United States Department of Labor
Employees' Compensation Appeals Board

E.W., Appellant	)	
and	)	**Docket No. 09-6**
	)	**Issued: February 17, 2009**
U.S. POSTAL SERVICE, POST OFFICE, Clarksville, MD, Employer	)	

Appearances:
Scott B. Baron, Esq., for the appellant
No appearance, for the Director

Oral Argument December 11, 2008

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 30, 2008 appellant, through her attorney, filed a timely appeal from October 3, 2007 and July 31, 2008 merit decisions of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3 the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether the Office properly terminated appellant's entitlement to compensation and for a schedule award effective April 10, 2006 on the grounds that she refused an offer of suitable work; (2) whether she has established that she sustained a neck, back or hip injury on March 24, 2005; and (3) whether appellant had any disability from employment during the periods June 4 to October 28, 2005 and September 26 to 30, 2005 causally related to her March 24, 2005 employment injury.

FACTUAL HISTORY

On April 14, 2005 appellant, then a 55-year-old rural carrier, filed a traumatic injury claim alleging that on March 24, 2005 she sustained right shoulder bursitis and swelling of the rotator cuff when she lifted a sack of fertilizer. She stopped work on August 30, 2005. The Office accepted that she sustained a sprain/strain of the right supraspinatus tendon and unspecified disorders of bursae and tendons of the right shoulder region.

In a report dated April 25, 2005, Dr. Albert Folgueras, a Board-certified orthopedic surgeon, discussed appellant's history of pain in the right shoulder the day after lifting a heavy fertilizer bag. He diagnosed acute tendinitis of the right shoulder and chronic tendinitis of the supraspinatus tendon most likely due to lifting the bag of fertilizer. In a duty status report dated May 17, 2005, Dr. Folgueras diagnosed acute and chronic supraspinatus tendinitis and found that she could resume light-duty work on May 16, 2005.

On June 2, 2005 Dr. Folgueras diagnosed subsiding right shoulder tendinitis and recommended a magnetic resonance imaging (MRI) scan study due to appellant's continuing complaints of shoulder discomfort. In a duty status report dated June 2, 2005, he found that she could work in a light-duty capacity full time.[1]

In a report dated July 14, 2005, Dr. Folgueras noted that appellant's symptoms had improved. He found that she did not require further shoulder treatment. Dr. Folgueras stated, "In the future, if the degenerative changes in the right shoulder get worse she may require surgery. But I want to make it clear that the MRI [scan] findings are chronic in nature and they are not related to the alleged mishap that she states took place on March 24, 2005 when she was delivering a heavy bag of fertilizer." He asserted that she could resume her usual employment with lifting restrictions of no more than 25 pounds. In a disability certificate of the same date, Dr. Folgueras found that appellant could perform her regular work duties on July 15, 2005.

On July 27, 2005 Dr. John J. Carbone, a Board-certified orthopedic surgeon, found that appellant could resume work without restrictions on July 28, 2005. In a report dated July 27, 2005, Dr. Benjamin Carr, a Board-certified orthopedic surgeon, diagnosed right trochanteric bursitis and performed a trochanteric injection.

On August 15, 2005 Dr. Jonathan Dunn, a Board-certified orthopedic surgeon, diagnosed a partial thickness rotator cuff tear, greater trochanteric bursitis and degenerative disc disease. He found that appellant could return to work with limitations on August 16, 2005.[2] In an accompanying note, Dr. Dunn noted that appellant had right shoulder pain the date after lifting a bag of fertilizer on March 24, 2005.

[1] On June 22, 2005 Dr. Folgueras reviewed the June 16, 2005 MRI scan study and diagnosed degenerative changes in the glenohumeral joint with superimposed inflammation such as synovitis and tendinitis. He indicated that appellant might need a total right shoulder replacement in the future. Dr. Folgueras opined that she could "continue to perform light duty, hoping that with more time she will improve."

[2] Dr. Dunn outlined appellant's work restrictions in an August 15, 2005 duty status report.

