



by another vehicle. She filed a Form CA-1 claim for traumatic injury on April 28, 2010, which OWCP accepted for neck sprain, thoracic strain, lumbar strain and left shoulder strain.<sup>2</sup>

Appellant submitted hospital records and diagnostic test results dated May 1 to 24, 2010. These reports did not bear physician's signatures. Appellant was seen at the Coastal Carolina Hospital on May 1, 2010 for complaints of pain "all over." Her diagnoses were stated as neck sprain, headaches, lumbago and chest pain. Diagnostic imaging performed at the hospital on May 3, 2010 provided an impression of no lumbar spine abnormality. Appellant was again seen in the hospital emergency room on May 12, 2010. Diagnoses were stated as thoracic sprain, lumbar sprain and shoulder/arm sprain. Discharge instructions that day stated that appellant's pain was most likely caused by muscle strain. Appellant was advised to get bedrest as needed and limit bending and lifting activities. She was also seen at the Coastal Carolina Hospital on May 24, 2010, by Dr. Paul Zorch Board-certified in family practice. Appellant was diagnosed with neck sprain and shoulder joint pain. A registered nurse completed a return to work form indicating that she was unable to work for one day. Cervical x-rays taken on May 24, 2010 found no acute cervical spine abnormality.

By decision dated September 13, 2010, OWCP found that appellant was not entitled to continuation of pay for the period June 10 to 16, 2010. It approved continuation of pay May 1, 3 to 5, 12 and 24 to 25 and June 1, 3, 4, 9, 17 and 23 and ongoing for the remaining 30 days.

In a Form SF-50, notice of personnel action, dated May 27, 2010, received by OWCP on September 15, 2010, it noted that appellant's temporary tour of duty with the U.S. Census Bureau ended on May 24, 2010.

In an amended decision dated September 20, 2010, OWCP noted that, based on its receipt of the SF-50, appellant was not entitled to continuation of pay following May 24, 2010.

In an August 25, 2010 report, received by OWCP on September 20, 2010, Dr. K. Craig Boatright, Board-certified in orthopedic surgery, stated that appellant had complaints of pain in the cervicothoracic junction, bilateral upper extremity pain, more on the left than on the right, and right lower extremity pain, posterior thigh. Appellant had been referred to him by Dr. John P. Batson, Board-certified in sports medicine and pain medicine, after her April 27, 2010 motor vehicle accident. Dr. Boatright related that she was diagnosed with cervical strain, then underwent treatment for lumbar and neck pain. On examination, appellant demonstrated cervicothoracic, neck and thoracic pain, low back pain, dysesthesias in her upper extremities, possibly consistent with radiculopathy and right lower extremity pain that could be consistent with right lower extremity radiculopathy. Dr. Boatright indicated that spinal x-rays showed no obvious fracture or malalignment. He advised that x-rays of the cervical spine showed loss of cervical lordosis with disc bulging at C4-5 and C5-6 but no compression of the neurologic elements, secondary to the fact that she had a very large capacious canal. Dr. Boatright noted that appellant underwent a magnetic resonance imaging (MRI) scan of the cervical spine which indicated that she might have some foraminal stenosis, though this was difficult to clearly

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<sup>2</sup> On June 30, 2010 the claimant filed a Form CA-7 claim for wage-loss compensation from May 25 to June 30, 2010 and continuing. On appeal, appellant submitted documentation that she received compensation commencing May 25, 2010.

visualize. He stated that he would reexamine her after she underwent thoracic and lumbar MRI scans.

Dr. Boatright advised that Dr. Batson had previously taken appellant out of work. He stated that he would not change appellant's work status until she had completed her diagnostic workup, including the thoracic and lumbar MRI scans.

In a letter received by OWCP on February 9, 2011, appellant requested reconsideration of OWCP's denial of continuation of pay. She noted that she was requesting continuation of pay for three entire weeks during the period May 3 to 21, 2010. Appellant explained that following her April 27, 2010 employment injury she was able to work until May 1, 2010, when she experienced excruciating back pain. She was admitted to Coastal Carolina Regional Hospital until May 3, 2010, when she informed her supervisor Jeff Press that she could no longer perform her duties because her condition had worsened. Appellant sought treatment from Dr. Black after being released from the hospital. On May 13, 2010 she consulted Dr. Batson. Appellant alleged that there was slow communication between management regarding how to handle her work injury which resulted in a delay in medical treatment and in their receipt of her claim form and medical documents.

