



evidence submitted at the time of the decision.<sup>2</sup> In a February 6, 2013 decision, the Board affirmed an OWCP decision dated June 20, 2012. The Board found that appellant failed to establish that her disability for the period beginning November 24, 2010 was causally related to her accepted right wrist injury. The facts and circumstances of the case up to that point are set forth in the Board's prior decision and incorporated herein by reference.<sup>3</sup>

In a February 16, 2013 decision, OWCP expanded appellant's claim to include impaction syndrome of the right wrist.

On February 26, 2013 appellant requested reconsideration based on the additional accepted condition. She sought treatment from Dr. Daniel A. Capen, a Board-certified orthopedic surgeon, from February 15 to April 5, 2013, for right wrist pain over the distal aspect of the ulna. Dr. Capen noted tenderness to palpation over the distal aspect of the right wrist, a well-healed incision site with limited range of motion of the wrist and diminished grip strength. He diagnosed internal derangement of the right wrist, status post right wrist surgery, ulnar impaction syndrome and status post right wrist surgery on December 18, 2012. Dr. Capen noted that appellant underwent a debridement of the triangular fibrocartilage and osteotomy of the distal ulna and advised that she could return to work on April 8, 2013.

Appellant was treated by Dr. Andre M.V. Chaves, a Board-certified orthopedic surgeon, for right wrist pain and a triangular fibrocartilage tear. In a July 3, 2012 report, Dr. Chaves noted that she had a work-related injury when she was forcefully removing someone from the employing establishment and twisted her right wrist. He diagnosed ulnar impaction syndrome, status post arthroscopic procedure and repair of the radiocarpal ligament. On December 18, 2012 Dr. Chaves performed an authorized debridement of triangular fibrocartilage and osteotomy of the distal ulna of the right wrist and diagnosed status post repair of the triangular fibrocartilage with persistent pain and impingement syndrome.<sup>4</sup> In reports dated December 24, 2012 to February 12, 2013, he noted appellant's complaints of right wrist pain and diagnosed status post debridement of triangular fibrocartilage. Dr. Chaves opined that she was totally disabled. In a March 26, 2013 report, he noted appellant's complaint of right wrist pain and diagnosed status post debridement of triangular fibrocartilage. In a work status note of March 26, 2013, Dr. Chaves advised that she could return to full duties with restrictions on April 8, 2013. In a May 7, 2013 duty status report, he diagnosed status post debridement of triangular fibrocartilage and advised that appellant could return to work full time modified duty. Appellant also submitted physical therapy notes.

On April 8, 2013 appellant was offered a full-time position as a postal police officer subject to restrictions. She accepted the position and returned to work.

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<sup>2</sup> Docket No. 11-1621 (issued March 12, 2012). On January 23, 2008 appellant, a police officer, injured her right wrist while lifting an unruly child. OWCP accepted the claim for sprain of the right wrist, sprain of the right wrist radiocarpal, late effects of the sprain/strain of the right wrist without tendon injury and tear of the triangular fibrocartilage. It authorized right wrist surgery that was performed on June 9, 2008. Appellant returned to limited duty and had intermittent disability.

<sup>3</sup> Docket No. 12-1546 (issued February 6, 2013).

<sup>4</sup> OWCP paid appellant appropriate wage-loss compensation beginning December 18, 2012.

In a decision dated May 15, 2013, OWCP denied appellant's claim for compensation for total disability for the period beginning November 24, 2010.

