

FACTUAL HISTORY

On December 6, 2011 appellant, a 44-year-old claims examiner, sustained a traumatic injury in the performance of duty when his chair broke. OWCP accepted his claim for neck and back sprains of the thoracic and lumbar spine.

Appellant claimed compensation for wage loss from January 20 to February 4, 2012. He submitted a January 30, 2012 note from Dr. Rajesh Rao, a Board-certified physiatrist, asking to please excuse appellant from work from January 20 through February 26, 2012. “[Appellant] was treated at our office.” Dr. Rao’s examination of the cervical spine that day found mild paraspinal tenderness bilaterally and was otherwise normal. Examination of the lumbar spine showed mild scoliosis of the thoracic and lumbar spine, terminally restricted range of motion, decreased extension, with extension and rotation to the right reproducing back pain only, mildly decreased flexion and hamstring tightness on the right. Paraspinal muscle strength was normal, as was the remainder of the examination. Dr. Rao diagnosed myofascial pain and lumbar sprain/strain and noted “recent work-related sprain, old injury related to [motor vehicle accident].” He added: “[Appellant] will continue therapy for the next [four] weeks and return to duty.”

During the period of disability claimed, appellant received about an hour of physical therapy on several occasions. He also saw a chiropractor, Dr. Michael L. Maher, on several more.

On January 3, 2012 Dr. Rao indicated that he was switching appellant from Flexeril to Skelaxin, but on January 30, 2012 appellant explained that he did not get the Skelaxin prescription filled due to insurance issues and he was not taking Flexeril.

In a March 8, 2012 decision, OWCP denied appellant’s claim for compensation beginning January 20, 2012. It found that no medical report provided a well-rationalized medical opinion to explain why he was totally disabled for work beginning January 20, 2012.

On March 1, 2012 Dr. Rao stated that his medical reason that appellant was not able to return to work from January 3 to March 1, 2012: “[Appellant] states that he used to get dizziness on taking muscle relaxants and was not able to drive. He needed time for physical therapy.”

On September 18, 2012 an OWCP hearing representative affirmed the denial of appellant’s claim for compensation beginning January 20, 2012. The hearing representative noted that Dr. Rao did not adequately explain the basis of appellant’s total disability status, in view of his minimal findings on examination. Although Dr. Rao related what appellant told him about getting dizzy when taking muscle relaxants and not being able to drive, Dr. Rao himself provided insufficient explanation why appellant could not work.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.² “Disability” means the incapacity, because

² *Id.* at § 8102(a).

of an employment injury, to earn the wages the employee was receiving at the time of injury. It may be partial or total.³

It is not sufficient for the claimant to establish merely that he has disability for work. He must establish that his disability is causally related to the accepted employment injury. The claimant must submit a rationalized medical opinion that supports a causal connection between the disability claimed and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the employment injury and must explain from a medical perspective how the claimed disability is related to the injury.⁴

Generally, findings on examination are needed to justify a physician's opinion that an employee is disabled for work.⁵ The Board has held that, when a physician's statements regarding an employee's ability to work consist only of a repetition of the employee's complaints, without objective signs of disability being shown, the physician has not presented adequate medical opinion on the issue of disability or a basis for payment of compensation.⁶

ANALYSIS

Appellant claimed compensation for total disability beginning January 20, 2012. He has the burden to establish that the disability for which he claims compensation is causally related to his December 6, 2011 employment injury.

There is little medical opinion evidence in the record addressing the period of disability claimed. Dr. Rao, the physiatrist, provided a disability slip asking that appellant be excused from work from January 20 through February 26, 2012. But the explanation that appellant "was treated at our office" does not explain his total disability for the period commencing January 20, 2012.

Dr. Rao did not explain how any of the findings on physical examination disabled appellant from performing his duties as a claim examiner. Other than recognizing that appellant worked as a claims examiner, he did not demonstrate any awareness of the physical demands of that position. If mild tenderness in the neck or decreased back extension or mildly decreased flexion or hamstring tightness prevented appellant from engaging in his work duties, Dr. Rao did not explain.

Dr. Rao's March 1, 2012 report stated as the reason appellant was not able to return to work from January 3, to March 1, 2012: Appellant related that he became dizzy taking muscle relaxants and was not able to drive. Further, he needed time for physical therapy. But this opinion is not well explained. A question that arises is whether appellant was currently taking a muscle relaxant. Dr. Rao's January 3, 2012 report indicated that he was switching appellant

³ 20 C.F.R. § 10.5(f) (1999).

⁴ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

⁵ *See Dean E. Pierce*, 40 ECAB 1249 (1989); *Paul D. Weiss*, 36 ECAB 720 (1985).

⁶ *John L. Clark*, 32 ECAB 1618 (1981).

from Flexeril to Skelaxin, but on January 30, 2012 appellant explained that he did not get the Skelaxin prescription filled and he was not taking Flexeril. It does not appear therefore that appellant was disabled beginning January 20, 2012 because of muscle relaxants.

The record supports that appellant received about an hour of physical therapy on several occasions during the period of disability claimed. He also saw his chiropractor. Appellant saw Dr. Rao a couple of times. This is not sufficient to find that he was totally disabled for the entire period. Appellant may be entitled to wage-loss compensation under 5 U.S.C. § 8105 for obtaining medical services and for a reasonable amount of time spent traveling to and from the provider's location.⁷ Incidentally, Dr. Rao did not explain whether appellant was able to commute or drive to and from any medical appointments or physical therapy during the period of disability claimed but not to and from his place of work.

The Board finds that appellant has not met his burden to establish that his employment injury caused total disability for work beginning January 20, 2012. The Board will affirm OWCP's September 18, 2012 decision denying compensation for total disability. On return of the record OWCP should develop whether appellant is entitled to compensation for wage loss while obtaining medical services during the period of disability claimed.

CONCLUSION

The Board finds that appellant has not met his burden to establish that his employment injury caused total disability for work beginning January 20, 2012.

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.901.16 (October 2009).

ORDER

IT IS HEREBY ORDERED THAT the September 18, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 28, 2013
Washington, DC

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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

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