

FACTUAL HISTORY

By notice provided May 20, 2014, OWCP accepted that appellant, a 28-year-old city carrier assistant, sustained a traumatic sprain of the left shoulder and upper arm and a contusion of the left shoulder region. Appellant was informed that if she lost time from work due to her work-related condition she could claim compensation using a Form CA-7.

Appellant filed claims for compensation (Form CA-7) for the periods March 10 through April 16, 2014, June 14 through July 25, 2014, and January 14 through March 17, 2015.³

In letters dated June 9, 2014 and February 2, 2015, OWCP requested additional medical evidence to establish appellant's disability from work during the periods claimed and afforded her 30 days to respond.

Appellant submitted reports dated March 31 and April 15, 2014 from Dr. Kara Davis, an internist, who diagnosed backache, shoulder pain, and depressive disorder.

By decision dated September 12, 2014, OWCP denied appellant's claim for disability for the periods March 10 through April 16, 2014 and June 14 through July 25, 2014 on the basis that the medical evidence submitted was insufficient to support disability causally connected to the employment injuries.

On October 29, 2014 appellant requested reconsideration. She submitted a November 4, 2014 narrative statement and physical therapy notes in support of her claim. Appellant also submitted a January 19, 2015 duty status report from Dr. Prasant Atluri, a Board-certified orthopedic hand surgeon, who indicated that appellant fell down stairs with a mailbag and diagnosed pain in her left shoulder joint. Dr. Atluri opined that appellant was disabled for work and advised that she had no use of her left upper extremity.

In reports dated June 16, 2014 through January 5, 2015, Dr. Osama Ramsey, an occupational medicine specialist, diagnosed contusion of the left shoulder, left shoulder sprain, and shoulder region joint pain. He opined that appellant had no work capacity and instructed her to remain off work.

By decision dated February 6, 2015, OWCP denied modification of its prior decision.

In a January 19, 2015 report, Dr. Atluri reiterated his diagnosis and indicated that since cessation of medication, appellant's pain had returned. He noted that her significant pain was too severe to make progress in therapy and restricted her to no use of the affected hand/arm.

³ Appellant also filed a claim for compensation (Form CA-7) for the period October 29, 2014 through January 13, 2015. By decision dated April 8, 2015, OWCP denied appellant's claim for disability for the period claimed on the basis that the medical evidence submitted was insufficient to support disability due to the accepted employment injuries. As appellant has not appealed from this decision it is not before the Board on this appeal. *See* 20 C.F.R. § 501.3(a).

By decision dated March 24, 2015, OWCP denied appellant's claim for disability for the period January 14 through March 17, 2015 because the medical evidence submitted was insufficient to support disability due to the employment injuries.

LEGAL PRECEDENT

Section 8102(a) of FECA⁴ sets forth the basis upon which an employee is eligible for compensation benefits. That section provides: "The United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty...." In general the term "disability" under FECA means "incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury."⁵ This meaning, for brevity, is expressed as disability for work.⁶ For each period of disability claimed, the employee has the burden of proving that she was disabled for work as a result of the accepted employment injury.⁷ Whether a particular injury caused an employee to be disabled for employment and the duration of that disability are medical issues which must be proven by the preponderance of the reliable probative and substantial medical evidence.⁸

Disability is not synonymous with physical impairment, which may or may not result in an incapacity to earn wages. An employee who has a physical impairment causally related to her federal employment, but who nonetheless has the capacity to earn the wages she was receiving at the time of injury, has no disability as that term is used under FECA and is not entitled to compensation for loss of wage-earning capacity. The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the particular period of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.⁹

ANALYSIS

The Board finds that appellant has not established that she was disabled due to her employment injuries for the periods March 10 through April 16, 2014, June 14 through July 25, 2014, and January 14 through March 17, 2015.

While OWCP accepted that appellant sustained a sprain of the left shoulder and upper arm, and a contusion of the left shoulder region, appellant bears the burden of proof to establish through medical evidence both that she was disabled for the claimed periods and that her

⁴ 5 U.S.C. § 8102(a).

⁵ 20 C.F.R. § 10.5(f). *See also William H. Kong*, 53 ECAB 394 (2002); *Donald Johnson*, 44 ECAB 540, 548 (1993); *John W. Normand*, 39 ECAB 1378 (1988); *Gene Collins*, 35 ECAB 544 (1984).

⁶ *See Roberta L. Kaaumoana*, 54 ECAB 150 (2002).

⁷ *See William A. Archer*, 55 ECAB 674 (2004).

⁸ *See Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

⁹ *Id.*

disability was causally related to her accepted injuries.¹⁰ The Board finds that appellant submitted no rationalized medical evidence explaining how the employment injuries materially worsened or aggravated her medical conditions and caused her to be disabled for work for the periods March 10 through April 16, 2014, June 14 through July 25, 2014, and January 14 through March 17, 2015.

In his reports, Dr. Ramsey diagnosed contusion of left shoulder, left shoulder sprain, and shoulder region joint pain. He opined that appellant had no work capacity and instructed her to remain off work. The Board finds that Dr. Ramsey failed to provide a probative medical opinion on whether and how appellant was disabled on the dates at issue due to her accepted conditions. Therefore, Dr. Ramsey's reports are insufficient to establish that she was disabled for work due to the employment injuries for the period claimed.

In his reports, Dr. Atluri diagnosed pain in the left shoulder joint and also opined that appellant was disabled for work. He advised that she had no use of the left extremity. Dr. Atluri noted that her pain was too severe to make progress in therapy and restricted her to no use of the affected hand/arm. The Board finds that Dr. Atluri failed to provide a medical opinion explaining how appellant's accepted conditions caused her to be disabled for employment on the dates at issue. The Board finds that the reports from Dr. Atluri are insufficient to establish appellant's claim for compensation.

Appellant submitted reports from Dr. Davis who diagnosed backache, shoulder pain, and depressive disorder. Dr. Davis also failed to offer a probative medical opinion that appellant was disabled for the periods at issue due to her accepted conditions. Thus, the Board finds her reports are insufficient to establish appellant's claim for compensation.¹¹

The physical therapy notes submitted do not constitute competent medical evidence as they do not contain rationale by a physician relating appellant's disability to her employment.¹²

Appellant has not submitted any rationalized medical evidence establishing that she was disabled for the periods March 10 through April 16, 2014, June 14 through July 25, 2014, and January 14 through March 17, 2015 causally related to the accepted employment injuries. Thus, appellant has not met her burden of proof to establish that she is entitled to compensation for any disability for these time periods.

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.

¹⁰ See *supra* notes 7 and 8. See also *V.P.*, Docket No. 09-337 (issued August 4, 2009).

¹¹ *Id.*

¹² See 5 U.S.C. § 8101(2). Section 8101(2) of FECA provides as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." See also *Paul Foster*, 56 ECAB 208, 212 n.12 (2004); *Joseph N. Fassi*, 42 ECAB 677 (1991); *Barbara J. Williams*, 40 ECAB 649 (1989).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish disability for the periods March 10 through April 16, 2014, June 14 through July 25, 2014, and January 14 through March 17, 2015 causally related to her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the March 24 and February 6, 2015 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 9, 2015
Washington, DC

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

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

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