

FACTUAL HISTORY

On August 27, 2012 appellant, then a 52-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that he sprained his right knee that day when he fell while delivering mail. He did not stop work. OWCP adjudicated the claim under file number xxxxxx629 which is currently before the Board.²

In reports dated September 6 and 20, 2012, Dr. Jose E. Jaen, an orthopedic surgeon, noted seeing appellant for follow-up of right knee pain caused by a work injury. He diagnosed acute right knee contusion and post-traumatic degenerative joint disease of the right knee. Dr. Jaen recommended a right total knee replacement and advised that appellant should remain off work until the surgery was done. He indicated that 80 percent of the need for surgery was due to a May 12, 2011 employment injury, and 20 percent was preexisting.

On September 28, 2012 OWCP accepted sprain and contusion of the right knee and contusion of the right elbow, due to the August 27, 2012 employment incident.

By letter dated October 12, 2012, OWCP informed appellant that the medical evidence was not sufficient to authorize the requested surgery under this claim because Dr. Jaen advised that the need for surgery was related to a May 12, 2011 employment injury, adjudicated under file number xxxxxx351. Dr. Jaen was told that if the physician believed the newly diagnosed right knee degenerative joint disease was caused by the August 27, 2012 employment injury, he should submit a detailed narrative explaining why the diagnosed condition was caused by the August 27, 2012 injury and the need for surgery. In an October 19, 2012 attending physician's report, he provided a history that appellant fell while delivering mail and sustained a reinjury of a previous employment injury. Dr. Jaen diagnosed severe post-traumatic degenerative joint disease of the right knee and advised that appellant could not work pending surgery.

In correspondence dated November 27 and December 5, 2012, OWCP again advised appellant that the requested surgery could not be authorized under this claim because Dr. Jaen did not explain why the newly diagnosed condition or need for surgery were due to the August 27, 2012 employment injury.

In treatment notes dated October 31 and November 27, 2012, Dr. Jaen noted complaints of right shoulder and elbow pain that were a result of the August 27, 2012 fall at work. He discussed findings on examination and diagnosed impingement syndrome of the right shoulder rotator cuff and resolved right elbow contusion. On an August 22, 2013 duty status report, Dr. Jaen stated that appellant had severe right knee pain due to post-traumatic degenerative joint disease. He maintained that, until appellant had surgery, he was restricted to sitting work, with standing and walking limited to one-half hour daily, and lifting to 10 pounds.

² A May 12, 2011 traumatic injury claim, adjudicated under file number xxxxxx351, was accepted for right knee sprain. Under this claim, appellant filed Form CA-7, claims for compensation, for the period November 2 to December 28, 2012. By decision dated February 20, 2013, OWCP denied compensation for the period claimed. Appellant also filed a recurrence claim under this file number. File number xxxxxx351 is not before the Board on the present appeal.

In a February 19, 2013 report, Dr. Jaen stated that appellant had two work injuries, one on May 12, 2011 and another on August 27, 2012. He examined appellant's right knee and right shoulder and diagnosed post-traumatic degenerative joint disease of the right knee and right rotator cuff tear. Dr. Jaen advised that appellant could return to light duty that day with permanent restrictions of no standing over one hour and a 20-pound lifting restriction.³

On March 20, 2013 appellant filed a claim for compensation (Form CA-7) for the period September 15 to November 9, 2012.

In correspondence dated March 25, 2013, OWCP acknowledged receipt of the Form CA-7. It stated that it could not proceed because the medical evidence provided did not support that the claimed period of disability was due to the August 27, 2012 employment injury. OWCP again advised appellant that the requested surgery could not be authorized under the instant claim because Dr. Jaen did not explain why his diagnosed conditions or need for surgery were due to the August 27, 2012 employment injury. On April 15, 2013 counsel advised appellant that his physician should provide a narrative report that clearly indicated how the August 27, 2012 employment injury caused post-traumatic degenerative joint disease of the knee.

In reports dated April 18 and August 22, 2013, Dr. Jaen discussed appellant's right knee and right shoulder conditions. He opined that appellant's arthritic knee condition continued to deteriorate and again recommended total knee replacement surgery, stating that the need for right knee surgery was partially due to the May 12, 2011 injury. In duty status reports dated August 22, 2013 and January 24, 2014, Dr. Jaen described clinical findings of severe right knee pain, diagnosed post-traumatic degenerative joint disease, and reiterated appellant's permanent restrictions.

On February 12, 2014 the employing establishment informed OWCP that appellant was not working because there was no work available within his restrictions.

Appellant filed Form CA-7 claims for compensation for the period January 25 to February 21, 2014. On February 27, 2014 the employing establishment informed OWCP that appellant was working full duty on August 27, 2012. On March 3, 2014 OWCP informed appellant of the evidence needed to support his claim for compensation and authorization for right knee surgery.

By decision dated April 25, 2014, OWCP denied appellant's claim for compensation for the period January 25, 2014 and continuing. It noted that the medical evidence supported that the diagnosed conditions and inability to work during the claimed period were due to preexisting conditions and an injury that occurred on May 12, 2011.

Appellant, through counsel, timely requested a hearing before an OWCP hearing representative. In treatment notes dated May 12 and September 29, 2014, Dr. Jaen described appellant's continued complaints of right shoulder and right knee pain. He advised that appellant had limited tolerance to walking, and had difficulty with squatting, stairs, and standing. Dr. Jaen diagnosed post-traumatic degenerative joint disease and right shoulder impingement syndrome.

