

reconsideration was untimely filed and failed to show clear evidence of error in OWCP's prior merit decision dated May 25, 2010.³ The Board found that OWCP had misinterpreted a March 10, 2014 letter of appellant as an untimely request for reconsideration of its May 25, 2010 decision. The Board explained that appellant's March 10, 2014 letter constituted her attempt to have OWCP address her claim for entitlement to wage-loss compensation for the period February 26, 2010 to February 4, 2011.⁴

Appellant filed this claim after OWCP reversed its July 25, 2008 wage-earning capacity determination and advised her that she should file Forms CA-7 if she wished to claim wage-loss compensation for any period beginning September 18, 2009. The Board determined that appellant had filed a claim for wage-loss compensation (Form CA-7) for the period February 26, 2010 to February 4, 2011 which had not been properly addressed by OWCP. The Board remanded the case to OWCP for consideration of that claim for disability, to be followed by the issuance of a *de novo* decision on the matter.

Prior to the issuance of the Board's May 1, 2015 order remanding case, appellant had submitted medical reports from attending physicians regarding her disability in 2010 and 2011.

In a January 20, 2010 form report, Dr. Edward Abraham, an attending Board-certified orthopedic surgeon, noted that appellant was incapacitated and that she "may not work until future notice." In a narrative report produced on the same date, he reported that his physical examination revealed that she had normal full range of motion of fingers and wrists bilaterally and that there was no thenar atrophy. Appellant did have some minimal soreness at the base of the metacarpal phalangeal joints bilaterally, but the fingers were not snapping or locking. Dr. Abraham diagnosed mild bilateral carpal tunnel syndrome and noted, "[Appellant] is requesting that she be placed on complete disability, because she thinks her symptoms are getting worse. This was granted to her for three months. [Appellant] was advised that she needs to resolve her problems with the employing establishment, since this situation cannot be continued indefinitely."

In a form report dated February 3, 2010, Dr. Abraham diagnosed bilateral carpal tunnel syndrome. He checked a box marked "yes" as to whether appellant's condition was work related and added the notation, "Possible. Did not see her initially."⁵ Dr. Abraham noted, "[Appellant]

³ On May 6, 1998 appellant, then a 32-year-old regional mail letter carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained bilateral arm and wrist conditions due to the performance of her repetitive work duties overtime. OWCP accepted her claim for bilateral carpal tunnel syndrome and authorized left carpal tunnel release surgery performed on May 3, 2007 and right carpal tunnel release surgery performed on August 16, 2008. Appellant received disability compensation on the daily rolls beginning May 3, 2007. In a July 25, 2008 decision, OWCP reduced appellant's entitlement to compensation to zero based on its determination that her actual wages as a modified city carrier fairly and reasonably represented her wage-earning capacity. In a May 25, 2010 decision, it denied her claim for recurrence of disability beginning January 20, 2010. By decision dated January 28, 2011, OWCP reversed its July 25, 2008 wage-earning capacity determination as the modified city carrier position constituted odd-lot or make shift work.

⁴ On August 19, 2011 appellant filed a claim for compensation (Form CA-7) alleging disability from February 26, 2010 to February 4, 2011 due to her accepted employment injury.

⁵ Dr. Abraham noted that he first saw appellant on November 30, 2009.

to take three [months] off all work.” In an April 26, 2010 form report, he noted that appellant was incapacitated until the next medical evaluation which was scheduled for July 29, 2010. On October 21, 2010 Dr. Abraham reported the findings of a physical examination he performed on that date noting that her condition was “about the same.” He indicated that the findings of recent electromyogram (EMG) testing showed mild carpal tunnel syndrome whereas EMG testing obtained prior to appellant’s 2007 surgeries showed a more severe condition. Dr. Abraham noted, “We will bring [appellant] back in January. [Appellant] is to remain disabled until we see her at that point. In a December 15, 2010 form report, he diagnosed carpal tunnel syndrome and noted, “[She] unable to work at this time.”

In a duty status report (Form CA-17) dated January 27, 2011, Dr. Abraham diagnosed bilateral carpal tunnel syndrome as the diagnosis due to the “March 12, 1998” injury and recommended work restrictions, including lifting no more than 10 pounds with the right arm and lifting no more than 20 pounds with the left arm. He also recommended, “No casing mail or fingering mail until next visit.” In a January 27, 2011 report, Dr. Abraham noted that appellant would be returned to work on February 7, 2011 with restrictions from casing and fingering mail.⁶

In a July 27, 2011 report, Dr. Florian Miranzadeh, an attending osteopath and Board-certified family practitioner, diagnosed bilateral carpal tunnel syndrome, cervical strain and/or sprain with disc disease, and bilateral elbow pain due to epicondylitis. He posited that appellant “is fully incapacitated and may discontinue work as she has been.”⁷

On remand from the Board’s May 1, 2015 order, OWCP considered the medical evidence of record in connection with appellant’s claim of disability from February 26, 2010 to February 4, 2011 due to her accepted employment injury.⁸ By decision dated October 21, 2015, it denied her claim because she had failed to submit sufficient rationalized medical evidence to establish disability from February 26, 2010 to February 4, 2011 due to her accepted employment injury. OWCP determined that the reports of attending physicians did not contain adequate medical rationale to support their opinions on causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are

⁶ In a January 27, 2011 report, Dr. Abraham noted that appellant was “physically able to return to work as of [February 7, 2011].”

