

and then had a period of work-related disability from November 4, 2009 until he was released to full duty on January 5, 2010.

Appellant filed claims for compensation for temporary total disability for February 9 to March 3 and April 21 to May 2, 2011. He submitted a March 3, 2011 note from Dr. Robert J. Harrison, a Board-certified internist specializing in occupational medicine, who advised that appellant could not work due to knee pain. Dr. Harrison diagnosed chondromalacia patella. In a March 28, 2011 report, he stated that appellant was under his care for a previously accepted left knee and leg sprain. Dr. Harrison noted appellant's complaints of chronic moderate left knee pain and stated that a March 11, 2011 magnetic resonance imaging (MRI) scan of the left knee was unchanged since the prior MRI scan. Appellant was given brief periods of time off but returned to full duty on March 7, 2011. Dr. Harrison diagnosed chondromalacia patella and advised that appellant had a recurrence of his previously accepted injury. Although appellant returned to regular employment, his condition was prone to recurrence and would be precipitated by prolonged walking and bending. In a May 2, 2011 note, Dr. Harrison advised that appellant was unable to work due to knee pain.

In a March 29, 2011 report, Dr. Lesley Anderson, a Board-certified orthopedic surgeon, reported that appellant was seen on consultation from Dr. Harrison. She noted a history of injury and course of medical treatment. Dr. Anderson diagnosed chondromalacia patellae, diabetes mellitus and patellar tendinitis. She opined that appellant's tendinosis, chondromalacia and a medial collateral ligament (MCL) sprain were sustained as a result of the physical and repetitive nature of his job and was consistent with the reported history, examination and MRI scan findings. Appellant's subjective complaints were out of proportion to the objective findings as there was no tenderness, effusion or any significant crepitation. Dr. Anderson deferred work restrictions to Dr. Harrison.

OWCP informed appellant in a September 6, 2011 letter that further evidence was needed to establish his claim. It gave him 30 days to submit a medical report from a qualified physician explaining how his work-related condition rendered him unable to perform his federal employment commencing February 9, 2011 or the employing establishment's inability to provide work within his physical limitations. No additional information was received from appellant.

By decision dated October 11, 2011, OWCP denied appellant's compensation claim, finding that the medical evidence did not sufficiently establish total disability for the periods February 9 to March 3 and April 21 to May 2, 2011 or that the employing establishment could not provide light duty within his restrictions.²

² OWCP also noted that appellant had a new traumatic injury on November 9, 2009, which would be considered an intervening cause in his recurrence claim. The record reflects that, in November 18 and December 1, 2010 decisions, OWCP denied claims for wage-loss compensation for periods February to October 2010 finding that evidence from appellant's physician attributed appellant's condition to a new injury occurring on November 19, 2009, which should be pursued through a new traumatic injury claim.

LEGAL PRECEDENT

An employee seeking benefits under FECA bears the burden of proof to establish the essential elements of his or her claim by the weight of the evidence. For each period of disability claimed, the employee must establish that he or she was disabled for work as a result of the accepted employment injury. 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 reliable, probative and substantial medical opinion evidence.³ Such medical evidence must include findings on examination and the physician's opinion, supported by medical rationale, showing how the injury caused the employee disability for his or her particular work.⁴

Monetary compensation benefits are payable to an employee who has sustained wage loss due to disability for employment resulting from the employment injury.⁵ 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 his or her disability and entitlement to compensation.⁶

ANALYSIS

Appellant filed a claim for wage-loss compensation alleging that he was disabled for work from February 9 to March 3, 2011 and April 21 to May 2, 2011. The Board finds that he has not submitted sufficient medical evidence to establish his disability due to his accepted conditions of left knee and leg sprain.

Dr. Harrison who noted that appellant had returned to full duty March 7, 2011 and had an increase in knee pain. He diagnosed chondromalacia patella and stated in his March 3 and May 2, 2011 notes that appellant was unable to work due to knee pain. While Dr. Harrison recommended that appellant be off work, he did not adequately address how appellant was disabled due to the accepted conditions. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁷ The reports are of diminished probative value.

In a March 29, 2011 report, Dr. Anderson opined that appellant's tendinosis, chondromalacia and MCL sprain were sustained as a result of the physical and repetitive nature of his job. She, however, deferred work restrictions to Dr. Harrison and failed to address

³ *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, 55 ECAB 674 (2004).

⁴ *Dean E. Pierce*, 40 ECAB 1249 (1989).

⁵ *Laurie S. Swanson*, 53 ECAB 517, 520 (2002). *See also Debra A. Kirk-Littleton*, 41 ECAB 703 (1990).

⁶ *Jefferson*, *supra* note 3.

⁷ *See C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

whether appellant was disabled to the accepted conditions. Dr. Anderson's report is insufficient to establish appellant's claim.

There is no other probative medial evidence of record which addresses whether appellant was disabled on the dates claimed and explains how this disability is attributable to the May 26, 2009 work injury. Appellant has failed to submit sufficient rationalized medical opinion evidence to establish that he was unable to work on the days claimed due to his accepted conditions. He had failed to establish that he was disabled and, thus, is not entitled to wage-loss compensation from February 9, 2011 onward.

Appellant may submit new evidence of 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 established entitlement to wage-loss benefits for periods of disability from February 9, 2011 onward.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated October 11, 2011 is affirmed.

Issued: November 7, 2012
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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