

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

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D.C., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,  
Dallas, TX, Employer

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**Docket No. 10-1293  
Issued: February 11, 2011**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On April 6, 2010 appellant filed a timely appeal from a March 19, 2010 merit decision 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.

**ISSUE**

The issue is whether appellant was entitled to wage-loss compensation benefits between November 21, 2005 and April 21, 2006 causally related to his federal employment.

**FACTUAL HISTORY**

Appellant, a 49-year-old letter carrier, injured his groin on November 1, 2005 while picking up mail trays. He filed a claim for benefits, which the Office accepted for left-sided inguinal hernia.

On February 14, 2006 Dr. Mark L. Bailey, a specialist in general surgery and attending treating physician, requested authorization from the Office to perform left inguinal hernia

surgery on February 20, 2006. He performed this procedure on February 21, 2006. By letter dated February 22, 2006, the Office authorized the left inguinal hernia surgery.

In a Form CA-7a time analysis sheet dated March 29, 2006, it was indicated that appellant had been off work on annual leave from February 21 to March 18, 2006. Appellant returned to work on March 20, 2006.

On April 14, 2006 appellant filed a Form CA-7, seeking compensation for wage loss from November 21, 2005 to April 1, 2006. In reports dated February 28 and March 29, 2006, Dr. Bailey indicated that appellant was able to return to work as of March 20, 2006 following surgery.

By letter dated May 12, 2006, the Office advised appellant that it required reasoned medical opinion to determine whether he was eligible for wage-earning compensation for the requested period. It advised him that off work slips and duty status slips were not sufficient to support the claimed period of disability. Appellant did not submit any additional medical evidence.

By decision dated March 19, 2010, the Office denied appellant's claim. It found that the medical evidence was not sufficient to establish the claimed period of compensation.

### **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 by the weight of the evidence.<sup>2</sup> Under the Act, the term disability is defined as an inability, due to an employment injury, to earn the wages the employee was receiving at the time of injury, *i.e.*, an impairment resulting in loss of wage-earning capacity.<sup>3</sup> For each period of disability claimed, the employee has the burden of establishing that he or she was disabled for work as a result of the accepted employment injury.<sup>4</sup> Whether a particular injury causes an employee to become disabled for work and the duration of that disability are medical issues that must be established by a preponderance of probative and reliable medical opinion evidence.<sup>5</sup> The Board will not require the Office to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his disability and entitlement to compensation.<sup>6</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *See Prince E. Wallace*, 52 ECAB 357 (2001).

<sup>4</sup> *Dennis J. Balogh*, 52 ECAB 232 (2001).

<sup>5</sup> *Gary L. Watling*, 52 ECAB 278 (2001).

<sup>6</sup> *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

Chapter 2.807.17(c) of the Federal (FECA) Procedural Manual, Part 2 -- Continuation of Pay and Initial Payments, *Timely Payment of Compensation*, Medical Evidence, (March 2004) states:

“c. Medical Evidence. Absent information that the claimant has returned to duty, the claims examiner [CE] may authorize the payment of compensation for wage loss based on medical evidence of injury-related disability for the period claimed or the period for which compensation is being authorized.

(1) Medical evidence may take the form of:

(a) Form CA-16, Form CA-20 or Form CA-17 with a period of disability indicated.

(b) Medical notes from the attending physician indicating that the claimant is not to work until the next scheduled office visit, at which time he/she will be reevaluated.

(c) Hospital records indicating disability for the period in question.

(d) A current narrative medical report indicating disability for the period in question or projecting disability through the period claimed.”<sup>7</sup>

### ANALYSIS

The Office accepted appellant’s claim for left inguinal hernia. Appellant’s treating physician, Dr. Bailey, requested authorization to perform surgery on February 14, 2006. The Office authorized surgery which appellant underwent surgery on February 21, 2006. Appellant subsequently submitted a claim for wage-loss compensation November 21, 2005 to April 1, 2006.

The Board finds that the medical evidence is sufficient to support total disability from February 21 to March 20, 2006, the period authorized for surgery for his accepted left inguinal hernia condition. Dr. Bailey reported that appellant underwent surgery on February 21, 2006 and was to remain off work, due to the surgery until March 20, 2006. The medical evidence from Dr. Bailey establishes the period of disability related to surgery for the accepted condition, as set out in Chapter 2.807.17(c) of the Federal (FECA) Procedural Manual. The Office asked appellant in a March 12, 2006 developmental letter to submit a reasoned medical opinion to support the requested periods of disability. The record reveals that it had already accepted that he sustained a left inguinal hernia in the performance of duty on November 1, 2005 and authorized surgery for this condition based on the reports of Dr. Bailey. The Office’s February 22, 2006 authorization for surgery allowed treatment for the period February 22 to March 20, 2006, the date appellant was released to return to work. The evidence is sufficient to establish that his

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<sup>7</sup> Federal (FECA) Procedural Manual, Part 2 -- Claims, *Continuation of Pay and Initial Payments*, Chapter 2.807.17(c) (March 2004).

disability was based on his accepted left inguinal hernia condition from February 21, 2006, the date he underwent surgery, to March 20, 2006, the date he returned to work.

Regarding the remainder of the period for which appellant requested compensation, he failed to submit any evidence to substantiate total disability for work due to his accepted condition. On appeal, he contends that he submitted ample medical evidence which was either lost or not considered by the Office. The Board's decision in this case is based on the medical evidence currently of record. The Office's decision is affirmed with regard to the denial of wage loss from November 21, 2005 to February 20, 2006 and March 20 to April 21, 2006.

**CONCLUSION**

The Board finds that appellant established that he was disabled from February 21 to March 20, 2010 causally related to his left inguinal condition. The Board finds that he did not establish that he was disabled from November 21, 2005 to February 20, 2006 or from March 20 to April 21, 2006.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 19, 2010 decision of the Office of Workers' Compensation Programs is affirmed, in part, and set aside in part. The case is remanded for action consistent with this decision of the Board.

Issued: February 11, 2011  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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