### **LEGAL PRECEDENT**

A claimant has the burden of proving by a preponderance of the evidence that he or she is disabled for work as a result of an accepted employment injury and submit medical evidence for each period of disability claimed.<sup>5</sup> Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues.<sup>6</sup> The issue of whether a particular injury causes disability for work must be resolved by competent medical evidence.<sup>7</sup> To meet this burden, a claimant must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting a causal relationship between the alleged disabling condition and the accepted injury.<sup>8</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 his or her disability and entitlement to compensation. 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>9</sup>

### **ANALYSIS**

OWCP accepted appellant's claim for sprain of the right wrist, sprain of the right wrist radiocarpal, late effects of the sprain/strain of the right wrist without tendon injury and tear of the triangular fibrocartilage. It authorized right wrist surgery which was performed on June 9, 2008. Appellant stopped work on November 23, 2010 and returned to a limited-duty job on December 1, 2010. She worked at limited duty until January 27, 2011, when she stopped work. On June 24, 2011 appellant returned to a limited-duty position and stopped work in December 2012. On December 18, 2012 she underwent an authorized debridement of triangular fibrocartilage and osteotomy of the distal ulna of the right wrist. Appellant returned to work full time modified duty on April 8, 2013.

The Board finds that the medical evidence is insufficient to establish that she was disabled beginning November 24, 2010 caused or aggravated by her accepted right wrist conditions.<sup>10</sup>

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<sup>5</sup> See *Fereidoon Kharabi*, 52 ECAB 291 (2001).

<sup>6</sup> *Id.*

<sup>7</sup> See *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>8</sup> *C.S.*, Docket No. 08-2218 (issued August 7, 2009).

<sup>9</sup> *Sandra D. Pruitt*, 57 ECAB 126 (2005).

<sup>10</sup> Although OWCP denied that appellant had total disability beginning November 24, 2010, it paid her wage-loss compensation for intermittent hours of wage loss incidental to her medical appointments. It also paid her

Appellant submitted treatment notes from Dr. Capen from February 15 to April 5, 2013, who noted positive findings upon examination and diagnosed internal derangement of the right wrist, status post right wrist surgery, ulnar impaction syndrome and status post right wrist surgery on December 18, 2012. Dr. Capen noted that appellant underwent a debridement of the triangular fibrocartilage and osteotomy of the distal ulna and advised that she could return to work on April 8, 2013. However, his reports are insufficient to establish her claim as he did not provide a history of injury<sup>11</sup> or specifically address the cause of her claimed disability beginning November 24, 2010.<sup>12</sup> Therefore, Dr. Capen's reports are insufficient to meet appellant's burden of proof.

On July 3, 2012 Dr. Chaves noted that appellant sustained a work-related injury when she was forcefully removing someone from the employing establishment and twisted her right wrist. He diagnosed ulnar impaction syndrome and performed repair of the radiocarpal ligament on December 18, 2012. In reports dated December 24, 2012 to February 12, 2013, Dr. Chaves noted appellant's complaints of pain in the right wrist and diagnosed status post debridement of triangular fibrocartilage. While Dr. Chaves opined that appellant was totally disabled from work, he did not specifically address her disability beginning November 24, 2010 which occurred prior to her December 18, 2012 surgery. Dr. Chaves' subsequent reports addressed appellant's current status but did not address the nature or periods of disability beginning November 24, 2010, prior to her December 18, 2012 surgery. He did not explain how any period of disability between November 24, 2010 and December 18, 2012 was employment related. As noted, part of appellant's burden of proof includes submitting rationalized medical evidence which supports a causal relationship between the disabling condition and the accepted injury.<sup>13</sup> Therefore Dr. Chaves' reports are insufficient to meet her burden of proof.

Appellant also submitted physical therapy notes. The Board has held that treatment notes signed by a physical therapist are not considered medical evidence as these providers are not a physician under FECA.<sup>14</sup>

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.

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compensation for total disability after her December 18, 2012 surgery. These payments are not at issue in the present appeal.

<sup>11</sup> *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

<sup>12</sup> *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

<sup>13</sup> *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

<sup>14</sup> *See David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician's assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a "physician" as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law).

**CONCLUSION**

The Board finds that appellant has failed to establish that her disability for the period beginning November 24, 2010 is causally related to the accepted employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 15, 2013 is affirmed.

Issued: December 5, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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