

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

L.L., Appellant)
and) Docket No. 15-1489
U.S. POSTAL SERVICE, POST OFFICE,) Issued: December 18, 2015
Federal Way, WA, Employer)

)

Appearances: Case Submitted on the Record
Appellant, pro se
Office of Solicitor, for the Director

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 30, 2015 appellant filed a timely appeal from an April 20, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant met her burden of proof to establish that she was entitled to disability compensation for the periods March 18 through 19, and May 5 through 23, 2014 due to her accepted April 9, 2007 employment injury.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence after OWCP rendered its April 20, 2015 decision. The Board's jurisdiction is limited to reviewing the evidence that was before OWCP at the time of its final decision. Therefore, this additional evidence cannot be considered by the Board. 20 C.F.R. § 510.2(c)(1). Appellant may submit this evidence to OWCP, together with a formal request for reconsideration, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b)(2).

FACTUAL HISTORY

On April 10, 2007 appellant, then a 41-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on April 9, 2007 she sustained a left knee and leg injury when she was exiting her Long Life Vehicle (LLV) to deliver a package and felt a snap and sharp pain in her left knee. She stopped work and sought medical treatment on the date of injury. Appellant returned to limited duty on April 24, 2007.

By decision dated May 25, 2007, OWCP accepted the claim for left knee strain. Appellant stopped work on May 27, 2007 because there was no available work. She underwent numerous left knee, ankle, and heel surgeries during the course of her treatment. From August 20, 2007 through October 23, 2009, OWCP expanded the claim to include left ankle sprain, deep venous thrombosis,³ Achilles tendinitis, contracture of tendon, ankle, and foot joint derangement, iliotibial band syndrome, trochanteric bursitis, bilateral Achilles tendinitis, bilateral plantar fibromatosis, and left fifth toe hammer toe. Appellant received compensation for medical benefits and wage loss as a result of her accepted injuries.

On May 8, 2010 appellant returned to full-time, limited duty. She stopped work on October 5, 2010 and underwent right open plantar fasciotomy and gastrocnemius recession.

On September 14, 2011 appellant returned to modified duty working 25 hours per week. She stopped work completely on April 13, 2012 due to an exacerbation of her accepted conditions. The employing establishment was unable to accommodate appellant's restrictions.

On December 4, 2012 OWCP referred appellant to Dr. William Dinenberg, a Board-certified orthopedic surgeon, for a second opinion examination regarding the nature and extent of her disability. Dr. Dinenberg reviewed appellant's medical history, summarized diagnostic reports, and provided findings on physical examination. He opined that appellant was still suffering from residuals of the April 9, 2007 employment injury. Dr. Dinenberg explained that objectively, there remained medial and lateral joint line tenderness on the left knee, tenderness over the greater trochanteric bursa on the left, tenderness in the anterolateral corner of her left ankle, and tenderness over the plantar fascia bilaterally. He reported that appellant's condition prevented her from performing her regular work duties as a rural carrier, but that she could resume work of primarily sitting duties with permanent restrictions of no walking or standing greater than one hour total within an eight-hour workday. Dr. Dinenberg concluded that she did not require additional medical treatment and had reached maximum medical improvement.

Appellant continued seeking medical treatment with Dr. Chester Jangala, her attending physician.⁴ On September 17, 2013 Dr. Jangala referred appellant to Dr. Edwin C. Brockenbrough, a Board-certified surgeon, for a lower extremity venous evaluation. Dr. Brockenbrough's diagnostic testing revealed no evidence of venous abnormalities which would explain her lower extremity symptoms.

³ OWCP accepted deep venous thrombosis as an employment-related condition based on the August 18, 2008 report of Dr. Joan Sullivan, a Board-certified orthopedic surgeon and OWCP second opinion examiner.

⁴ Dr. Jangala is not Board-certified.

In a December 2, 2013 progress note, Dr. Jangala diagnosed chronic left ankle sprain post multiple surgeries, left iliotibial band syndrome, and left hip bursitis. He reported that appellant could work full time at a desk job and could not walk very much.

In a December 2, 2013 duty status report (Form CA-17), Dr. Jangala diagnosed ankle sprain, meniscus, and bilateral plantar fasciitis. He reported that appellant could resume work with restrictions of continuous sitting for 8 hours per day, continuous lifting for 8 hours per day, and intermittent walking for .5 hours per day. Dr. Jangala further noted continuous upper body use for eight hours per day which included pushing/pulling, simple grasping, fine manipulation, and reaching above the shoulder. He restricted appellant from driving a vehicle, climbing, bending, stooping, and kneeling during her employment duties. Dr. Jangala reported that appellant's restrictions were permanent and she required a sit-down job with two consecutive days off per workweek.

