

ISSUE

The issue is whether appellant sustained a recurrence of total disability from March 25 to June 26, 2010 due to her accepted employment injury.

FACTUAL HISTORY

On June 27, 1996 appellant, then a 32-year-old data conversion operator, filed an occupational disease claim alleging that on June 26, 2006 she first became aware of her right carpal tunnel syndrome and realized that her condition was caused by her federal employment. OWCP accepted her claim for bilateral carpal tunnel syndrome. On June 22, 2005 appellant underwent right carpal tunnel release to treat her accepted condition.

On January 13, 2006 appellant accepted the employing establishment's job offer for a modified mail processor position effective that date. In an April 7, 2006 decision, OWCP reduced her compensation to zero based on its finding that her actual earnings as a modified mail processor effective January 13, 2006 fairly and reasonably represented her wage-earning capacity.

On March 25, April 21 and May 20, 2010 appellant filed a Form CA-7 for total disability for the period March 25 through June 26, 2010.

In a work capacity evaluation (Form OWCP-5c) dated March 24, April 21 and May 20, 2010, Dr. Patrick McMeans, an attending internist, advised that appellant was unable to perform her regular work duties for an estimated four-week period due to an exacerbation of inflammation in her bilateral hands and diminished grip strength. In a May 12, 2010 medical report, he provided a history that she had carpal tunnel syndrome and muscle spasm for which she was referred to therapy and rehabilitation. Appellant returned to work with restrictions. Dr. McMeans stated that it was imperative that she refrain from performing any vocational duties pending additional diagnostic testing and an evaluation by an orthopedic surgeon to prevent any further exacerbations which would impede her recovery and progress.

In progress notes dated March 24 and May 20, 2010, a physician whose signature is illegible advised that appellant complained about moderately severe pain in her bilateral hands. Appellant experienced numbness, throbbing and tingling while engaged in repetitive movements such as, grasping objects. Her right and left grip strength were diminished. Appellant experienced pain on flexion of her bilateral wrists. The physician placed her off work for four weeks.

In an April 21, 2010 progress note, a nurse practitioner whose signature is illegible listed appellant's bilateral wrist symptoms. The nurse practitioner placed her off work for four weeks.

In a May 20, 2010 magnetic resonance imaging MRI scan report, Dr. Lucky A. Chopra, a radiologist, advised that appellant's right wrist and hand had a homogenous bone marrow signal. There was no intramuscular mass or hematoma. Joint space narrowing was seen at the distal interphalangeal, proximal interphalangeal and the first metacarpal phalangeal joint. Extensor and flexor tendons were intact. There was no acute abnormality noted. Also, on May 20, 2010

Dr. Chopra reported that an MRI scan of appellant's left wrist demonstrated a homogenous bone marrow signal. There was no evidence of contusion or occult fracture. There was no intramuscular mass or hematoma. There was no fluid collection or joint effusion noted. The triangular fibrocartilage complex and interosseous ligaments were intact. There was no acute abnormality noted.

In a June 9, 2010 decision, OWCP denied appellant's claim for compensation for the period March 25 to June 26, 2010. The medical evidence failed to establish a material worsening of her accepted employment-related condition due to her claimed total disability.³

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.⁴ This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force) or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.⁵

When an employee who is disabled from the job she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establishes that she can perform the limited-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and to show that she cannot perform such limited-duty work. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the limited-duty job requirements.⁶

To show a change in the degree of the work-related injury or condition, the claimant must submit rationalized medical evidence documenting such change and explaining how and why the accepted injury or condition disabled the claimant for work on and after the date of the alleged recurrence of disability.⁷

³ Following the issuance of OWCP's June 9, 2010 decision, OWCP received additional evidence. The Board may not consider evidence for the first time on appeal which was not before OWCP at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c)(1).

⁴ 20 C.F.R. § 10.5(x).

⁵ *Id.*

⁶ *Albert C. Brown*, 52 ECAB 152, 154-55 (2000); *Barry C. Petterson*, 52 ECAB 120 (2000); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

⁷ *James H. Botts*, 50 ECAB 265 (1999).

ANALYSIS

OWCP accepted appellant's claim for bilateral carpal tunnel syndrome. Following this injury, she returned to light-duty work. Appellant claimed a recurrence of disability from March 25 to June 26, 2010. Appellant must demonstrate either that her condition has changed such that she could not perform the activities required by her modified job or that the requirements of the limited light-duty job changed.⁸ The Board finds that the record contains no evidence that the limited light-duty job requirements were changed or withdrawn or that her employment-related condition has changed such that it precluded her from performing limited light-duty work.

Dr. McMeans' OWCP-5c forms found that appellant was unable to perform her regular work duties from approximately March 24 through June 17, 2010 due to an exacerbation of inflammation in her bilateral hands and diminished grip strength. Medical evidence which does not offer an opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹ Although Dr. McMeans found that appellant was totally disabled, he did not express an opinion as to whether and how her disability during the stated period was causally related to the accepted employment injury. In a May 12, 2010 report, he found that it was imperative that she refrain from performing any vocational duties pending additional diagnostic testing and orthopedic evaluation to prevent any further exacerbations which would impede her recovery and progress. Dr. McMeans did not express an opinion addressing her disability during the claimed period due to the accepted injury.¹⁰ The Board finds, therefore, that his reports are insufficient to establish appellant's claim.

Similarly, Dr. Chopra's diagnostic test results regarding appellant's bilateral wrist conditions are insufficient to establish her claim for a recurrence of total disability.¹¹ This evidence does not contain any opinion addressing her disability for work from March 25 through June 26, 2010 or how any disability was causally related to the accepted injury.

The March 24 and May 20, 2010 progress notes which contained an illegible signature have no probative value as it is not established that the author is a physician.¹²

The April 21, 2010 progress note which contained an illegible signature of a nurse practitioner does not have any probative medical value. A nurse practitioner is not a physician as

⁸ OWCP is not precluded from adjudicating a limited period of employment-related disability when a formal wage-earning capacity determination has been issued. *Sandra D. Pruitt*, 57 ECAB 126 (2005). See *Katherine T. Kreger*, 55 ECAB 633 (2004).

⁹ *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Willie M. Miller*, 53 ECAB 697 (2002); *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁰ *Id.*

¹¹ *Id.*

¹² See *D.D.*, 57 ECAB 734 (2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

defined under FECA.¹³ The Board finds, therefore, that this evidence is insufficient to establish appellant's claim.

Appellant has not met her burden of proof in establishing that there was a change in the nature and extent of the injury-related condition or a change in the nature and extent of the limited light-duty requirements which would prohibit her from performing the limited light-duty position she assumed after she returned to work.

On appeal, appellant contended that OWCP's denial of her recurrence claim was contrary to the medical evidence of record. For reasons stated above, the Board finds that she did not submit sufficient rationalized medical evidence establishing that she sustained a recurrence of disability during the claimed period due to her accepted employment injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained a recurrence of total disability from March 25 to June 26, 2010 causally related to her accepted employment injury.

¹³ See 5 U.S.C. § 8101(2); *K.H.*, Docket No. 09-2292 (issued May 14, 2010).

ORDER

IT IS HEREBY ORDERED THAT the June 9, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 28, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board