

Appellant initially sought treatment from a chiropractor, Dr. Alan S. Cason, for her right shoulder condition, and submitted his treatment notes. Dr. Cason reviewed x-rays of appellant's cervical spine dated February 17, 2010 and found left lateral listhesis of the vertebral bodies at C4 and C5. In a note dated February 22, 2010, he diagnosed subluxations demonstrated by x-ray at C5-6, C6-7, C7-T1, and C3-4.

In a note dated June 7, 2010, Dr. Basil Smith, a Board-certified orthopedic surgeon, opined that appellant was totally disabled through June 14, 2010 and after that date could return to work with restrictions on overhead work and climbing. He completed a note on June 6, 2010 and report on June 7, 2010 and described her fall on January 27, 2010 and resulting pain in her right shoulder. Dr. Smith found that appellant could return to work with restrictions and diagnosed right shoulder sprain, subacromial bursitis and acromial joint dysfunction.

On June 21, 2010 OWCP denied appellant's claim for continuation of pay on the basis that her injury was not reported on an appropriate form within 30 days following the injury.

In an August 22, 2010 narrative statement, appellant alleged on January 27, 2010 that she was walking to the ladies room when she heard a bulk mail carrier behind her. She attempted to move to the right to get out of the way, but stumbled, lost her balance, and fell on the concrete floor. Appellant landed on her right arm and her right shoulder hit the metal leg of a mail case. She did not seek medical attention until February 17, 2010 from Dr. Cason.

OWCP accepted appellant's claim on September 2, 2010 for closed dislocation of the right shoulder, sprain of the right shoulder and upper arm, and disorder of the bursae and tendons in the right shoulder region. Appellant returned to light-duty work on September 9, 2010.

On October 6, 2010 appellant filed a claim for compensation (Form CA-7) requesting wage-loss compensation for leave without pay from April 10 through June 24, 2010. On October 14, 2010 she filed a second Form CA-7 requesting compensation from February 22 through May 11, 2010. Appellant returned to full duty on October 20, 2010. OWCP authorized compensation for both periods claimed on October 26, 2010.

On March 12, 2013 appellant telephoned OWCP and advised that she had not received compensation in accordance with her Form CA-7s.

In a letter dated June 12, 2013, OWCP requested additional medical evidence establishing appellant's disability for work during the periods claimed. It noted that a chiropractor was not a physician under FECA in regard to her accepted shoulder conditions.

By decision dated September 20, 2013, OWCP denied appellant's claim for compensation for the period February 22 through May 11, 2010. It found that she had not established that she sustained cervical subluxations as a result of her January 27, 2010 employment injury. Appellant requested an oral hearing from OWCP's Branch of Hearings and Review on October 15, 2013.

The oral hearing was held on May 28, 2014. Following the oral hearing, appellant explained that Dr. Smith had died and could not provide additional medical evidence. By decision dated July 14, 2014, an OWCP hearing representative affirmed the September 20, 2013

decision, finding that the medical evidence did not support appellant's claimed period of disability.²

On January 23, 2015 appellant requested reconsideration and indicated that she was providing additional medical evidence. She resubmitted Dr. Smith's June 7, 2010 report as well as his notes following that date through October 12, 2010. Dr. James R. Schwartz, a Board-certified orthopedic surgeon, reviewed Dr. Smith's notes and indicated that Dr. Smith first examined appellant on June 7, 2010. He concluded, "She was off work because of the injury and totally disabled from February 22 through May 24, 2010." Dr. Schwartz indicated that he was basing his opinion on review of Dr. Smith's medical records, as Dr. Smith had passed away.

By decision dated May 19, 2015, OWCP declined modification of its prior decisions and found that appellant had not submitted the medical evidence necessary to establish that she was totally disabled during the period claimed.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden to establish the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ The term disability is defined as the incapacity because of an employment injury to earn the wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity.⁴

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative, and substantial medical evidence.⁵ Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work. When a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that he or she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.⁶ 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.⁷

² The hearing representative modified the September 20, 2013 decision as a denial of leave buyback benefits, rather than wage-loss compensation which was not claimed.

³ *G.T.*, 59 ECAB 447 (2008); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ 20 C.F.R. § 10.5(f); *see, e.g., Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

⁵ *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁶ *Id.*

⁷ *Id.*

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.⁸ Rationalized medical evidence is medical evidence which includes a physician's detailed medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.⁹ Neither the fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

ANALYSIS

The Board finds that appellant has not submitted the necessary medical opinion evidence to establish that she was totally disabled from February 22 through May 11, 2010.

OWCP accepted that appellant injured her right shoulder on January 27, 2010 when she fell in the performance of duty. The accepted conditions included closed dislocation of the right shoulder, sprain of the right shoulder and upper arm, and disorder of the bursae and tendons in the right shoulder region. Appellant filed Form CA-7s requesting compensation for the periods April 10 through June 24, 2010 and February 22 through May 11, 2010 for total disability due to her accepted conditions.

Appellant initially sought treatment from Dr. Cason, a chiropractor. Dr. Cason reviewed x-rays of appellant's cervical spine dated February 17, 2010 and in a note dated February 22, 2010 diagnosed subluxations demonstrated by x-ray at C5-6, C6-7, C7-T1, and C3-4. Section 8101(2) of FECA¹¹ provides that the term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated by x-ray to exist. While Dr. Cason is a physician in regard to his treatment of appellant's spine, his reports cannot establish a period of disability as a result of the accepted right shoulder conditions. A chiropractor's opinion is not considered competent medical evidence in evaluation of other disorders, including those of the extremities.¹²

Appellant's attending physician at the time of her injury, Dr. Smith, did not address in his notes any period of disability predating his examination of appellant. His reports do not support appellant's claim for total disability prior to June 7, 2010.

⁸ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *Leslie C. Moore*, 52 ECAB 132 (2000).

¹⁰ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹¹ 5 U.S.C. § 8101(2).

¹² *Pamela K. Guesford*, 53 ECAB 726 (2002).

Dr. Schwartz, in his January 19, 2015 report, indicated that he had reviewed Dr. Smith's notes. He concluded that appellant was off work because of the injury and totally disabled from February 22 through May 11, 2010. Dr. Schwartz did not provide any basis for his conclusion that her disability from February 22, 2010 was due to her accepted injury. He failed to indicate the medical reasoning behind his conclusions, the medical notes from Dr. Smith that supported his conclusions or any other basis on which he relied in formulating his opinion.

Due to the deficits in the medical evidence, the Board finds that appellant has failed to establish that she was totally disabled from February 22 through May 11, 2010 and has not established that wage-loss compensation is due.

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 the medical evidence does not establish that appellant was totally disabled from February 22 through May 11, 2010 and that she has not established that wage-loss compensation is due for this period.

ORDER

IT IS HEREBY ORDERED THAT the May 19, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 24, 2016
Washington, DC

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

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

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