On January 7, 2014 the employing establishment provided appellant with a limited-duty job offer at the Everett, Washington Hub.⁵ It requested that she return the job offer as either accepted or declined. Duties of modified assignment included sitting in an office chair with a supportive back intermittently for eight hours per day with occasional standing, simple grasping/pushing/ pulling of a computer mouse up to eight hours per day intermittently, fine manipulation up to eight hours using a keyboard, contacting customers by telephone, light typing, answering the telephone, and back office administrative assistance-type duties.

Appellant accepted the offer of modified assignment on January 10, 2014. She returned to full-time modified duty on February 3, 2014.

In a March 7, 2014 progress note, Dr. Jangala reported that appellant complained of left ankle, foot, knee, and hip pain. He further noted that appellant complained of pain in the left calf in the last two weeks. Dr. Jangala diagnosed chronic ankle pain, iliotibial back syndrome, and left leg bursitis. He noted that new work restrictions were being provided.

In a March 7, 2014 Form CA-17, Dr. Jangala provided the same work restrictions noted in his December 2, 2013 Form CA-17.

In a March 17, 2014 lower extremity venous examination, Dr. Karl H. Kaufmann, Board-certified in emergency medicine, reported that review of ultrasound and diagram testing revealed no evidence of venous thrombosis in the lower extremities. He further explained that appellant's reported symptoms did not correlate with the venous examination findings.

In an April 7, 2014 progress note, Dr. Jangala reported that appellant complained of left hip pain despite no new injury. He noted that her new job was located in Everett which required her to drive 1.5 to 2 hours one way which appellant believed was the cause of her increased pain. Dr. Jangala diagnosed sciatica and noted that appellant's hip pain was largely gluteal.

⁵ Appellant resided in Maple Valley, Washington and was a rural carrier at the Maple Valley Post Office prior to the employing establishment's job offer in Everett, Washington.

In an April 21, 2014 progress note, Dr. Jangala reported that appellant was having issues with her long commute which required her to drive five hours daily and resulted in severe left leg, hip, and lower back pain. He diagnosed chronic left ankle instability and sprain, iliotibial band syndrome, and left hip bursitis. Dr. Jangala provided restrictions limiting appellant's commute to 20 minutes daily.

In an April 21, 2014 Form CA-17, Dr. Jangala diagnosed ankle sprain, meniscus, and bilateral plantar fasciitis. He provided appellant with permanent work restrictions for a sit-down job only of continuous sitting for 8 hours per day, continuous lifting for 8 hours per day, intermittent walking for .5 hours per day, and continuous upper body movements for 8 hours per day. Dr. Jangala reported that appellant could not drive on the job and could spend no more than 20 minutes daily commuting to work. In an April 21, 2014 prescription note, he reported that appellant had to stop working because she could not commute four hours daily. Dr. Jangala stated that she was off work beginning April 21, 2014 until a job became available closer to her home.

By letter dated April 25, 2014, Dr. Jangala reported that appellant's long work commute had aggravated her medical condition. He recommended she stop work at her current job as she was unable to sit in a car for more than 20 minutes, regardless of who was driving.

By letter dated May 12, 2014, the employing establishment informed OWCP that Dr. Jangala's April 21, 2014 report restricted appellant from driving more than 20 minutes to work. It noted that appellant had been driving to and from her accepted job since February without any issues. The employing establishment further noted that appellant was capable of taking public transportation to work and requested OWCP review the suitability of her job.

In a May 19, 2014 Form CA-17, Dr. Jangala restricted appellant from commuting more than 20 minutes daily.

On May 23, 2014 appellant submitted claim for compensation forms (Form CA-7) for leave without pay from March 17 through 19, 2014 requesting eight hours per day for doctor's visits. She also requested leave without pay for the period of May 5 through 23, 2014, noting the reason for leave as permanent limited duty.

By letter dated May 27, 2014, OWCP informed appellant that the medical evidence of record was insufficient to support her claim for compensation and was advised to submit medical evidence establishing disability for the periods claimed.

In a May 27, 2014 e-mail correspondence, Angela Emery, a postal supervisor, reported that she left a voicemail for appellant informing her that there was an employee who commuted from Spanaway and would be willing to carpool with her so that she would not have to drive.

