



work on May 11, 2005 and stopped after three days. On May 31, 2005 she filed a recurrence of disability claim alleging that she stopped work on May 16, 2005 due to her December 6, 2004 employment injury. Appellant returned to light-duty work on June 17, 2005. OWCP denied her claim for recurrence of disability on August 11, 2005.

Appellant underwent a magnetic resonance imaging (MRI) scan on December 22, 2004 which demonstrated a large osteochondral defect of the anterior aspect of the lateral femoral condyle and mild chondromalacia of the medial patellar facet with small osteochondral defect of its apex and a small joint effusion. On November 2, 2005 she underwent an arthroscopy with synovectomy and chondroplasty of the lateral facet patella as well as an arthroscopic lateral release due to chondromalacia with morbid obesity. Appellant returned to part-time limited-duty on February 1, 2006.

By decision dated April 3, 2007, OWCP granted appellant a schedule award for five percent permanent impairment of her left lower extremity. It denied modification of this decision on March 13, 2008. In a decision dated July 14, 2011, OWCP denied appellant's claim for an additional schedule award. The Branch of Hearings and Review remanded the claim for additional development of the medical evidence on October 5, 2011. By decision dated February 29, 2012, OWCP granted appellant a schedule award for an additional 15 percent impairment of her left lower extremity. The period of this schedule award was from November 21, 2011 through February 11, 2012.

In a work restriction evaluation dated August 16, 2012, Dr. Timothy J. Gray, a Board-certified orthopedic surgeon, opined that appellant could not perform her date-of-injury position or work an eight-hour day, but could sit and stand as comfortable. In a narrative report, he diagnosed status post left knee arthroscopy and continued arthritic degeneration. Dr. Gray stated that appellant could not climb, lift or walk long-term. He recommended that she avoid high stress activities and stated that she had significant restrictions for gainful employment.

On November 16, 2012 appellant filed a claim for compensation requesting wage loss for leave without pay from September 19 through November 16, 2012. She filed a second claim for wage-loss benefits from November 19 through 30, 2012.

In a letter dated January 22, 2013, OWCP requested that she submit medical evidence to establish disability for work during the period claimed. It allowed 30 days for a response.

On December 18, 2012 Dr. Gray examined appellant for left knee pain and noted an antalgic gait in the left lower extremity as well as tenderness in the patellofemoral joint, positive crepitus and moderate effusion. He also noted joint line tenderness, no erythema and no gross instability. Dr. Gray performed an arthroscopy on appellant's left knee on November 23, 2011. He recommended that she avoid high stress activity and recommended a magnetic resonance imaging (MRI) scan. On February 12, 2013 Dr. Gray reported appellant's symptoms of catching, popping, grinding and pain in the left knee. He stated that she was off work. Dr. Gray examined appellant on March 15, 2013 and stated that she was having a difficult time getting around. He recommended a total knee replacement. In a note dated April 12, 2013, Dr. Gray diagnosed left knee pain and stated that appellant was off work. On May 15, 2013 he reported that her MRI scan dated March 12, 2013 demonstrated degenerative changes with no acute tears

but wear and irritation and articular loss. Dr. Gray diagnosed left knee degenerative changes and cervical spine complaints.

On January 13, 2011 the employing establishment terminated appellant effective August 9, 2010 and noted that her last day in pay status was April 11, 2006.

By decision dated July 30, 2013, OWCP denied appellant's claim for compensation from September 19 through November 30, 2012. It found that she had not submitted sufficient medical evidence to establish that she was totally disabled for the period in question.

Appellant requested an oral hearing before an OWCP hearing representative on August 5, 2013. She submitted additional reports from Dr. Gray dated June 14 to October 31, 2013 diagnosing knee pain or left knee degenerative changes and recommending activity as tolerated.

Appellant testified at the oral hearing on January 16, 2014. She noted that she retired prior to 2012 and that she filed for and received social security benefits. Appellant stated that she had a second knee surgery in 2011. Following the oral hearing, she submitted a report dated November 27, 2013 from Dr. Gray, who stated that she was waiting for authorization for left knee replacement. Dr. Gray diagnosed knee pain.

By decision dated April 3, 2013, an OWCP hearing representative found that the medical evidence did not adequately address how appellant's disability for work was caused or contributed to by her left knee condition and resultant surgery. She found that appellant did not meet her burden of proof to establish a period of employment-related disability on or after September 19, 2012.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of establishing the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup> The term disability is defined as the incapacity because of an employment injury to earn the wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity.<sup>4</sup>

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative and substantial medical evidence.<sup>5</sup> Findings on examination are generally

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<sup>2</sup> *Id.* at §§ 8101-8193.

<sup>3</sup> *G.T.*, 59 ECAB 447 (2008); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> 20 C.F.R. § 10.5(f); *see, e.g., Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

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

needed to support a physician's opinion that an employee is disabled for work. 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>6</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>7</sup>

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>8</sup> Rationalized medical evidence is medical evidence which includes a physician's detailed 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 claimant.<sup>9</sup> Neither the 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>10</sup> The Board has held that the general diagnosis of "pain" does not constitute a firm medical diagnosis.<sup>11</sup>

### ANALYSIS

OWCP accepted appellant's claim for chondromalacia of the left knee on April 1, 2005. Appellant underwent an arthroscopy with synovectomy and chondroplasty of lateral facet patella with an arthroscopic lateral release due to chondromalacia on November 2, 2005. She returned to part-time limited-duty on February 1, 2006. The employing establishment noted that appellant last worked on April 11, 2006. OWCP granted her schedule awards for 15 percent impairment of her left lower extremity. Appellant filed claims for wage-loss compensation beginning on September 19 through November 30, 2012.

Appellant submitted a series of treatment notes from Dr. Gray. On August 16, 2012 Dr. Gray opined that she could not perform her date-of-injury position or work eight hours a day, but could sit and stand as comfortable. In a separate narrative report, he stated that appellant could not climb, lift or walk long-term. Dr. Gray stated that she had "significant restrictions for gainful employment. These reports do not support that appellant was totally disabled for work or

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

<sup>7</sup> *Id.*

<sup>8</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>10</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>11</sup> *Robert Broome*, 55 ECAB 339 (2004).

establish her entitlement to compensation benefits for the period claimed. They are not relevant to her claim of disability as they predate September 19, 2012.

In a treatment note dated December 18, 2012, Dr. Gray diagnosed knee pain and recommended that appellant avoid high stress activity. He did not specifically address her disability for work commencing September 19, 2012, explain how her current condition was related to her accepted employment injury or indicate that she was unable to work at modified duty. For these reasons, this report is not sufficient to meet appellant's burden of proof in establishing disability due to her accepted employment injury.

Dr. Gray submitted additional treatment notes dated February 12 to May 15, 2013 listing appellant's knee symptoms. He advised that she was not working and had a difficult time moving around. Dr. Gray reviewed appellant's March 12, 2013 MRI scan and found degenerative changes with no acute tears but wear and irritation and articular loss. He diagnosed left knee degenerative changes. Dr. Gray did not provide any medical opinion addressing appellant's disability for work on or after September 19, 2012. Without a detailed medical report explaining how on why appellant's current knee condition caused total disability as of that date, she had not established a period of disability entitling her to compensation benefits.

The Board finds that appellant has not submitted sufficient medical evidence to establish disability on or after September 19, 2012 due to her accepted left knee injury.

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 there is no detailed medical evidence in the record supporting that appellant's claimed disability for work on or after September 19, 2012 was due to her accepted employment injury and that she has, therefore, failed to meet her burden of proof.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 3, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 15, 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