

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

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M.R., Appellant

and

**U.S. POSTAL SERVICE, PROCESSING &  
DISTRIBUTION CENTER, Santa Clarita, CA,  
Employer**

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**Docket No. 13-590  
Issued: June 7, 2013**

*Appearances:*

*Appellant, pro se*

*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**Before:**

RICHARD J. DASCHBACH, Chief Judge  
PATRICIA HOWARD FITZGERALD, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On January 15, 2013 appellant timely appealed the November 29, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP) which denied wage-loss compensation for a specific period. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

**ISSUE**

The issue is whether appellant is entitled to wage-loss compensation from May 1 through July 17, 2012.

**FACTUAL HISTORY**

Appellant, a 53-year-old mail handler, injured her left foot in the performance of duty on January 13, 2012. OWCP accepted her traumatic injury claim for a nondisplaced fracture of the

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

left fifth toe. Appellant received continuation of pay through February 27, 2012. OWCP paid her wage-loss compensation through April 29, 2012.

Dr. C. Arthur Sciaroni, a Board-certified orthopedic surgeon, performed a follow-up examination on April 17, 2012. He released appellant to return to regular work effective April 30, 2012.<sup>2</sup> In an April 27, 2012 duty status report (Form CA-17), however, Dr. Sciaroni advised that she was unable to perform her regular duties. He noted that appellant could work an eight-hour day with restrictions of two hours walking and standing, and no squatting, kneeling and climbing. The work restrictions were to remain in effect 6 to 12 weeks. Appellant returned to work in a part-time, limited-duty capacity on May 5, 2012.

Effective May 15, 2012, Dr. Sciaroni increased appellant's standing and walking restrictions to four hours each and imposed a 10-pound lifting/carrying restriction. In a May 30, 2012 duty status report, he advised that she could work as a mail handler with six hours each of standing and walking. Dr. Sciaroni stated that appellant should be permitted to sit for a total of two hours each shift. Appellant missed her June 27, 2012 appointment. When Dr. Sciaroni next saw her on July 17, 2012, he released her to resume her regular, full-time work without restrictions effective July 18, 2012.

In October 2012, appellant filed a claim for intermittent wage loss during the period May 1 through July 14, 2012.

In a letter dated October 17, 2012, OWCP advised appellant that additional medical evidence was required to establish her entitlement to wage-loss compensation for the claimed period. It reviewed Dr. Sciaroni's treatment reports from April through July 2012 and it appeared that the work restrictions were imposed at her directive. OWCP noted that Dr. Sciaroni's reports did not include objective medical findings to support disability for work. Appellant was afforded 30 days to submit additional medical evidence.

OWCP received another copy of a May 2012 duty status report, but did not otherwise receive any additional medical evidence.

By decision dated November 29, 2012, OWCP denied appellant's claim for intermittent wage-loss compensation for the period May 1 through July 14, 2012.

#### **LEGAL PRECEDENT**

For wage-loss benefits the claimant must submit medical evidence showing that the condition claimed is disabling.<sup>3</sup> The evidence submitted must be reliable, probative and substantial.<sup>4</sup> Benefits are available only while the effects of a work-related condition continue.<sup>5</sup>

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<sup>2</sup> Dr. Sciaroni initially examined appellant on January 18, 2012, at which time he diagnosed nondisplaced fracture, left fifth metatarsal.

<sup>3</sup> 20 C.F.R. § 10.115(f).

<sup>4</sup> *Id.* at § 10.115.

<sup>5</sup> *Id.* at § 10.500(a).

Compensation for wage loss due to disability is available for periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.<sup>6</sup> The employee is responsible for providing sufficient medical evidence to justify payment of any compensation sought.<sup>7</sup>

### ANALYSIS

From May through mid-July 2012 appellant worked from two to six hours a day under restrictions of Dr. Sciaroni who did not preclude her from working full time during the claimed period; rather he limited the amount of time she could perform certain tasks, such as standing or walking, during the course of an eight-hour shift. For example, in his May 30, 2012 examination report, Dr. Sciaroni noted that appellant was released to perform mail handler duties, but for one month she should be able to sit for a cumulative two hours an eight-hour shift. Beginning June 1, 2012, appellant worked six hours a day which she continued through mid-July 2012. Dr. Sciaroni clearly did not limit appellant to only part-time work and there is no indication from the record that the employing establishment was unable to provide full-time, limited-duty work.

OWCP stated that Dr. Sciaroni appeared to be accommodating appellant's requests. His May 30, 2012 report lends credence to this determination. At the outset of this report, Dr. Sciaroni stated that appellant returned early because she wanted to work as a mail handler but be allowed to sit for a total of two hours each shift. He also noted that she was having less left foot pain; but was still using crutches some four months post injury. On physical examination, appellant's left foot/ankle was essentially normal. Dr. Sciaroni accommodated her wishes and imposed restrictions that enabled appellant to sit for a cumulative two hours per eight-hour shift. It is not entirely clear that his noted limitations were based on appellant's request or the physical findings made on examination. OWCP advised appellant of its concerns regarding Dr. Sciaroni and afforded her an opportunity to submit additional medical evidence. Appellant did not respond. Accordingly, the Board finds that OWCP properly denied her claim for wage-loss compensation.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision.<sup>8</sup>

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<sup>6</sup> See *Tammy L. Medley*, 55 ECAB 182, 184 (2003). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.

<sup>7</sup> *Id.* at § 10.501(a).

<sup>8</sup> See 5 U.S.C. § 8128(a); 20 C.F.R. §§ 10.605-10.607.

**CONCLUSION**

Appellant failed to establish that she was totally disabled for the period May 1 through July 17, 2012.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 29, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 7, 2013  
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