

returned to work August 10, 2007. The Office has paid appropriate wage-loss compensation for periods of temporary total disability. Appellant has also received compensation for intermittent wage loss incurred as a result of obtaining medical treatment. Where properly documented, the Office paid her up to four hours per day for her medical appointments.

The current appeal pertains to approximately 140 hours of wage-loss compensation that appellant requested, but was denied. In August 2007, appellant claimed (Form CA-7) 32 hours of lost wages for the period August 6 to 9, 2007. Of the 32 hours claimed, the Office paid a total of 8 hours for medical appointments on August 8 and 9, 2007. Appellant also claimed temporary total disability for the period August 22 to 27, 2007, for a total of 32 hours. On February 15, 2008 she filed a claim for 80 hours of lost wages for the period February 1 to 14, 2008.

Appellant was initially seen by Dr. Sangarapilla Manoharan on August 2, 2007,² who diagnosed lumbosacral strain and released her to return to work that same day without restrictions. Dr. Manoharan saw appellant again on August 8, 2007 and diagnosed cervical, thoracic and lumbosacral strains. His physical examination revealed minimal pain with flexion and extension of the neck, slight tenderness in the mid-thoracic area and minimal to slight pain with flexion and extension in the low back. Dr. Manoharan related appellant's symptoms to her employment and advised that she could return to full duties with no restrictions that same day. Also on August 8, 2007 appellant obtained a documentation of medical impairment (DMI) form from Kaiser Permanente,³ indicating that she was excused from work for three days beginning August 6, 2007 because of cervical, thoracic and low back pain. She was to return to work on August 9, 2007. The DMI also noted that her back pain started June 8, 2006.

In a letter dated January 16, 2008, Dr. Dan C. Tang, a Board-certified internist with Kaiser Permanente, indicated that appellant was seen on August 6, 2007 for back pain by a Kaiser Permanente per diem physician. He further indicated that she was given three days off from August 6 to 8, 2007 and advised to return to work on August 9, 2007. Dr. Tang explained that he did not see appellant personally, but Kaiser Permanente records indicated that she had been seen on August 6, 2007. The treatment records he referenced, however, were not provided to the Office.

For the claimed period August 22 to 27, 2007, appellant submitted another Kaiser Permanente DMI form dated August 21, 2007. This form was signed by Dr. Alem Asrat, a Board-certified internist, who excused appellant from work for five days beginning August 17, 2007. Beginning August 22, 2007, she imposed work restrictions of no sitting or standing for more than a ½ hour at a time. The restrictions also included no bending and no filing with neck bent. Dr. Asrat noted that appellant needed to have the files at eye level. The

² Dr. Manoharan is Board-certified in emergency medicine. He is employed by Kaiser Permanente, Occupational Health Services.

³ The identity of the Kaiser Permanente caregiver is unclear.

August 21, 2007 DMI did not identify a particular injury or medical condition associated with the noted work restrictions.⁴

For the claimed period February 1 to 14, 2008, appellant submitted a January 31, 2008 DMI from Dr. Donald B. Fields, a Board-certified internist.⁵ Beginning February 1, 2008, Dr. Fields excused her from work for 14 days due to low back pain. In a letter dated February 6, 2008, he explained that appellant was being treated for chronic low back pain related to a nonergonomic work environment. Dr. Fields further indicated that she had been given time off work until her employer was able to obtain appropriate office equipment that provided her proper back support to prevent further deterioration.

In a report dated February 15, 2008, Dr. Manoharan indicated that he had not seen appellant since November 2007. Appellant reportedly returned to Dr. Manoharan's office because she needed an opinion regarding her disability. Dr. Manoharan diagnosed lumbosacral strain and advised her that he needed more time to review all her medical records before he could address the causation issue.

In a decision dated June 19, 2008, the Office awarded wage-loss compensation for certain periods, but denied appellant's claim for the period August 6 to 9 and 22 to 27, 2007 and February 1 to 14, 2008.⁶

The Office subsequently received a March 12, 2008 report from Dr. Manoharan, who noted that he had not treated appellant over the past several months and during the interim period her regular physician had placed her on temporary total disability. Dr. Manoharan further noted that appellant asked him to address her past disability, but he advised her that her regular physician should address that particular issue. Based on appellant's current examination, he indicated that her cervical, thoracic and lumbosacral strains had resolved. Dr. Manoharan also indicated that he would have declared her permanent and stationary three months from the time of his August 8, 2007 consultation. He released appellant from his care as of March 12, 2008. Dr. Manoharan also stated that she could immediately return to work without restrictions.

The Office also received a July 1, 2008 report from Dr. Asrat, who explained that she had seen appellant on August 21, 2007 for complaints of back pain, which appellant attributed to her misaligned desk. Appellant also reported that her pain got worse with filing. Dr. Asrat noted that on physical examination appellant had tenderness throughout her paraspinal areas. No studies were administered at the time. Dr. Asrat noted that appellant had been out of work since

⁴ The employing establishment offered appellant a limited-duty position effective August 27, 2007, which she accepted.

⁵ On January 29, 2008 the Office advised appellant that the Kaiser Permanente DMI forms were not sufficient to establish temporary total disability. Appellant was specifically instructed to submit narrative medical reports.