By letter dated June 26, 2014, Michael J. Watson, appellant's representative at the time, reported that he was submitting a report from Dr. Jangala which established appellant's claim for disability compensation. He further noted that appellant's limited-duty job offer made no mention of the total 4.5 hours of driving time daily required for her commute which was well beyond the norm. Mr. Watson argued that appellant's job should be deemed unsuitable and stated that he would be submitting evidence as to the length of the commute each way based on

the actual times of day appellant sat in traffic. He explained that, while the actual distance of the commute was less than 50 miles one way, traffic at commute times required appellant to drive 2 hours to work and 2.5 hours from work.

In a medical report received on June 26, 2014, Dr. Jangala reported that appellant had chronic multiple orthopedic problems due to her April 9, 2007 employment injury and had been troubled by severe left lateral ankle problems. Appellant attempted to commute to work, over two hours daily, for several weeks but had to stop because of her chronic ankle instability which made driving difficult and unsafe for an extended distance. Dr. Jangala noted that when appellant initially accepted her job in Everett he did not think it was a good idea, but she was determined to get back to work. However, the commute had been an issue as appellant experienced pain in her ankle, back, and hip. Dr. Jangala reported that she did okay on her job except for pain and increased ankle instability for the first few hours after her long commute.

By decision dated July 9, 2014, OWCP denied appellant's claim for wage-loss compensation for the periods of March 18 through 19, 2014 and May 5 through 23, 2014 finding that the medical evidence failed to establish that she was disabled as a result of her accepted conditions for the specific periods claimed. It noted that Dr. Jangala did not provide objective medical evidence to support his medical findings on a clinical basis that appellant could not commute as a passenger. This decision also noted that there was no medical report of record to support medical treatment on March 18 or 19, 2014.

An August 5, 2014 letter was provided from appellant who stated that she was the only person in the Everett office who commuted from Maple Valley where she resided.

On August 27, 2014 appellant, through her representative, requested reconsideration of OWCP's decision. Mr. Watson argued that appellant's January 7, 2014 limited-duty job offer should be deemed unsuitable based on Dr. Jangala's medical opinion. He noted enclosure of a new report from Dr. Jangala who explained that appellant presented with objective findings of foot and ankle edema and increased foot drop. Mr. Watson further noted enclosure of a statement from appellant who explained that she was the only person in her office who lived in Maple Valley, Washington and thus, carpooling was not an option.

Dr. Jangala's medical report received on August 27, 2014 was repetitive of his prior report submitted on June 26, 2014. He explained that he had been treating appellant on a frequent basis and had noted increased ankle and foot edema since her return to work. On April 21, 2014 Dr. Jangala examined appellant following her commute and noted a great deal of pain with increased ankle and foot edema and foot drop. At that time he recommended that she discontinue her commute and provided her with a shot of Toradol. Dr. Jangala examined appellant again on May 19, 2014 noting progress as her ankle and foot edema had decreased. He recommended that she not commute for a long period of time as this would increase her pain and edema.

On December 1, 2014 OWCP received another July 10, 2014 progress note from Dr. Jangala. Dr. Jangala noted chronic ankle pain and recent foot drop. He reported that appellant had been off work the past month and had improved due to not driving and the Toradol shots. Dr. Jangala explained that appellant's 2.5-hour commute was too long and she had

experienced a flare up of iliotibial band syndrome and plantar fasciitis. He further noted that appellant was at high risk for deep venous thrombosis and her plantar fasciitis had come back after returning to work. Dr. Jangala reported that she had to stop commuting due to swelling and pain after driving long hours. He diagnosed chronic ankle sprain and iliotibial band syndrome.

By decision dated December 3, 2014, OWCP affirmed the July 9, 2014 decision finding that the medical evidence of record failed to establish that appellant was disabled on the dates claimed as a result of her April 9, 2007 employment injury.⁶

On March 18, 2015 appellant, through her representative, again requested reconsideration. Mr. Watson stated that a newly submitted medical report was being provided from Dr. Jangala who disagreed with OWCP's December 3, 2014 findings. He argued that Dr. Sullivan had provided an August 18, 2008 report which confirmed that deep vein thrombosis was aggravated by long periods of sitting. Thus, the long commute coupled with the actual time spent at the job substantiated the medical rationale provided. Mr. Watson further argued that Dr. Jangala's April 21, 2014 report and January 20, 2015 report substantiated his decision to take her off work on April 21, 2014 based on objective findings and resulting consequential injuries.