³ Dr. Jaen also submitted treatment notes that predated the August 27, 2012 employment injury.

He recommended nonoperative treatment for the shoulder and knee replacement surgery, reiterating that the need for surgery was partially due to a May 12, 2011 work injury.

At the hearing, held on December 16, 2014, counsel stated that appellant stopped work on January 25, 2014 because the station manager told him work was not available within his restrictions and sent him home.⁴ He asserted that, since appellant was working modified duty at that time, he established a compensable recurrence of disability. Appellant testified that in January 2014 he was performing sedentary work at the post office, and answering the telephone and questions from customers. He stated that he returned to modified duty after two weeks, then to full duty, and was currently working full duty delivering mail.

In a March 4, 2015 decision, an OWCP hearing representative affirmed the April 25, 2014 decision. She found the medical evidence insufficient to establish that the claimed disability for work for the period beginning January 25, 2014 was due to the accepted conditions or that the employing establishment indicated that work was not available due to the accepted conditions such that a recurrence of disability based on a withdrawal of work was established.

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.⁵ Disability is thus not synonymous with physical impairment which may or may not result in 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.⁶ The test of “disability” under FECA is whether an employment-related impairment prevents the employee from engaging in the kind of work he or she was doing when injured.⁷ 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.⁸

The Board will not require OWCP to pay compensation for disability in the absence of 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.⁹ Causal relationship is a medical issue. 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

⁴ The record does not indicate when appellant returned to work following the August 27, 2012 employment injury.

⁵ See *Prince E. Wallace*, 52 ECAB 357 (2001).

⁶ *Cheryl L. Decavitch*, 50 ECAB 397 (1999); *Maxine J. Sanders*, 46 ECAB 835 (1995).

⁷ *Corlisa Sims*, 46 ECAB 963 (1995).

⁸ *Tammy L. Medley*, 55 ECAB 182 (2003).

⁹ *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

ANALYSIS

The Board finds that appellant did not establish disability for the period commencing January 25, 2014 due to the August 27, 2012 employment injury accepted for sprain and contusion of the right knee and contusion of the right elbow.

The factors that comprise the evaluation of medical evidence include the opportunity for and the thoroughness of physical examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion. The opinion of a physician must be of reasonable medical certainty and must be supported by medical rationale explaining causal relationship.¹¹ Medical evidence submitted by a claimant to support his or her claim for compensation benefits should reflect a correct history, and the physician should offer a medically sound explanation of how the specific duties appellant performed caused or aggravated the claimed condition.¹²

In support of his claim for disability beginning January 25, 2014, due to the August 27, 2012 employment injury, appellant submitted reports from Dr. Jaen beginning on September 6, 2012. Dr. Jaen consistently advised that appellant had post-traumatic degenerative joint disease of the right knee, but indicated that it was partially due to a May 12, 2011 employment injury, not the injury at issue here which occurred on August 27, 2012. In October 2012 he additionally diagnosed right shoulder impingement syndrome. Neither of these conditions has been accepted under the present claim, file number xxxxxx629. Regarding disability commencing on January 25, 2014, in reports dated May 12 and September 29, 2014, Dr. Jaen described appellant's continued complaints of right shoulder and knee pain. He advised that appellant had limited tolerance to walking, and had difficulty with squatting, stairs, and standing. Dr. Jaen diagnosed post-traumatic degenerative joint disease and right shoulder impingement syndrome. He recommended nonoperative treatment for the shoulder and knee replacement surgery, reiterating that the need for surgery was partially due to a May 12, 2011 work injury.

Even though Dr. Jaen advised that appellant could not work until he had right total knee replacement surgery, he indicated that the surgery was due to degenerative joint disease and the May 12, 2011 employment injury, not to the August 27, 2012 employment injury. Moreover, he did not express specific knowledge of appellant's job duties or offer any explanation of the mechanics of how the August 27, 2012 employment injury caused the current diagnoses of right knee degenerative joint disease and right shoulder impingement syndrome.

¹⁰ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹¹ *K.W.*, 59 ECAB 271 (2007).

¹² *See T.G.*, Docket No. 14-751 (issued October 20, 2014).

The issue of whether a claimant's disability is related to an accepted condition is a medical question which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.¹³ The Board has long held that medical conclusions unsupported by rationale are of diminished probative value and insufficient to establish causal relationship.¹⁴ Dr. Jaen's reports are insufficient to establish that appellant was totally disabled commencing January 25, 2014 due to the August 27, 2012 employment injury. As appellant failed to establish that he was disabled, he is not entitled to wage-loss compensation for the period claimed.¹⁵

Counsel asserted at the hearing that, since appellant was sent home because there was no work within his restrictions, he established a recurrence of disability. While the record establishes that appellant was working modified duty on January 25, 2014, the date of the claimed disability, the record does not support that the limited duty was due to sprain and contusion of the right knee and contusion of the right elbow, the accepted conditions under this claim.

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 meet his burden of proof to establish that he was totally disabled commencing January 25, 2012.¹⁶

¹³ *Sandra D. Pruitt*, 57 ECAB 126 (2005).

¹⁴ *See Albert C. Brown*, 52 ECAB 152 (2000).

¹⁵ *N.R.*, Docket No. 14-114 (issued April 28, 2014).

¹⁶ The Board notes that the record does not contain a decision on appellant's claim for disability compensation for the period September 15 to November 9, 2012.

ORDER

IT IS HEREBY ORDERED THAT the March 4, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 28, 2015
Washington, DC

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

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

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