



spreading mail.<sup>2</sup> On March 10, 2011 OWCP accepted a cervical strain condition. It subsequently accepted aggravation of degeneration of a cervical intervertebral disc at C5-6. Appellant worked intermittently, stopped and received wage-loss compensation. She was placed on the periodic compensation rolls.

In May 2012, OWCP referred appellant to Dr. David G. Changaris, a Board-certified neurosurgeon, for a second-opinion evaluation. In reports dated July 9 and 13, 2012, Dr. Changaris diagnosed cervical spondylosis, right shoulder restriction and nonanatomic sensory loss of the right arm. He noted that appellant's major pain was in her right shoulder, noting that cervical spondylosis could cause neck pain which in turn caused people not to move their shoulders, which could cause frozen shoulder syndrome. Dr. Changaris provided restrictions to her physical activity and concluded that she believed that she was not capable of returning to work at the employing establishment.<sup>3</sup>

Appellant returned to modified duty as a passport clerk for six hours daily on May 21, 2013. The duties of the position included processing passports for six hours daily. This entailed writing, using a keyboard, taking pictures and putting documents in envelopes. On August 22, 2013 appellant accepted a modified position for 5.5 hours daily at a different branch under duress. The position was described as processing passports and with lobby assistant and automated postal center (APC) assistant duties. The physical restrictions were in conformance with those provided by Dr. Changaris. In an attached statement, appellant maintained that she was being transferred in retaliation for filing Equal Employment Opportunity claims. She continued to receive wage-loss compensation for 2 to 2.5 hours daily.<sup>4</sup>

On December 26, 2013 appellant filed a traumatic injury claim, alleging that she injured her right shoulder that day while pushing an empty mail cart. In an undated statement, she noted that she injured her right shoulder the previous day when pushing a mail cart. The pain was so severe appellant nearly passed out. On December 26, 2013 Dr. Reggie D. Lyell, Board-certified in family medicine, advised that she was seen that day for an acute flare of a chronic medical issue and needed to see a shoulder specialist to better evaluate her condition. He advised that appellant could continue restricted duty.

In a December 30, 2013 report, Dr. Louie N. Williams, a Board-certified physiatrist, noted appellant's report of constant left shoulder pain. He listed a history that she had injured her right shoulder on December 26, 2013 with such severe pain that she had difficulty with

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<sup>2</sup> On April 4, 2007 appellant sustained an employment-related sprain of the back, thoracic region, sprains of the left shoulder and upper arm and temporary aggravation of cervical degenerative disc disease. Beginning in February 2008, she began a modified position, until she stopped work on December 16, 2010. The April 2007 injury was adjudicated by OWCP under file number xxxxxx851 and the December 2010 injury under file number xxxxxx251. The claims were doubled. The Board also notes that appellant receives benefits from the Department of Veterans Affairs.

<sup>3</sup> The restrictions were no reaching above the shoulder, twisting, bending, stooping, squatting, kneeling or climbing. Repetitive movements of the wrists and elbows and pushing, pulling and lifting three pounds were limited to one to two hours daily.

<sup>4</sup> Appellant repaid an overpayment of compensation of \$819.05 that was created because she continued to receive total disability compensation after her return to work.

activity and was unable to work. Physical examination demonstrated significant tenderness in the right posterior shoulder and bilateral neck and decreased shoulder range of motion. Dr. Williams diagnosed cervical degenerative disc disease, bursitis and tendinitis. He advised that appellant should not work for one month. In a January 14, 2014 treatment note, Dr. Cyna Khalily, a Board-certified orthopedic surgeon, noted a history of right shoulder pain that began three years previously after an employment injury. Appellant reported that the pain had worsened and that she was unable to raise her right arm above the shoulder level or to lift with the right shoulder. Physical examination findings included diffuse right shoulder tenderness. Dr. Khalily diagnosed shoulder pain and recommended a right shoulder magnetic resonance imaging scan study.