On March 18, 2015 OWCP received an April 21, 2014 report from Dr. Jangala. In this report Dr. Jangala noted that appellant returned to limited duty in January 2014 and commuted 2.5 hours from Maple Valley to Everett. Since the start of her commute, appellant experienced severe pain in her ankle, foot, hip, and back as well as increased edema in her ankle and foot. She tried working for several weeks, but could not continue due to her chronic ankle instability. Dr. Jangala provided findings on examination of diffuse left hip tenderness, decreased sensation of left foot, iliotibial band diffuse edema and instability, diffuse left gastrocnemius, edema left ankle, and increased foot drop. He explained that appellant was at high risk for developing deep venous thrombosis. Dr. Jangala diagnosed ankle and foot joint derangement, requested she discontinue her current job, and restricted her to no more than 20 minutes of commuting daily.

In reports dated January 20 and March 16, 2015, Dr. Jangala noted current complaints and that appellant also had complications due to development of bilateral plantar fasciitis and bilateral Achilles tendinitis. Appellant complained of sitting for long periods of time which caused her ankle to swell and pain in her left hip, left ankle, and back. She further stated that her pain was worse with activity. Dr. Jangala reiterated his diagnoses and recommended that appellant continue with her work restrictions.

In a letter received on March 18, 2015, Dr. Jangala reported that appellant had chronic orthopedic problems due to her April 9, 2007 employment injury. He noted appellant's accepted diagnoses and opined that due to these conditions she had difficulty ambulating, sitting and standing for long periods of time, and driving her car. Dr. Jangala explained that appellant's long commute aggravated her current medical conditions and put her at high risk of developing deep venous thrombosis, increased edema, and pain. He requested review of Dr. Sullivan's August 18, 2008 report as support for his medical opinion.

⁶ The Board notes that OWCP initially issued a decision on November 21, 2014 affirming the July 9, 2014 OWCP decision. OWCP reissued this decision on December 3, 2014.

By decision dated April 20, 2015, OWCP affirmed the December 3, 2014 decision denying appellant's claim for disability compensation for the periods March 18 through 19, 2014, and May 5 through 23, 2014. It found that the medical evidence failed to establish that she was disabled as a result of her accepted April 9, 2007 employment injuries for the specific periods claimed.

LEGAL PRECEDENT

Under FECA,⁷ 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.⁸ 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.⁹

Whether a particular injury causes an employee to be disabled and the duration of that disability are medical issues which must be proven by a preponderance of the reliable, probative, and substantial medical evidence.¹⁰ 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.¹¹ The Board 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.¹²

OWCP's procedures provide that wages lost for compensable medical examination or treatment may be reimbursed.¹³ It notes that a claimant who has returned to work following an accepted injury or illness may need to undergo examination or treatment and may be paid compensation for wage loss while obtaining medical services and for a reasonable time spent traveling to and from the medical provider's location.¹⁴ As a rule, no more than four hours of compensation or continuation of pay should be allowed for routine medical appointments.

⁷ *Supra* note 1.

⁸ See *Prince E. Wallace*, 52 ECAB 357 (2001).

⁹ *Cheryl L. Decavitch*, 50 ECAB 397 (1999); *Maxine J. Sanders*, 46 ECAB 835 (1995).

¹⁰ See *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001); *Edward H. Horton*, 41 ECAB 301, 303 (1989).

¹¹ *G.T.*, 59 ECAB 447 (2008); see *Huie Lee Goal*, 1 ECAB 180,182 (1948).

¹² *Id.*

¹³ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.901.19 (February 2013).

¹⁴ See also *Daniel Hollars*, 51 ECAB 355 (2000); *Jeffrey R. Davis*, 35 ECAB 950 (1984).

Longer periods of time may be allowed when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain the medical care.¹⁵

ANALYSIS

The Board finds that appellant did not meet her burden of proof to establish that she was entitled to disability compensation for the periods March 18 through 19 and May 5 through 23, 2014.

