

September 26, 2012, OWCP accepted the claim for a lumbar sprain and brachial neuritis or radiculitis.

Appellant filed a claim for compensation (Form CA-7) for leave without pay beginning July 14, 2012. She received wage-loss compensation for the period July 14 to September 21, 2012. On October 15, 2012 appellant filed a Form CA-7 for leave without pay for the period September 22 to October 7, 2012.

In an October 5, 2012 medical report, Dr. Mark A. Cohen, a Board-certified orthopedic surgeon, reported that symptoms in appellant's back and neck had resolved. Appellant was back to her normal routine without any problems and could return to full duty.

By letter dated November 1, 2012, OWCP informed appellant that the medical evidence of record was insufficient to support her disability for work from September 22 through October 7, 2012. Appellant was advised to submit additional medical evidence for the period claimed.

In an October 5, 2012 Duty Status Report (Form CA-17), Dr. Cohen advised that appellant could return to full duty and resume work beginning August 31, 2012.

By decision dated August 28, 2013, OWCP denied appellant's claim for wage-loss compensation from September 22 to October 7, 2012.

LEGAL PRECEDENT

Under FECA,² the term disability is defined as the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.³ Disability is not synonymous with a physical impairment which may or may not result in an incapacity to earn the wages. An employee who has a physical impairment causally related to a federal employment injury but who nonetheless has the capacity to earn wages he or she was receiving at the time of injury has no disability as that term is used in FECA.⁴

Whether a particular injury causes an employee to be disabled and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative and substantial medical evidence.⁵ Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work. When a physician's statements consist only of a repetition of the employee's complaints that excessive pain caused an inability to work, without making an objective finding of disability, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.⁶ The Board

² 5 U.S.C. §§ 8101-8193.

³ See *Prince E. Wallace*, 52 ECAB 357 (2001).

⁴ *Cheryl L. Decavitch*, 50 ECAB 397 (1999); *Maxine J. Sanders*, 46 ECAB 835 (1995).

⁵ See *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001); *Edward H. Horton*, 41 ECAB 301, 303 (1989).

⁶ *G.T.*, 59 ECAB 447 (2008); see *Huie Lee Goal*, 1 ECAB 180,182 (1948).

will not require OWCP to pay compensation for disability without any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.⁷

ANALYSIS

OWCP accepted appellant's claim for lumbar sprain and brachial neuritis or radiculitis. Appellant has the burden of proving by the weight of the substantial, reliable and probative evidence a causal relationship between her claimed disability from September 22 to October 7, 2012 and the accepted back conditions.⁸ The reports of her physician do not provide a rationalized medical opinion finding her disabled for work for the claimed period due to her accepted conditions. Therefore, the medical evidence submitted is insufficient to meet appellant's burden of proof.⁹

In an October 5, 2012 medical report and Form CA-17, Dr. Cohen advised that appellant's back and neck condition had resolved. He noted that she could return to work full duty. The Form CA-17 stated that appellant could resume work beginning August 31, 2012, prior to the period of claimed disability. The medical reports submitted by appellant do not establish that she was disabled during the period September 22 to October 7, 2012. Rather, they indicate that she was no longer disabled as of August 31, 2012 and could resume work at full duty. Dr. Cohen does not support a finding that she was disabled from her back injury beginning September 22, 2012 as the reports indicated that her condition had resolved.¹⁰

Appellant has not submitted any further reasoned medical opinion to establish her disability for the period September 22 to October 7, 2012 as a result of her accepted lumbar sprain and brachial neuritis or radiculitis. The Board finds that OWCP properly denied her claim for disability compensation.

On appeal appellant also alleges that she has dependents and that the wage-loss benefits she received were incorrectly paid at the basic statutory rate of two-thirds, rather than the three-fourths augmented rate paid for employee's with dependents.¹¹ The record indicates that appellant was paid at the two-thirds rate, because her initial CA-7 forms did not list any dependents. On October 15, 2012 however appellant completed a CA-7 form in which she listed her four dependents. As the Board does not presently have jurisdiction of this issue, she may address this matter to OWCP.

⁷ *Id.*

⁸ *See Amelia S. Jefferson*, 57 ECAB 183 (2005).

⁹ *Alfredo Rodriguez*, 47 ECAB 437 (1996).

¹⁰ *See Brenda L. DuBuque*, 55 ECAB 212 (2004); *see also David L. Scott*, 55 ECAB 330 (2004); *Willa M. Frazier*, 55 ECAB 379 (2004).

¹¹ *See* 5 U.S.C. § 8110.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant failed to establish that she was disabled due to her June 10, 2012 injury for the period September 22 to October 7, 2012.

ORDER

IT IS HEREBY ORDERED THAT the August 28, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 12, 2014
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

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