Appellant submitted medical reports and disability slips indicating that she was treated for neck and back pain in June, August, October and November 2010 and January and February 2011.

By decision dated April 15, 2011, OWCP denied modification of the September 13, 2010 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of establishing that the essential elements of his or her claim by the weight of the evidence.

In order to establish entitlement to continuation of pay, an employee must establish, on the basis of reliable, probative and substantial evidence, that she was disabled as a result of a traumatic employment injury. As part of this burden, she must furnish medical evidence from a qualified physician who, based on a complete and accurate history, concludes that the employee's disability for specific periods was causally related to such 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 proved by a preponderance of probative and reliable medical opinion evidence.<sup>5</sup> The fact that a condition manifests itself

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Carol A. Dixon*, 43 ECAB 1065 (1992).

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

during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>6</sup>

### ANALYSIS

Appellant has clarified that her claim for continuation of pay is for the continuous period May 3 to 24, 2010. In the instant case, there is no contemporaneous medical evidence bearing on the issue of whether she is entitled to continuation of pay for the period May 3 to 24, 2010. OWCP accepted appellant's claim for neck sprain, thoracic strain, lumbar strain and left shoulder strain.

While the record substantiates that appellant was seen in the emergency room of the Coastal Carolina Hospital on May 1, 12 and 24, 2010 and was diagnosed with neck, shoulder, thoracic and lumbar sprains, none of these hospital records offer a medical opinion regarding her disability status during the claimed continuous period of disability. The Board notes that she did receive continuation of pay for intermittent dates during May 2010, including the dates on which she received emergency room treatment.

In his August 25, 2010 report, Dr. Boatright stated that he was treating appellant after she was referred to him by Dr. Batson following her April 27, 2010 work injury. He noted complaints of cervical, thoracic, bilateral upper extremity and right lower extremity pain. Dr. Boatright indicated that spinal x-rays showed no obvious fracture and no misalignment; cervical demonstrated lordosis with disc bulging at C4-5 and C5-6 with no compression of the neurologic elements. He advised that a cervical MRI scan showed some foraminal stenosis which was difficult to visualize. While Dr. Boatright stated that Dr. Batson had previously taken appellant out of work, he did not specify the periods where she was placed on disability due to her accepted conditions. He stated that he would not change appellant's work status until she had completed her diagnostic workup, including thoracic and lumbar MRI scans he had scheduled.

Dr. Boatright's opinion is of diminished probative value because he did not examine or treat appellant during the period May 3 to 24, 2010. None of the medical reports or disability slips submitted by Dr. Boatright or any other physician in this case described appellant's accepted condition in any detail or how they would have been competent to result in disability at that time.

To establish entitlement to compensation, an employee must establish through competent medical evidence that disability from work resulted from the employment injury.<sup>7</sup> The Board will not require OWCP 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 their disability and entitlement to compensation.<sup>8</sup> Appellant has the burden to demonstrate her disability for work based on

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<sup>6</sup> *Manual Garcia*, 37 ECAB 767 (1986).

<sup>7</sup> *Donald E. Ewals*, 51 ECAB 428 (2000).

<sup>8</sup> *Paul E. Thams*, 56 ECAB 503 (2005).

rationalized medical opinion evidence. The issue of whether a claimant's disability is related to an accepted condition is a medical question which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>9</sup> There is no such evidence in this case. Appellant did not submit a medical opinion or supporting medical rationale from a physician regarding the date that her disability began or his disability for work for any additional periods. The record does not contain a medical opinion rationale explaining how or why her accepted neck sprain, thoracic strain, lumbar strain and left shoulder strain conditions caused disability for the period May 3 to 24, 2010.<sup>10</sup> Appellant has failed to submit sufficient medical evidence to establish that she was disabled due to the employment injury from May 3 to 24, 2010. OWCP properly denied continuation of pay for this period.

### CONCLUSION

The Board finds that OWCP properly determined that appellant was not entitled to continuation of pay for the period May 3 to 24, 2010.

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<sup>9</sup> *Howard A. Williams*, 45 ECAB 853 (1994).

<sup>10</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 15, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 25, 2012  
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