

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

T.R., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Troy, MI, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 09-1212
Issued: December 1, 2009**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 6, 2009 appellant timely appealed the February 26, 2009 merit decision of the Office of Workers' Compensation Programs which denied her claim for wage-loss compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant is entitled to compensation for temporary total disability from May 2 through June 15, 2008 and intermittent wage loss from June 27 through July 16, 2008.

FACTUAL HISTORY

Appellant, a 41-year-old letter carrier, injured her right hand on March 11, 2008 when she slipped on a patch of ice while delivering mail. The Office accepted her claim for contusion of the right hand, second through fourth metacarpal. Appellant stopped work on March 17, 2008

and received continuation of pay through May 1, 2008. She was released to return to work in a limited-duty capacity effective June 16, 2008.¹

Appellant filed claims (Form CA-7) for temporary total disability for the period May 2 through June 15, 2008. She also claimed approximately 12.5 hours of intermittent wage loss for attending therapy sessions on June 27 and July 2, 9, 11 and 16, 2008.

The relevant medical evidence included emergency department treatment records for March 13, 2008. Appellant received a diagnosis of strained thumb joint and was discharged that same day with instructions that she should be able to return to work the following day without restrictions. She also submitted return to work/school forms dated March 19 and 25, 2008. The first form indicated that appellant was unable to work from March 17 through 22, 2008, but was able to return to work on March 23, 2008 without any noted restrictions. The March 25, 2008 form indicated that appellant was unable to work from March 24 through 31, 2008. Neither form indicated a specific diagnosis.²

The Office also received treatment notes from a Dr. Cheniche Balakrishnan. On April 16, 2008 Dr. Balakrishnan diagnosed right hand contusion, second through fourth metacarpal and metacarpophalangeal (MP) joints. The reported history was that appellant fell on March 11, 2003. As to any period of disability and a projected return to work date, Dr. Balakrishnan wrote, "To be determined." He advised appellant not to use her right hand and recommended that she begin outpatient occupational therapy two to three times per week. Appellant was to return to Dr. Balakrishnan for reassessment in four weeks. She returned on May 14, 2008 and Dr. Balakrishnan again diagnosed right hand contusion. The remainder of the report was consistent with his April 16, 2008 report. Appellant next saw Dr. Balakrishnan on June 11, 2008 and he diagnosed right hand injury and right thumb tendinitis. Dr. Balakrishnan noted that appellant was unable to work until June 16, 2008, at which point she could engage in "light use" of the right hand with no repetitive use and no lifting greater than five pounds. He also indicated that appellant was to continue with outpatient occupational therapy twice a week and return for reevaluation in six weeks. Dr. Balakrishnan also provided a June 11, 2008 duty status report (Form CA-17).

As to the claim for intermittent wage loss to attend occupational therapy, appellant did not provide documentation for therapy sessions she reportedly attended on June 27 and July 2, 9, 11 and 16, 2008.

On July 14, 2008 the Office advised appellant that it needed a copy of the physical therapy notes and/or medical evidence for the days she was claiming intermittent wage loss between June 27 and July 11, 2008.³

¹ Appellant accepted a limited-duty job offer on June 23, 2008.

² The signature of the particular caregiver is illegible.

³ The Office sent appellant a similar letter on July 28, 2008 regarding the 2.55 hours of lost wages claimed for July 16, 2008.

In a July 15, 2008 letter, the Office advised appellant that the medical evidence was insufficient to establish her claim for temporary total disability for the period May 2 through June 15, 2008. Appellant was advised to submit a comprehensive narrative report from her treating physician explaining how the accepted condition was directly related to her claimed work absence.

In a letter dated July 18, 2008, Elaine South, an occupational therapist, stated that appellant attended outpatient occupational therapy on a twice weekly basis from May 2 through July 16, 2008. She further noted that appellant returned to work on June 23, 2008 and continued to attend occupational therapy through July 16, 2008.

In a decision dated August 18, 2008, the Office denied appellant's claim for temporary total disability for the period May 2 through June 15, 2008. Appellant was also denied 10.03 hours of intermittent wage loss for medical treatment she claimed to have received between June 27 and July 11, 2008.

On September 4, 2008 the Office issued another decision denying 2.55 hours of intermittent wage loss for therapy appellant reportedly received on July 16, 2008.

Appellant requested hearings with respect to both the August 18 and September 4, 2008 decisions. A combined hearing was held on December 10, 2008.

By decision dated February 26, 2009, the hearing representative affirmed the Office's August 18 and September 4, 2008 decisions.

LEGAL PRECEDENT

A claimant has the burden of establishing the essential elements of her claim, including that the medical condition for which compensation is claimed is causally related to the employment injury.⁴ For wage-loss benefits, the claimant must submit medical evidence showing that the condition claimed is disabling.⁵ The evidence submitted must be reliable, probative and substantial.⁶

An injured employee is entitled to compensation for lost wages incurred while obtaining authorized medical services.⁷ This includes the actual time spent obtaining the medical services and "a reasonable time spent traveling to and from the [medical] provider's location."⁸ As a matter of practice, the Office generally limits the amount of compensation to four hours with

⁴ 20 C.F.R. § 10.115(e) (2008); *see Tammy L. Medley*, 55 ECAB 182, 184 (2003).

⁵ 20 C.F.R. § 10.115(f).

⁶ *Id.* at § 10.115.

⁷ 5 U.S.C. § 8103(a) (2006); *see Gayle L. Jackson*, 57 ECAB 546, 547-48 (2006).

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.901.16a (December 1995).

respect to routine medical appointments.⁹ However, longer periods of time may be allowed when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain the medical care.¹⁰

ANALYSIS

Although Dr. Balakrishnan's treatment records cover the claimed period of temporary total disability from May 2 through June 15, 2008, these records do not adequately explain how the right hand contusion appellant sustained on March 11, 2008 precluded her from performing any and all work during this six-week period. Furthermore, he did not explain why three months of occupational therapy two to three times per week was necessary to treat an employment-related hand contusion. Accordingly, the Board finds that Dr. Balakrishnan's April 16, May 14 and June 11, 2008 treatment records are insufficient to establish appellant's claimed temporary total disability for the period May 2 through June 15, 2008.

The Board also notes that the Office has not authorized occupational therapy for the treatment of appellant's accepted condition and Dr. Balakrishnan's above-noted reports do not support such authorization. Additionally, appellant has not documented her attendance at therapy on June 27 and July 2, 9 and 11, 2008. Ms. South's July 18, 2008 letter merely documents the beginning and end dates of appellant's therapy; May 2 through July 16, 2008. She noted that appellant's last visit was on July 16, 2008, but made no mention of the June 27 and July 2, 9 and 11, 2008 dates claimed. Because this type of treatment has not yet been authorized and appellant has not adequately documented her attendance on four of the five dates claimed, the Board finds that the Office properly declined to pay appellant approximately 12.5 hours for occupational therapy visits between June 27 and July 16, 2008.

CONCLUSION

Appellant has not established that she was temporarily totally disabled during the period May 2 through July 16, 2008. The Board further finds that appellant is not entitled to intermittent wage loss for attending therapy sessions during the period June 27 through July 16, 2008.

⁹ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Administrative Matters*, Chapter 3.900.8 (November 1998).

¹⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 1, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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