On January 23, 2014 Dr. Williams noted that appellant's neck and shoulder pain had improved. On January 27, 2014 he indicated that she had an acute flare up of her chronic neck condition on December 30, 2013 and was advised at that time to not work for 30 days. Dr. Williams indicated that on January 16 and 29, 2014 appellant had cervical epidurals and on January 23, 2014 was reevaluated and advised to remain off work for three more weeks. On February 6, 2014 he reported that her neck pain was better.

In procedure notes dated January 15 and 29, 2014, Dr. Raghunath Gudibanda, a neurologist who practices pain management, obtained a history of neck pain radiating into both upper extremities, right greater than left. Physical examination findings included restricted cervical spine range of motion with myofascial tenderness. Dr. Gudibanda performed cervical epidural steroid injections.<sup>5</sup>

Appellant also filed Form CA-7, claims for compensation commencing December 30, 2013. By letters dated January 29 and February 12, 2014, OWCP informed her of the evidence needed to establish her claim for wage-loss compensation. A memorandum to file dated March 5, 2014 indicated that the traumatic injury claim for a December 26, 2013 incident had been assigned claim number xxxxxx843. OWCP noted that appellant had filed CA-7 form claims for compensation subsequent to the December 26, 2013 incident and had advised OWCP that her claimed disability was as a result of the accepted neck injury and had nothing to do with the December 26, 2013 shoulder injury. The medical evidence submitted with the CA-7 form claims, however, noted that she had been performing new job duties since September 2013 and the claims were consolidated under file number xxxxxx843 for adjudication.

By decision dated April 16, 2014, OWCP denied appellant's claim for total disability compensation for the period December 30, 2013 through February 6, 2014. It found that the medical evidence did not establish that her claimed disability was due to the accepted cervical condition. OWCP noted that appellant remained entitled to compensation for 2.5 hours each day but was not entitled to compensation for total disability.

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<sup>5</sup> Appellant also submitted disability slips dated December 30, 2013 and January 23, 2014 completed by Whitney Stowers, a medical assistant, and Susan Hampton, a nurse practitioner, respectively.

## LEGAL PRECEDENT

Under FECA the term “disability” is defined as incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of injury.<sup>6</sup> Disability is thus not synonymous with 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<sup>7</sup> and whether a particular injury causes an employee disability for employment is a medical issue which must be resolved by competent medical evidence.<sup>8</sup> Whether a particular injury causes an employee to be disabled for work and the duration of that disability, are medical issues that must be proved by a preponderance of the reliable, probative and substantial medical evidence.<sup>9</sup>

The Board will not require OWCP to pay compensation for disability in the absence of 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.<sup>10</sup> Furthermore, it is well established that medical conclusions unsupported by rationale are of diminished probative value.<sup>11</sup>

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>12</sup> Rationalized medical evidence is medical evidence which includes a physician’s rationalized medical opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>13</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>14</sup>

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<sup>6</sup> See *Prince E. Wallace*, 52 ECAB 357 (2001).

<sup>7</sup> *Cheryl L. Decavitch*, 50 ECAB 397 (1999); *Maxine J. Sanders*, 46 ECAB 835 (1995).

<sup>8</sup> *Donald E. Ewals*, 51 ECAB 428 (2000).

<sup>9</sup> *Tammy L. Medley*, 55 ECAB 182 (2003); see *Donald E. Ewals*, *id.*

<sup>10</sup> *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

<sup>11</sup> *Jacquelyn L. Oliver*, 48 ECAB 232 (1996).

<sup>12</sup> *D.G.*, 59 ECAB 734 (2008).

<sup>13</sup> *Id.*

<sup>14</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

## ANALYSIS

The Board finds that appellant did not meet her burden of proof to establish that she was totally disabled for the period December 30, 2013 through February 6, 2014 due to the December 16, 2010 employment injury.

On December 26, 2013 appellant filed a traumatic injury claim alleging that she injured her right shoulder that day pushing an empty mail cart. OWCP determined that this was a new injury claim and adjudicated the matter under file number xxxxxx843. Appellant also filed CA-7 form claims for compensation beginning December 30, 2013, that were adjudicated by OWCP under the present claim, accepted for cervical strain and aggravation of degenerative disc disease at C5-6. In a separate claim for a 2007 employment injury, combined with the present file, OWCP accepted thoracic, left shoulder and upper arm strains.

