed herniated lumbar discs. He opined that, due to back muscle spasm, bilateral leg pain and heel pain appellant was totally disabled from December 3, 2006 to January 11, 2007.

In a decision dated February 27, 2007, the Office stated that appellant had claimed compensation on the Form CA-7 from December 3, 2006 to January 3, 2007. The Office denied the claim on the grounds that the medical evidence was not sufficient to establish an employment-related disability for this period.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>2</sup> 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 the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity.<sup>3</sup>

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> 20 C.F.R. § 10.5(f); *see e.g.*, *Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

reliable, probative and substantial medical evidence.<sup>4</sup> Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>5</sup> Rationalized medical evidence is medical 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>6</sup> Neither the fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>7</sup>

### ANALYSIS

The Office's February 27, 2007 decision was limited to a claim for compensation for the period December 3, 2006 to January 3, 2007. The Board notes that the record does not contain a medical report on or about December 3, 2006. On January 9, 2007 Dr. Salomon briefly reported that appellant was currently disabled due a herniated disc with radiculopathy. A herniated disc is not an accepted condition in this claim and Dr. Salomon provided no opinion on the causal relationship of the disc with the March 22, 2006 employment injury.

In the February 22, 2007 reports, Dr. Salomon opined that appellant was disabled from December 3, 2006 to January 11, 2007. He did not, however, provide a rationalized opinion on causal relationship between disability for this period and the March 22, 2006 employment injury. Dr. Salomon referred to back muscle spasms and leg pain without providing a proper medical explanation, based on a complete factual and medical background, as to how the findings are causally related to the March 22, 2006 employment injury. With respect to plantar fasciitis, he did not provide a rationalized medical opinion on causal relationship. Dr. Salomon appeared to indicate that he felt that it was due to standing and walking from April to October 2006. If appellant is claiming a foot condition causally related to the light-duty job, this would be a claim for a new injury.<sup>8</sup> Dr. Salomon also stated that plantar fasciitis was due to aggravation of herniated lumbar discs, without further explanation. As noted above, herniated discs have not been established as causally related to the March 22, 2006 employment injury.

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<sup>4</sup> See *Fereidoon Kharabi*, 52 ECAB 291 (2001).

<sup>5</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>6</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>7</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>8</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(b)(2) (May 1997).

The Board accordingly finds that the medical evidence is not sufficient to establish an employment-related disability for the period December 3, 2006 to January 3, 2007.<sup>9</sup> The Office properly denied the claim for compensation in this case.

**CONCLUSION**

The evidence does not establish an employment-related disability for the period December 3, 2006 to January 3, 2007.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 27, 2007 is affirmed.

Issued: November 8, 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

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<sup>9</sup> It is noted that the record indicated that appellant had stopped working on October 30, 2006, and continued to remain off work after January 3, 2007. Any claim for compensation for wage loss during these periods would have to be accompanied by rationalized medical evidence on causal relationship between disability and the employment injury.