OWCP accepted that appellant sustained a left knee strain, left ankle sprain, deep venous thrombosis, Achilles tendinitis, contracture of tendon, ankle and foot joint derangement, iliotibial band syndrome, trochanteric bursitis, bilateral Achilles tendinitis, bilateral plantar fibromatosis, and left fifth hammer toe as a result of her April 9, 2007 employment injury. Appellant underwent numerous left knee, ankle, and heel surgeries and received medical and wage-loss compensation benefits. The employing establishment utilized Dr. Jangala's December 2, 2013 Form CA-17 to offer a full-time, limited-duty assignment in conjunction with her work restrictions. Appellant accepted an offer of modified assignment on January 10, 2014 and returned to full-time modified duty on February 3, 2014. On May 23, 2014 she claimed leave without pay for the periods March 18 through 19, 2014 for wage loss due to medical appointments, and May 5 through 23, 2014 due to disability.¹⁶

With respect to the disability compensation claimed for the period March 18 through 19, 2014, there is no evidence of record that appellant underwent medical treatment on either of those dates, and no opinion from a physician stating that appellant was disabled as a result of her accepted April 9, 2007 employment injuries on those dates. 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.¹⁷

In support of her claim for disability compensation for the period May 5 through 23, 2014, appellant submitted reports dating from December 2, 2013, prepared by Dr. Jangala, her treating physician. The Board finds that the opinion of Dr. Jangala is not well rationalized.¹⁸

In a December 2, 2013 Form CA-17, Dr. Jangala reported that appellant could resume full-time work at a sit-down job with restrictions of continuous sitting for 8 hours per day, continuous upper body movements for 8 hours per day, and intermittent walking for .5 hours per

¹⁵ *Id.*

¹⁶ The Board notes that appellant received four hours of wage-loss compensation for attending a medical appointment on March 17, 2014. The Board notes that appellant could be entitled to wage-loss compensation for attending medical appointments. The record reflects that she may have received treatment on May 19, 2014, but appellant has not alleged wage loss due to medical treatment on May 19, 2014. The record does not indicate that she received treatment, testing, or therapy on other dates of claimed compensation.

¹⁷ *William A. Archer*, 55 ECAB 674 (2004).

¹⁸ *R.W.*, Docket No. 13-656 (issued July 16, 2013).

day.¹⁹ His subsequent March 7, 2014 Form CA-17 was identical to the December 2, 2013 Form CA-17 which was used to provide appellant an offer of modified assignment.

On April 21, 2014 Dr. Jangala restricted appellant from returning to work due to her long commute. The Board has previously explained that if a claimant's accepted condition worsens such that she can no longer commute to work, this would constitute a recurrence of disability. On the other hand if the commute itself caused an increase in disability this would not be compensable as driving to and from work is not a work factor under FECA.²⁰ The Board has explained that to be of probative value the medical evidence of record must explain why the claimant is disabled due to the commute.²¹

The reports of Dr. Jangala do not establish that appellant was disabled due to an inability to commute for the period May 5 through 23, 2014. The Board notes initially that it appears that Dr. Jangala did not have an accurate description of appellant's travel to and from work as he noted different durations of her commute in his various medical reports. Dr. Jangala's April 7, 2014 progress note reported driving times of 1.5 to 2 hours one way while his April 21, 2014 note reported 5 hours of daily driving time. He failed to provide a consistent account of how long appellant spent driving and the frequency and movements which would result in disability attributed to the accepted April 7, 2009 injuries.

Furthermore, Dr. Jangala did not provide a fully-rationalized explanation as to why appellant was disabled on the claimed dates other than generally noting pain and limited functional ability. His April 25, 2014 letter recommended she stop work at her current job as she was unable to sit in a car for more than 20 minutes, regardless of who was driving. However, Dr. Jangala failed to explain why appellant could not be a passenger in a vehicle for more than 20 minutes given that he concurrently deemed her capable of performing 8 hours of continuous sit-down work. Other than generally noting that appellant suffered severe discomfort from long periods of commuting to work, he did not provide a rationalized explanation as to why she was disabled during the claimed period.²² Dr. Jangala's commuting restriction contradicts the very work restrictions he deemed appellant capable of performing, eight hours continuous sitting. He does not explain why appellant can sit for eight hours at work, but then cannot sit in a car during a much shorter commute.

Dr. Jangala's June 26, 2014 report noted that appellant attempted to commute to work for several weeks, but had to stop because of her chronic ankle instability which made driving difficult and unsafe for an extended period of time. The Board notes that it is unclear why driving would cause an aggravation of her left lower extremity injury as appellant must utilize the right foot to drive her vehicle.

¹⁹ Dr. Jangala restricted appellant from employment-related driving duties as her prior assignment involved driving an LLV to deliver mail.

²⁰ See *K.E.*, Docket No. 13-296 (issued June 6, 2013).

²¹ See generally *Betty S. Thompson*, Docket No. 01-2039 (issued July 2, 2002).

²² *A.J.*, Docket No. 13-614 (issued July 9, 2013).