On September 30, 2005 Dr. Robert G. Hennessy, a Board-certified neurosurgeon, noted that appellant experienced pain in her right shoulder, upper extremity and "right low back radiating to the hip" after lifting a large bag of fertilizer on March 24, 2005. He reviewed the lumbar MRI scan study and diagnosed severe proliferate facet joint disease at L3-4, L4-5 and L5-S1. Dr. Hennessy stated, "I think this is the source of the difficulty. [Appellant] has this and it was triggered by the injury she sustained in March."

On October 25, 2005 appellant filed a claim for 50 hours of leave without pay used from September 26 to October 7, 2005.

On November 8, 2005 Dr. Dunn performed an arthroscopic debridement of a partial thickness rotator cuff tear, arthroscopoid debridement of the anterior and posterior labrum, a subacromial decompression and soft tissue acromioplasty. He released appellant to return to work with restrictions on December 27, 2005. In a form report dated January 23, 2006, Dr. Dunn diagnosed right rotator cuff tendinitis and right greater trochanteric bursitis. He found that appellant could resume her usual work with restrictions on heavy lifting, use of only the left hand and no prolonged exposure to cold.

On January 31, 2006 the employing establishment offered appellant a position as an assistant clerk with restrictions on no use of the right hand and no prolonged exposure to cold. The duties included answering the telephone for three hours per day, processing nixie mail for three hours per day, filing box mail for one hour per day and file curtailment on rural routes for one hour per day.

In a disability certificate dated February 2, 2006, Dr. J. William Cook, a Board-certified internist, found that appellant could resume light work on March 20, 2006 without lifting or carrying. In a report dated February 6, 2006, Dr. Andrew J. Johnson, a chiropractor, diagnosed a possible cervical herniated disc, a lumbar disc protrusion, sciatic radiculitis, cervical brachial syndrome and adhesive capsulitis of the right shoulder.

On February 8, 2006 the Office notified appellant that it had determined that the position of modified clerk assistant was suitable and provided her 30 days to accept the position or explain her reasons for refusal. It informed her that she would no longer be entitled to compensation for wage loss or a schedule award if she refused suitable work.

On February 23, 2006 Dr. Michael A. Franchetti, a Board-certified orthopedic surgeon, reviewed appellant's history of neck, back, right shoulder and right hip injuries after she attempted to lift and throw a 75-pound fertilizer bag. He diagnosed cervical strain, status post right rotator cuff repair, persistent lumbosacral strain and traumatic right hip trochanteric bursitis. Dr. Franchetti stated, "The above [is] as a result of March 24, 2005 injuries at work." He noted that she received therapy from Dr. Johnson, a chiropractor and found that Dr. Johnson should determine work status.

On March 16, 2006 the Office informed appellant that it had evaluated her reasons for refusing the position and determined that the reasons were insufficient to show that she could not perform the duties of the position. It provided her 15 days to accept the position and make arrangements to return to work or have her compensation terminated.

On March 29, 2006 appellant filed a claim for compensation for intermittent disability from May 7 to October 28, 2005. The employing establishment indicated on the form that she used 250 hours of leave without pay from June 4 to October 28, 2005.

On March 27, 2006 Dr. Dunn found that, regarding appellant's right shoulder, she could work full time with no reaching above the shoulder and intermittent lifting, pushing and pulling of 5 to 10 pounds. He noted that other factors to be considered were appellant's low and upper back pain and that Dr. Johnson treated her for those conditions. In a February 15, 2006 disability certificate, received by the Office on March 29, 2006, Dr. Johnson opined that appellant should remain off work until further notice.

On April 7, 2006 the employing establishment informed the Office that appellant had not returned to work. By decision dated April 10, 2006, the Office terminated her compensation effective that date on the grounds that she refused an offer of suitable work.

On April 13, 2006 the Office noted that it had received claims for compensation for 250 hours from June 4 to October 28, 2005 and requested that appellant discuss why she was unable to work for the time claimed.

In a report dated May 4, 2006, Dr. Franchetti diagnosed cervical strain, right dorsal forearm tendinitis and carpal tunnel syndrome, status post right rotator cuff repair, persistent lumbosacral strain and right hip trochanteric bursitis due to appellant's March 24, 2005 work injury. He found that she was unable to work.

On May 23, 2006 Dr. Hennessy's office requested claim expansion to include lumbar segmental dysfunction, lumbar spondylosis and facet joint pain. On June 2, 2006 the Office declined to expand appellant's claim.