At the time that appellant stopped work in December 2013, she was performing modified duties for 5.5 hours a day as a passport clerk, lobby assistant and APC assistant. The physical limitations provided by her attending physician noted that she was not to reach above the shoulder, twist, bend, stoop, squat, kneel or climb, with one to two hours of repetitive movements of the wrists and elbows and one to two hours of pushing, pulling and lifting, limited to three pounds. Appellant continued to receive wage-loss compensation for 2.5 hours daily.

The medical evidence relevant to the claimed period of total disability compensation includes a December 26, 2013 report from Dr. Lyell, who stated generally that appellant had an acute flare of a chronic medical issue and needed to see a shoulder specialist to better evaluate her condition. He advised that she could continue at restricted duty. Neither Dr. Khalily nor Dr. Gudibanda provided any opinion as to whether appellant could or could not work. The opinions of Drs. Lyell, Khalily and Gudibanda are therefore insufficient to establish that appellant was totally disabled as of December 30, 2013 due to her December 16, 2013 injury.

Dr. Williams, an attending physiatrist, provided treatment notes dated December 30, 2013 to February 6, 2014. The Board finds that his reports are contradictory as to whether appellant's work stoppage on December 30, 2013 was due to severe right shoulder pain, adjudicated under file number xxxxxx843 or due to increased neck pain caused by the accepted December 16, 2010 employment injury. On December 30, 2013 Dr. Williams indicated that appellant injured her right shoulder on December 26, 2013. He diagnosed cervical degenerative disc disease, bursitis and tendinitis and advised generally that she should not work for one month. On January 27, 2014 Dr. Williams stated that appellant had an acute flare up of her chronic neck condition on December 30, 2013, was advised at that time to not work for 30 days and, on reevaluation, was advised to remain off work for three more weeks. The Board finds that Dr. Williams did not provide any explanation as to why she could not perform her modified position under the noted physical limitations. He did not profess any knowledge of her specific job duties or provide a rationalized explanation as to why she could not work under the restrictions set by Dr. Changaris. Dr. Williams' contradictory reports are of diminished

probative value on the issue of causal relationship and insufficient to establish total disability for the period December 30, 2013 through February 6, 2014.<sup>15</sup>

When a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that he or she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation<sup>16</sup> and the Board has long held that medical conclusions unsupported by rationale are of diminished probative value and insufficient to establish causal relationship.<sup>17</sup> The Board will not require OWCP to pay compensation for disability in the absence of 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.<sup>18</sup>

As there is no rationalized medical evidence contemporaneous with the periods of claimed disability, appellant failed to meet her burden of proof to establish entitlement to total disability from December 30, 2013 through February 6, 2014.<sup>19</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.

### **CONCLUSION**

The Board finds that appellant did not establish that she was entitled to total disability compensation for the period December 30, 2013 through February 6, 2014 due to the December 16, 2010 employment injury.

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<sup>15</sup> See *E.O.*, Docket No. 13-1401 (issued December 16, 2013).

<sup>16</sup> *G.T.*, 59 ECAB 447 (2008).

<sup>17</sup> See *Albert C. Brown*, 52 ECAB 152 (2000).

<sup>18</sup> *William A. Archer*, *supra* note 10.

<sup>19</sup> See *Tammy L. Medley*, *supra* note 9. The Board, however, notes that appellant could be entitled to additional wage-loss compensation for attending medical appointments. If a claimant has returned to work following an accepted injury or the onset of an occupational disease and must leave work and lose pay or use leave to undergo treatment, examination or testing for the accepted condition, compensation should be paid for wage loss under section 8105 of FECA, while undergoing the medical services and for a reasonable time spent traveling to and from the location where services were rendered. 5 U.S.C. § 8105. For a routine medical appointment, a maximum of four hours of compensation is usually allowed. See *William A. Archer*, *id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 16, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 10, 2014  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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