⁶ The Office also denied wage-loss compensation for the period January 20 to 31, 2008 and four hours each for March 5 and 12, 2008. Appellant would later clarify that it was not her intention to claim wage-loss compensation for January 20 to 31, 2008. The June 19, 2008 decision also purported to deny wage-loss compensation for March 20, 2008. However, appellant did not file a Form CA-7 claiming any wage-loss compensation for that particular date. Her latest CA-7 form was dated March 7, 2008.

August 17, 2007 because of her symptoms. She retroactively authorized appellant's absence beginning August 17, 2007 and recommended 30 days of restricted duty beginning August 22, 2007. Dr. Asrat stated that the restrictions were based on appellant's statements regarding particular job duties that exacerbated her symptoms, such as filing while standing. She further explained that, although there are many causes of appellant's back pain, her symptoms "could have been caused by a misaligned desk."⁷

On August 20, 2008 appellant requested reconsideration. She submitted an August 12, 2008 report from Dr. Fields,⁸ who noted, among other things, that appellant was deemed unable to work from January 20 to February 14, 2008 due to cervical strain. Dr. Fields further noted that it was beyond the scope of his practice in internal medicine to assert that the physical findings were or were not due to appellant's employment.

By decision dated October 9, 2008, the Office modified the prior decision to reflect appellant's entitlement to an additional eight hours of wage-loss compensation; four hours each day for medical appointments on March 5 and 12, 2008. It otherwise affirmed the June 19, 2008 decision.

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.⁹ For wage-loss benefits, the claimant must submit medical evidence showing that the condition claimed is disabling.¹⁰ The evidence submitted must be reliable, probative and substantial.¹¹

An injured employee is entitled to compensation for lost wages incurred while obtaining authorized medical services.¹² This includes the actual time spent obtaining the medical services and "a reasonable time spent traveling to and from the [medical] provider's location."¹³ As a matter of practice, the Office generally limits the amount of compensation to four hours with respect to routine medical appointments.¹⁴ However, longer periods of time may be allowed

⁷ Dr. Asrat went on to discuss other dates in August and October 2007 when she treated appellant. This information, however, is not particularly relevant to the claimed periods of disability currently on appeal.

⁸ Appellant also submitted physical therapy treatment records for March 5 and 12, 2008, as well as duplicate copies of previously submitted medical evidence.

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

¹⁰ *Id.* at § 10.115(f).

¹¹ *Id.* at § 10.115.

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

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.901.16a (December 1995).

¹⁴ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Administrative Matters*, Chapter 3.900.8 (November 1998).

when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain the medical care.¹⁵

ANALYSIS

For the period August 6 to 9, 2007, appellant received eight hours of wage-loss compensation for medical appointments on August 8 and 9, 2007. The additional 24 hours claimed during this period are not supported by the record. The August 8, 2007 Kaiser Permanente DMI does not contain sufficient information to establish an employment-related disability from August 6 to 8, 2007. The author of the report is unclear. Although Dr. Tang indicated that appellant was seen on August 6, 2007 by a per diem physician, the record does not include any treatment records associated with appellant's August 6, 2007 appointment. Furthermore, Dr. Manoharan's August 2 and 8, 2007 reports indicated that appellant was able to work without restrictions. Accordingly, the record does not establish that her claimed disability between August 6 and 8, 2007 was causally related to her accepted cervical strain.

The medical evidence is similarly deficient with respect to appellant's claimed disability during the period August 22 to 27, 2007. The August 21, 2007 DMI signed by Dr. Asrat placed appellant on limited duty beginning August 22, 2007. Dr. Asrat did not indicate that appellant was totally disabled. She subsequently explained that the limitations imposed were based entirely upon appellant's representation about specific work activities that exacerbated her symptoms. The work restrictions were not the product of Dr. Asrat's independent medical assessment. Moreover, Dr. Asrat did not unequivocally attribute appellant's then-current symptoms to her accepted employment injury. She merely noted that appellant's symptoms "*could* have been caused by a misaligned desk." Therefore, Dr. Asrat's opinion is insufficient to establish appellant's claimed disability during the period August 22 to 27, 2007.

Dr. Fields excused appellant from work for the period February 1 to 14, 2008. However, his January 31, 2008 DMI offers no justification for her absence. Dr. Fields' February 6, 2008 letter indicated that appellant's excused absence was purely prophylactic. He explained that he had given her time off from work until her employer could obtain suitable office equipment with proper back support to prevent further deterioration. This does not establish that appellant was unable to work. Furthermore, Dr. Fields' February 6, 2008 letter attributed her chronic back pain to a nonergonomic work environment. However, in his August 12, 2008 letter, he indicated that it was beyond the scope of his practice in internal medicine to assert that the physical findings were or were not due to appellant's employment. Thus, it appears that Dr. Fields is uncertain as to the cause of appellant's back condition. Consequently, his reports are insufficient to establish that she was totally disabled due to her accepted condition during the period February 1 to 14, 2008.

On appeal, appellant presented a number of additional arguments, which the Board acknowledges. Although important to her, these arguments do not advance the current appeal. They are largely unrelated to the question of appellant's claimed entitlement to wage-loss compensation. As such, the Board will not specifically address her arguments with respect to

¹⁵ *Id.*

alleged bias, her need for ongoing medical treatment, appropriate workplace accommodations and her general dissatisfaction with the medical care she has received.

CONCLUSION

Appellant failed to establish entitlement to wage-loss compensation for the period August 6 to 9 and 22 to 27, 2007 and February 1 to 14, 2008.

ORDER

IT IS HEREBY ORDERED THAT the October 9, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 18, 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