By decision dated June 5, 2006, the Office denied appellant's claim for 250 hours from June 4 to October 28, 2005 and for 50 hours from September 26 to 30, 2005.

In a report dated April 13, 2006, received by the Office on August 30, 2006, Dr. Franchetti diagnosed cervical strain, forearm tendinitis and carpal tunnel syndrome, lumbosacral strain and right hip trochanteric bursitis, all of which he attributed to appellant's March 24, 2005 work injury. In a report dated June 29, 2006, Dr. Franchetti diagnosed cervical strain, right dorsal forearm tendinitis and carpal tunnel syndrome, status post right rotator cuff repair, persistent lumbosacral strain and right hip trochanteric bursitis due to appellant's work injury. He found that she should not work.[3]

In a form report dated August 18, 2006, Dr. Franchetti diagnosed carpal tunnel syndrome, lumbar and neck sprain/strain and checked "yes" that the conditions were due to an employment activity. He found that she was totally disabled beginning February 23, 2006.

On October 11, 2006 the Office referred appellant to Dr. Kevin F. Hanley, a Board-certified orthopedic surgeon, for a second opinion examination. On November 15, 2006

[3] The record contains similar reports from Dr. Franchetti dated June 1 and August 17, 2006.

appellant requested reconsideration. In a report dated November 22, 2006, Dr. Hanley diagnosed rotator cuff sprain, strain, tendinitis and a partial rotator cuff tear and bursitis. He found that appellant could work with restrictions of no extended use of the right upper extremity or reaching above the shoulder pushing, pulling or lifting over 15 pounds. On February 13, 2007 Dr. Hanley clarified that the work restrictions resulted from the employment injury.

On February 23, 2007 appellant's attorney requested reconsideration of the April 10, 2006 decision. By decision dated March 15, 2007, the Office denied modification of its April 10 and June 2 and 5, 2006, merit decisions.

On July 5, 2007 appellant's attorney requested reconsideration.[4] He submitted a March 22, 2007 report from Dr. Franchetti in support of his request. Dr. Franchetti diagnosed cervical strain, right carpal tunnel syndrome, status post right shoulder rotator cuff repair, lumbosacral strain and right hip trochanteric bursitis. He attributed her diagnosed conditions to her March 24, 2005 work injury. Dr. Franchetti noted that appellant had retired on disability. In an August 23, 2007 form report, he diagnosed right carpal tunnel syndrome, lumbar and cervical sprain/strain and right rotator cuff sprain. Dr. Franchetti checked "yes" that the conditions were causally related to appellant's work injury and found that she was totally disabled from February 23, 2006 to the present.

In a report dated June 13, 2007, Dr. Johnson diagnosed a subluxation at C4-5 and L4-5 by imaging study. He attributed appellant's problems with her right shoulder, right hip, cervical and lumbar spine to her March 24, 2005 work injury. Dr. Johnson noted that she injured herself when she fell on her back and right side while lifting a bag of fertilizer off a truck. He opined that she was unable to resume her usual employment.

On October 3, 2007 the Office denied modification of its March 15, 2007 decision.[5] On April 29, 2008 appellant requested reconsideration. In a report dated April 17, 2008, Dr. Franchetti stated, "I feel to within a reasonable degree of medical certainty and probability that the injury sustained on March 24, 2005 at work was a direct cause of her permanent injuries to her neck, lumbosacral spine and right shoulder."

By decision dated July 31, 2008, the Office denied modification of its prior decisions.

LEGAL PRECEDENT -- ISSUE 1

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.[6] It terminated appellant's compensation under section

[4] In a report dated December 14, 2006, received by the Office on July 9, 2007, Dr. Franchetti diagnosed carpal tunnel syndrome due to compensating for her right shoulder. He also diagnosed a right shoulder with confirmed rotator cuff tear, right hip trochanteric bursitis and tenderness and spasm of the lower back.

[5] On November 8, 2007 Dr. Franchetti diagnosed cervical and lumbar strain and found that appellant should remain off work.

[6] *Linda D. Guerrero*, 54 ECAB 556 (2003).

