

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

A.G., Appellant	)	
	)	
and	)	<b>Docket No. 14-1590</b>
	)	<b>Issued: September 9, 2015</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>Fort Worth, TX, Employer</b>	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
COLLEEN DUFFY KIKO, Judge  
ALEC J. KOROMILAS, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On July 8, 2014 appellant timely appealed the February 3, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant is entitled to wage-loss compensation for the period October 5, 2012 through May 10, 2013.

**FACTUAL HISTORY**

Appellant, a 41-year-old former city carrier, has an accepted claim for concussion without loss of consciousness and face/scalp contusion. On April 9, 2012 he was walking between the loading dock and the mailroom when an overhead garage door came down and struck him in the forehead. Appellant complained of headaches following his April 9, 2012 employment injury. He was off work for several weeks and received continuation of pay. On

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

May 25, 2012 Dr. Yamini P. Chennu, a Board-certified neurologist, released appellant to resume work without restrictions.<sup>2</sup> He returned to work on May 29, 2012.

During an August 30, 2012 follow-up examination, appellant reported having two to three headaches a week. They were generalized and moderate in intensity. At worst appellant's headaches reached an intensity of 5 to 6 out of 10. He was previously prescribed hydrocodone, but could not take it while working. Appellant requested a new prescription to treat his headache that he could use at work. Dr. Chennu prescribed cambia and recommended that appellant return for follow-up in three months if his headaches continued otherwise she would see him as needed.

In a September 17, 2012 note, Dr. Chennu reiterated appellant's need for cambia to treat "occasional headaches."

Appellant's city carrier appointment expired on October 10, 2012, and the employing establishment did not continue his employment.

Appellant saw Dr. Chennu for a follow-up examination on November 21, 2012. Dr. Chennu noted that he was out of work because his contract had not been renewed. Appellant was stressed and emotional because of his unemployment. He reported that he had throbbing headaches three to four times a week with a pain intensity of 8 out of 10. Appellant also complained of insomnia and reported that he took a friend's hydrocodone. Dr. Chennu prescribed amitriptyline for both insomnia and as a preventive treatment for headaches and advised him to take cambia as needed. She explained that post-traumatic headaches were nearly identical to the bifrontotemporal stress/tension-like headaches appellant had reported. However, Dr. Chennu believed he should have been feeling better because there were no noted MRI scan changes as a result of his closed head injury.

On January 21, 2013 appellant returned for a routine follow-up with Dr. Chennu. Dr. Chennu reviewed his history of injury and prior treatment. Appellant reported an average of three headaches a week, and stated that he was still not sleeping well. He described them as moderate to severe. Dr. Chennu diagnosed insomnia and migraines. She prescribed sumatriptan and continued amitriptyline. Appellant was to return for a follow-up examination in four months.

In a May 10, 2013 follow-up report, Dr. Chennu noted that appellant had been involved in a motor vehicle accident (MVA) on February 21, 2013. Appellant reported having been rear-ended while at a red light and that his head had hit the steering wheel. He did not lose consciousness. Appellant had been treated in the emergency room and undergone, a computerized tomography (CT) scan of his head. He was discharged with prescriptions for hydrocodone and muscle relaxants. Dr. Chennu reported that once again appellant was having constant severe headaches.

Dr. Chennu diagnosed concussion with no loss of consciousness, headache, and insomnia. She indicated that appellant had continued to report headaches since his April 2012 work-related injury. Dr. Chennu noted his February 2013 MVA, and commented that she did not

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<sup>2</sup> Dr. Chennu first treated appellant on May 9, 2012. Prior to releasing him, she obtained an electroencephalogram (EEG) and a magnetic resonance imaging (MRI) scan of appellant's brain. The EEG was normal, and the May 24, 2012 brain MRI scan revealed no acute intracranial abnormality.

know if he had suffered another concussion. She noted that, regardless, appellant's recent CT scan was negative for acute changes.

On May 10, 2013 appellant filed a claim for wage-loss compensation (Form CA-7) for the period October 5, 2012 through the present time.

In a May 22, 2013 development letter, OWCP advised appellant that Dr. Chennu's reports from September 17, 2012 through May 10, 2013 failed to establish his claim for injury-related disability compensation. Although appellant was still unemployed, it noted that he had been working full-time, full duty when his contract expired on October 10, 2012. OWCP also noted appellant's intervening February 21, 2013 MVA when he reportedly hit his head on the steering wheel. Appellant was afforded 30 days to respond.

Dr. Chennu submitted two attending physician's reports (Form CA-20) dated May 30 and July 11, 2013. In both reports, she diagnosed concussion with no loss of consciousness and post-traumatic headaches. Dr. Chennu attributed the headaches to appellant's April 9, 2012 employment injury. She explained that strenuous physical activity soon after a concussion can lead to worsening headaches.