⁷ In a note dated July 27, 2011, Dr. Miranzadeh noted that appellant was fully incapacitated through August 24, 2011 due to her work injury, bilateral carpal tunnel syndrome.

⁸ In an August 12, 2015 letter, appellant again requested that OWCP consider her claim for work-related disability from February 26, 2010 to February 4, 2011. She submitted several medical reports to OWCP which had previously been submitted.

causally related to the employment injury.⁹ The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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.¹⁰

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.¹¹

ANALYSIS

OWCP accepted appellant's claim for bilateral carpal tunnel syndrome. Appellant filed a claim for compensation (Form CA-7) alleging disability from February 26, 2010 to February 4, 2011 due to her accepted employment injury. After development of the case, OWCP issued an October 21, 2015 decision denying appellant's disability claim for this period because she had not submitted the sufficient medical evidence to establish her claim.

The Board finds that appellant has failed to meet his burden of proof to establish disability from February 26, 2010 to February 4, 2011 due to her accepted employment injury.

In the January 20, 2010 form report, Dr. Abraham noted that appellant was incapacitated and that she "may not work until future notice." In a narrative report produced on the same date, he reported findings of his physical examination of appellant. Dr. Abraham diagnosed mild bilateral carpal tunnel syndrome and noted, "[Appellant] is requesting that she be placed on complete disability, because she thinks her symptoms are getting worse. This was granted to her for [three] months. She was advised that she needs to resolve her problems with the employer, since this situation cannot be continued indefinitely." The submission of these reports does not establish appellant's claim for work-related disability from February 26, 2010 to February 4, 2011 because Dr. Abraham did not provide any opinion that appellant's disability was work related or provide rationale for why she was completely disabled. The Board has held that medical evidence which does not offer a clear opinion regarding the cause of an employee's condition or disability is of limited probative value on the issue of causal relationship.¹²

In the February 3, 2010 form report, Dr. Abraham diagnosed bilateral carpal tunnel syndrome. He checked a box marked "yes" indicating that appellant's condition was work related and added the notation, "Possible. Did not see [appellant] initially." Dr. Abraham indicated, "[Appellant] to take [three months] off all work." This report is of limited probative

⁹ *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

¹⁰ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

¹¹ *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

¹² *See Charles H. Tomaszewski*, 39 ECAB 461 (1988).

value because the physician's opinion on causal relationship is equivocal in nature and it does not contain medical rationale in support of its box check regarding causal relationship.¹³ In the April 26, 2010 form report, Dr. Abraham noted that appellant was incapacitated until the next medical evaluation which was scheduled for July 29, 2010. On October 21, 2010 he noted, "We will bring [appellant] back in January. [Appellant] is to remain disabled until we see her at that point. In a December 15, 2010 form report, he diagnosed carpal tunnel syndrome and noted, "[Appellant] unable to work at this time." These reports do not establish appellant's claim for work-related disability from February 26, 2010 to February 4, 2011 because Dr. Abraham did not provide a clear opinion that her disability was work related for this period.¹⁴

In the duty status report (Form CA-17) dated January 27, 2011, Dr. Abraham diagnosed bilateral carpal tunnel syndrome as the diagnosis due to the "March 12, 1998" injury and recommended work restrictions, including lifting no more than 10 pounds with the right arm and lifting no more than 20 pounds with the left arm. He noted, "No casing mail or fingering mail until next visit." In the January 27, 2011 report, Dr. Abraham noted that appellant would be returned to work on February 7, 2011 with restrictions from casing and fingering mail. Although he suggested that her work-related condition necessitated these work restrictions, he did not provide a clear opinion in this regard or provide a rationalized medical opinion explaining how a work-related condition justified such restrictions. Dr. Abraham did not explain how specific findings on examination and/or diagnostic testing supported this level of disability. The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.¹⁵

Dr. Miranzadeh's July 27, 2011 report diagnosed bilateral carpal tunnel syndrome, cervical strain and/or sprain with disc disease, and bilateral elbow pain due to epicondylitis. He posited that appellant "is fully incapacitated and may discontinue work as she has been." In a note dated July 27, 2011, Dr. Miranzadeh noted that she was fully incapacitated through August 24, 2011 due to her work injury, bilateral carpal tunnel syndrome. However, these reports are not relevant to appellant's present claim because they provide no opinion on her disability for the period February 26, 2010 to February 4, 2011.

On appeal, appellant argues that the medical evidence of record supports disability for the period February 26, 2010 to February 4, 2011 due to her accepted employment injury, but the Board has explained why that medical evidence fails to establish work-related disability for this period.

¹³ The Board has held that an opinion which is equivocal or speculative is of limited probative value regarding the issue of causal relationship. *See Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962); *James P. Reed*, 9 ECAB 193, 195 (1956). The Board has also held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship. *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

¹⁴ *Supra* note 12.

¹⁵ *C.M.*, Docket No. 14-88 (issued April 18, 2014).

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 her burden of proof to establish disability from February 26, 2010 to February 4, 2011 due to her accepted employment injury.

ORDER

IT IS HEREBY ORDERED THAT the October 21, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 19, 2016
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board