8106(c)(2) of the Federal Employees' Compensation Act,[7] which provides that a partially disabled employee who refuses or neglects to work after suitable work is offered to, procured by or secured for the employee is not entitled to compensation.[8] To justify termination of compensation, the Office must show that the work offered was suitable and must inform appellant of the consequences of refusal to accept such employment.[9] Section 8106(c) will be narrowly construed as it serves as a penalty provision, which may bar an employee's entitlement to compensation based on a refusal to accept a suitable offer of employment.[10]

Section 10.517(a) of the Act's implementing regulations provide that an employee who refuses or neglects to work after suitable work has been offered or secured by the employee, has the burden of showing that such refusal or failure to work was reasonable or justified.[11] Pursuant to section 10.516, the employee shall be provided with the opportunity to make such a showing before a determination is made with respect to termination of entitlement to compensation.[12]

Before compensation can be terminated, however, the Office has the burden of demonstrating that the employee can work, setting forth the specific restrictions, if any, on the employee's ability to work, establishing that a position has been offered within the employee's work restrictions and setting forth the specific job requirements of the position.[13] In other words, to justify termination of compensation under 5 U.S.C. § 8106(c)(2), which is a penalty provision, the Office has the burden of showing that the work offered to and refused by appellant was suitable.[14]

Once the Office establishes that the work offered is suitable, the burden shifts to the employee who refuses to work to show that the refusal or failure to work was reasonable or justified.[15] The determination of whether an employee is physically capable of performing a modified assignment is a medical question that must be resolved by medical evidence.[16] Office procedures state that acceptable reasons for refusing an offered position include medical evidence of inability to do the work.[17]

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[7] 5 U.S.C. §§ 8101-8193.

[8] 5 U.S.C. § 8106(c)(2); *see also Geraldine Foster*, 54 ECAB 435 (2003).

[9] *Ronald M. Jones*, 52 ECAB 190 (2000).

[10] *Joan F. Burke*, 54 ECAB 406 (2003).

[11] 20 C.F.R. § 10.517(a); *see Ronald M. Jones*, *supra* note 9.

[12] *Id*. at § 10.516.

[13] *See Linda Hilton*, 52 ECAB 476 (2001).

[14] *Id*.

[15] 20 C.F.R. § 10.517(a).

[16] *Gayle Harris*, 52 ECAB 319 (2001).

[17] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reemployment: Determining Wage-Earning Capacity*, Chapter 2.814.5(a)(3) (July 1997).

ANALYSIS -- ISSUE 1

The Office accepted that appellant sustained a strain/sprain of the right supraspinatus tendon and unspecified disorders of the bursae and tendons of the right shoulder. Dr. Dunn performed an arthroscopic debridement of a partial thickness rotator cuff tear, a debridement of the anterior and posterior labrum, a soft tissue acromioplasty and subacromial decompression on November 8, 2005. The Office terminated appellant's compensation effective April 10, 2006 on the grounds that she refused an offer of suitable work by the employing establishment. The initial question in this case is whether the Office properly determined that the offered position was suitable. The issue of whether an employee has the physical ability to perform a modified position is primarily a medical question that must be resolved by the medical evidence.[18]

On January 23 2006 Dr. Dunn found that appellant could return to her usual work with restrictions against heavy lifting and using only her left hand. He further found that she should not be exposed to cold. On January 31, 2006 the employing establishment offered appellant a position as a modified clerk. The position conformed to Dr. Dunn's work restrictions of no use of the right arm or prolonged exposure to cold. The duties of the position did not require heavy lifting. The Office, therefore, properly found that the offered position was suitable as the weight of the medical evidence established that appellant was no longer totally disabled from work and had the physical capacity to perform the modified duties listed in the January 31, 2006 job offer.

The Office must provide appellant notice of its finding that an offered position is suitable and give her an opportunity to accept or provide reasons for declining the position.[19] It properly followed its procedural requirements in this case. By letter dated February 8, 2006, the Office advised appellant that the position was suitable and provided her 30 days to accept the position or provide reasons for her refusal. It further notified her that the position remained open, that appellant would be paid for any difference in pay between the offered position and her date-of-injury job, that she could still accept without penalty and that a partially disabled employee who refused suitable work was not entitled to compensation.