In an August 27, 2014 report, Dr. Jangala explained that his April 21, 2014 examination revealed a great deal of pain with increased ankle and foot edema and foot drop. He noted that appellant was incapacitated beginning April 21, 2014 as a result of her work-related injuries yet did not specifically address her capacity for work or the reasons why she was unable to continue her duties other than generally noting ankle instability and pain. Dr. Jangala noted that he examined appellant again on May 19, 2014, revealing progress as her ankle and foot edema had decreased since she stopped working one month prior. However, the record does not contain a progress note dated May 19, 2014 to corroborate Dr. Jangala's findings. Moreover, the Board has held that an opinion that a condition is causally related because the employee was asymptomatic before the injury is insufficient, without adequate rationale, to establish causal relationship.²³ Dr. Jangala's opinions pertaining to commuting restrictions due to increased pain are also insufficient to establish disability compensation as the Board has held that pain is a description of a symptom and not a diagnosed medical condition.²⁴

Regarding appellant's then representative's claim that appellant's commute caused an aggravation of deep vein thrombosis, Dr. Jangala failed to provide detailed examination findings and provided no objective evidence to support disability on the dates in question due to this condition.²⁵ His opinion is therefore of limited probative value as it is unsupported by the objective medical evidence of record. Dr. Brockenbrough's September 17, 2013 diagnostic report found no evidence of venous abnormalities which would explain appellant's lower extremity symptoms. This was corroborated by Dr. Kaufmann's March 17, 2014 report. Dr. Brockenbrough found that review of ultrasound and diagram findings revealed no evidence of venous thrombosis in the lower extremities. Thus, commuting restrictions imposed for this condition pertain to fear of developing venous thrombosis which is not a current condition supported by the medical evidence of record or the most recent diagnostic testing.²⁶ The Board has long held that prophylactic work restrictions do not establish a basis for wage-loss compensation.²⁷ A fear of future injury is not compensable under FECA.²⁸

The Board notes that Dr. Jangala's March 18, 2015 letter references Dr. Sullivan's August 18, 2008 second opinion examination as support for his argument. However, this report is irrelevant to appellant's disability claim for the periods in question. The Board has held that

²³ *M.R.*, Docket No. 14-11 (issued August 27, 2014); *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

²⁴ See *B.P.*, Docket No. 12-1345 (issued November 13, 2012) (regarding pain); *C.F.*, Docket No. 08-1102 (issued October 10, 2008) (regarding pain); *J.S.*, Docket No. 07-881 (issued August 1, 2007) (regarding spasm).

²⁵ *T.G.*, Docket No. 13-76 (issued March 22, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

²⁶ *E.J.*, Docket No. 12-1948 (issued June 5, 2013).

²⁷ *D.N.*, Docket No. 14-657 (issued June 26, 2014).

²⁸ *Manuel Gill*, 52 ECAB 282, 286 n.5 (2001).

stale medical evidence cannot form the basis for current evaluation of residual symptomology or disability determination.²⁹

Given the above deficiencies, Dr. Jangala's medical reports are insufficient to establish that appellant was disabled from March 18 through 19, 2014 and May 5 through 23, 2014 as a result of her April 9, 2007 employment injury.³⁰ 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 disability compensation.³¹

Subsequent medical reports dated January 10, 20 and March 16, 2015 from Dr. Jangala reveal that appellant complained of continued chronic hip pain, chronic left iliotibial band pain, left ankle foot instability, pain of the contracture tendon, and bilateral Achilles tendinitis pain. These reports are not probative as to whether appellant was disabled for the period May 5 through 23, 2014, as they do not address the dates in question.³²

As appellant has not submitted probative medical evidence that she was disabled from work due to her commute, she has not established entitlement to wage-loss benefits for the period May 5 through 23, 2014.

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. §§ 10.605 and 10.607.

CONCLUSION

The Board finds that appellant failed to establish that she was entitled to disability compensation for the periods March 18 through 19, 2014, and May 5 through 23, 2014.

²⁹ See *Keith Hanselman*, 42 ECAB 680 (1991); *Ellen G. Trimmer*, 32 ECAB 1878 (1981) (reports almost two years old deemed invalid basis for disability determination).

³⁰ S.T., Docket No. 11-1316 (issued January 25, 2012).

³¹ *Tammy L. Medley*, 55 ECAB 182 (2003)

³² *Supra* note 16.

ORDER

IT IS HEREBY ORDERED THAT the April 20, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 18, 2015
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board