Dr. Chennu noted that she had released appellant to resume his regular work on May 25, 2012, and discharged him from treatment. In her July 11, 2013 report, she noted that he complained of headaches again after a second accident, but she reported that she could not determine whether the headaches were caused by the employment injury or the later MVA.

A July 22, 2013 note from Dr. Jon McCreery, a chiropractor, indicated that appellant had been under his care since April 24, 2013 due to injuries sustained in a MVA.

On July 25, 2013 OWCP received an undated, unsigned statement in which appellant stated that Dr. Chennu released him to resume full duty without restrictions on May 25, 2012 under the mistaken impression that his headaches were going to stop. However, appellant stated that his headaches did not stop and it was impossible for him to remain employed. He stated that none of the medications Dr. Chennu prescribed helped with his headaches. Hydrocodone was the only medication that reportedly helped, and that was prescribed by Dr. Roy Kreusel,<sup>3</sup> the physician who initially treated appellant's head injury on April 9, 2012. Appellant acknowledged an MVA, as reported by Dr. Chennu. He stated that he had sustained injuries to his lower back and left leg. For these latest injuries, appellant was being treated by other physicians.<sup>4</sup> He stated that it was impossible for him to even look for employment, let alone maintain employment if provided the opportunity. Appellant included a list of various medications he was taking and who prescribed each medication.

In a February 3, 2014 decision, OWCP denied wage-loss compensation for the period October 5, 2012 through May 10, 2013. It found that the medical evidence did not support that appellant was disabled during the claimed period due to his April 9, 2012 accepted work injury.

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<sup>3</sup> The record does not contain information about Dr. Kreusel's specialty and qualifications.

<sup>4</sup> The record notes some treatment by Dr. Kirk and Dr. George Farley but does not contain a description of their professional specialties or other qualifications.

## LEGAL PRECEDENT

A claimant has the burden of establishing the essential elements of his or her claim, including that the medical condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> Compensation for wage loss due to disability is available for periods during which an employee's work-related medical condition prevents him from earning the wages earned before the work-related injury.<sup>6</sup> The claimant must submit medical evidence showing that the condition claimed is disabling.<sup>7</sup> The evidence submitted must be reliable, probative, and substantial.<sup>8</sup>

The physician's opinion must be based on the facts of the case and the complete medical background of the employee, must be one of reasonable medical certainty and must include objective findings in support of its conclusions.<sup>9</sup> Subjective complaints of pain are not sufficient, in and of themselves, to support payment of continuing compensation.<sup>10</sup> Likewise, medical limitations based solely on the fear of a possible future injury are also insufficient to support payment of continuing compensation.<sup>11</sup>

## ANALYSIS

Appellant returned to work without restrictions on May 29, 2012, consistent with Dr. Chennu's May 25, 2012 work release. Following his return to work, he continued to receive medical treatment for reported headaches, which OWCP authorized.

After he stopped working, appellant continued with routine follow-up examinations on November 21, 2012, January 21, and May 10, 2013. During Dr. Chennu's most recent examination, she noted that he had been involved in a rear-end collision on February 21, 2013, when his head reportedly struck the steering wheel. Appellant's complaints at this period included constant, severe generalized headaches. Dr. Chennu was unsure whether he sustained another concussion from the February 21, 2013 MVA.

In May 2013, appellant filed a claim for lost wages from October 5, 2012 to May 10, 2013. On May 22, 2013 OWCP correctly advised him that Dr. Chennu's reports from September 17, 2012 through May 10, 2013 did not support his claim for injury-related disability compensation. Beginning with her November 21, 2012 report, Dr. Chennu continued to treat appellant for recurring headaches, but none of her reports during the period of claimed disability

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<sup>5</sup> 20 C.F.R. § 10.115(e); see *Tammy L. Medley*, 55 ECAB 182, 184 (2003). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>6</sup> *Id.* at § 10.500(a).

<sup>7</sup> *Id.* at § 10.115(f).

<sup>8</sup> *Id.* at § 10.115.

<sup>9</sup> *Id.* at § 10.501(a)(2).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

indicated that he was unable to work due to his April 9, 2012 employment-related head injury. Moreover, her May 30 and July 11, 2013 attending physician's reports (Form CA-20) specifically indicated that his period of disability ended on May 25, 2012, when she released him to work.

Finally, the July 2013 records from Dr. Farley, Dr. Kirk, and Dr. McCreery indicated that appellant was being treated for an unrelated February 21, 2013 MVA. These records did not evaluate or describe a disability and did not reference appellant's April 9, 2012 employment-related head injury.

The Board finds that medical evidence fails to establish that appellant's claimed disability beginning October 5, 2012 was causally related to his April 9, 2012 employment injury.

### **CONCLUSION**

Appellant failed to establish entitlement to wage-loss compensation for the period October 5, 2012 through May 10, 2013.

### **ORDER**

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

Issued: September 9, 2015  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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