Once the Office establishes that the work offered is suitable, the burden shifts to the employee who refuses to work to show that the refusal or failure to work was reasonable or justified.[20] The determination of whether an employee is physically capable of performing a modified assignment is a medical question that must be resolved by medical evidence.[21] Office procedures state that acceptable reasons for refusing an offered position include medical evidence of inability to do the work.[22]

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[18] *See Gayle Harris*, *supra* note 16.

[19] *See Maggie L Moore*, 42 ECAB 484 (1991), *reaff'd on recon.*, 43 ECAB 818 (1992).

[20] 20 C.F.R. § 10.517(a).

[21] *See Gayle Harris*, *supra* note 16.

[22] *See supra* note 17.

On February 23, 2006 Dr. Franchetti diagnosed cervical strain, status post right rotator cuff repair, persistent lumbosacral strain and traumatic right hip trochanteric bursitis. He attributed the diagnosed conditions to her work injury. Dr. Franchetti found that Dr. Johnson, a chiropractor, should determine appellant's work status. As he did not address whether she could perform the duties of the offered position of assistant clerk, his report does not support that she was unable to return to work.

On March 27, 2006 Dr. Dunn found that, regarding appellant's right shoulder, she could work full time with no reaching above the shoulder and intermittent lifting, pushing and pulling of 5 to 10 pounds. He noted that other factors to be considered were appellant's low and upper back pain and that Dr. Johnson treated her for those conditions. The Office must consider preexisting and subsequently acquired conditions in determining the suitability of an offered position.[23] In this case, however, appellant has not submitted sufficient medical evidence to establish that she had a preexisting or subsequently acquired condition which would prevent her from performing the position of assistant clerk. On February 6, 2006 Dr. Johnson, a chiropractor, diagnosed a possible herniated cervical disc, a lumbar disc protrusion, sciatic, cervical brachial syndrome and right shoulder adhesive capsulitis. On February 15, 2006 report he opined that appellant should remain off work until further notice.[24] A chiropractor's report, however, is not competent medical evidence on the issue of disability related to conditions other than a spinal subluxation.[25] Thus, Dr. Johnson's reports are insufficient to show that appellant could not return to the offered position.

The remaining reports submitted after the Office's termination of appellant's compensation are insufficient to establish that the position was not suitable. On April 13, 2006 Dr. Franchetti listed employment-related diagnoses but did not address appellant's work status. In a report dated June 29, 2006, he diagnosed cervical strain, right dorsal forearm tendinitis and carpal tunnel syndrome, status post right rotator cuff repair, persistent lumbosacral strain and right hip trochanteric bursitis due to appellant's work injury. Dr. Franchetti found that appellant should not work.[26] He, however, did not provide any rationale for his disability finding and thus his report is of little probative value.[27]

In form reports dated August 18, 2006 and August 23, 2007, Dr. Franchetti diagnosed carpal tunnel syndrome, lumbar and neck sprain/strain and checked "yes" that the conditions were due to an employment activity.[28] He found that she was totally disabled beginning

[23] *See Gayle Harris*, *supra* note 16.

[24] On June 13, 2007 Dr. Johnson diagnosed a cervical subluxation by imaging study.

[25] *See e.g.*, *Phyllis F. Cundiff*, 52 ECAB 439 (2001); *George E. Williams*, 44 ECAB 530 (1993).

[26] The record contains similar reports from Dr. Franchetti dated June 1 and August 17, 2006.

[27] Medical conclusions unsupported by rationale are of diminished probative value. *See Jacquelyn L. Oliver*, 48 ECAB 232 (1996).

[28] On March 22, 2007 Dr. Franchetti noted that appellant had retired on disability. On April 17, 2008 he attributed appellant's neck, back and right shoulder conditions to her work injury but did not address work restrictions.

February 23, 2006. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion has little probative value.[29]

The Board finds that the Office met its burden of proof to terminate appellant's compensation on the grounds that she refused an offer of suitable work under section 8106.

LEGAL PRECEDENT -- ISSUE 2

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.[30] Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.[31] The opinion of the physician must be based on a complete factual and medical background of the claimant,[32] must be one of reasonable medical certainty[33] explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[34]

ANALYSIS -- ISSUE 2

The Office accepted that appellant sustained an injury to her right shoulder due to a March 24, 2005 work injury. Following her employment injury, appellant received treatment from Dr. Folgueras for a right shoulder injury. Dr. Folgueras did not mention any hip or back complaints. On July 27, 2005 Dr. Carr diagnosed right trochanteric bursitis but did not address causation. On August 15, 2005 Dr. Dunn diagnosed a rotator cuff tear, greater trochanteric bursitis and degenerative disc disease. He did not, however, specifically attribute the hip or back condition to appellant's work injury and thus his opinion is of little probative value.

On September 30, 2005 Dr. Hennessy diagnosed severe facet joint disease at L3-4, L4-5 and L5-S1 triggered by appellant's employment injury. He noted that appellant experienced pain in her right upper extremity and right lower back radiating to the hip after she lifted a bag of fertilizer on March 24, 2005. The record, however, does not support that appellant complained of pain in the lower back or hip at the time of her work injury. As Dr. Hennessy relied upon an inaccurate history of injury, his report is of diminished probative value.[35]

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[29] *Deborah L. Beatty*, 54 ECAB 340 (2003).

[30] *John J. Montoya*, 54 ECAB 306 (2003).

[31] *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

[32] *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

[33] *John W. Montoya*, *supra* note 30.

[34] *Judy C. Rogers*, 54 ECAB 693 (2003).

[35] *Joseph M. Popp*, 48 ECAB 624 (1997).

In reports dated February through June 2006, Dr. Franchetti diagnosed cervical strain, status post right rotator cuff repair, persistent lumbosacral strain and traumatic right hip trochanteric bursitis causally related to appellant's work injury. He did not, however, provide sufficient rationale for his causation finding or address why the medical reports contemporaneous with the injury did not diagnose a hip or back condition. To be of probative value, a physician must provide rationale for the opinion reached. Where no such rationale is present, the medical opinion is of diminished probative value.[36]

In a report dated June 13, 2007, Dr. Johnson diagnosed cervical subluxations by imaging study and attributed appellant's right shoulder, right hip, cervical and lumbar spine conditions to her employment injury. He is not, however, competent to render a professional opinion on conditions other than a subluxation as it is outside the statutory recognition of chiropractic services.[37]

Appellant has not submitted rationalized medical evidence based on a complete and accurate medical history sufficient to show that she sustained a right hip or back condition causally related to her March 24, 2005 employment injury.

LEGAL PRECEDENT -- ISSUE 3

The term disability as used in the Act[38] means the incapacity because of an employment injury to earn the wages that the employee was receiving at the time of injury.[39] Whether a particular injury caused an employee disability for employment is a medical issue which must be resolved by competent medical evidence.[40] When the medical evidence establishes that the residuals of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in the employment held when injured, the employee is entitled to compensation for any loss of wage-earning capacity resulting from such incapacity.[41] The Board will not require the Office to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employee's to self-certify their disability and entitlement to compensation.[42]

[36] *Jean Culliton*, 47 ECAB 728 (1996).

[37] 5 U.S.C. § 8101(2).

[38] 5 U.S.C. §§ 8101-8193; 20 C.F.R. § 10.5(f).

[39] *Paul E. Thams*, 56 ECAB 503 (2005).

[40] *Id*.

[41] *Id*.

[42] *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

ANALYSIS -- ISSUE 3

Appellant requested compensation for wage loss from June 4 to October 28, 2005 and September 26 to 30, 2005. There is no medical evidence, however, finding that she was unable to perform limited-duty employment during this period and there is no evidence showing that the employing establishment did not provide her with light duty. Further, appellant has not specifically claimed lost time for medical treatment during this period. The Board will not require the Office to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.[43]

CONCLUSION

The Board finds that the Office properly terminated appellant's entitlement to compensation and for a schedule award effective April 10, 2006 on the grounds that she refused an offer of suitable work. The Board further finds that she has not established that she sustained a neck, back or hip injury on March 24, 2005 or that she had any disability from employment during the periods June 4 to October 28 and September 26 to 30, 2005 causally related to her March 24, 2005 employment injury.

[43] *See Fereidoon Kharabi*, *supra* note 42.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated July 31, 2008 and October 3, 2007 are affirmed.

Issued: February 17, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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