

FACTUAL HISTORY

On August 19, 2014 appellant, then a 55-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging on that date she was hit in the back of her thighs with a stretcher while attempting to lift a patient from the ground. She tilted backward and strained her low back. Appellant experienced lower back pain radiating to both legs. OWCP accepted appellant's claim for lumbar intervertebral disc disease and radiculopathy on October 28, 2014.

Appellant filed claims for compensation (Form CA-7) on November 19, 2014 requesting compensation for leave without pay (LWOP) intermittently for the period November 3 through 14, 2014 for 9.5 hours. She submitted a second Form CA-7 on December 4, 2014 for the period November 16 through 29, 2014 for 14 hours of LWOP compensation. Appellant submitted a third Form CA-7 on February 9, 2015 for the period December 8, 2014 through February 6, 2015 and 16.5 hours of LWOP compensation. OWCP authorized compensation benefits on March 12, 2015 for the period November 3 through 29, 2014 for a total of 21.5 hours. On April 23, 2015 OWCP authorized 16.5 hours of compensation for the period December 8, 2014 through February 6, 2015.

Dr. Les Benson, appellant's attending physician and a Board-certified neurologist, requested physical therapy three times a week for four weeks for appellant on February 9 and 12, 2015. He requested authorization for physical and occupational therapy for the period from February 23 through March 20, 2015. OWCP authorized therapeutic exercises 60 units, therapeutic activities 60 units, and manual therapy 48 units on February 23, 2015.

Appellant filed a Form CA-7 on May 6, 2015 and requested compensation for LWOP intermittently from March 2 through April 3, 2015 for a total of 15 hours. She used 2.5 hours of LWOP on March 2, 9, 16, 19, 23, 26 and 30, 2015 according to the employing establishment accounting for 15 hours total. In support of this claim, appellant submitted physical therapy notes dated March 2, 9, and 12, 2015 signed by a physical therapist, Melissa L. Ross.

In a letter dated May 19, 2015, OWCP requested that appellant provide medical documentation supporting her medical appointment or therapy session on the dates claimed on her Form CA-7. It allowed 30 days for a response.

By decision dated July 22, 2015, OWCP denied appellant's claim for compensation for the period March 2 through April 3, 2015. It reported receiving no evidence in support of appellant's claimed intermittent period of disability.

Appellant requested reconsideration on September 3, 2015. She submitted a note dated June 1, 2015 signed by Melissa D. Petitt, a member of staff of her attending physician, Dr. Benson. Ms. Petitt indicated that appellant attended physical therapy two days a week for six weeks during the period February 23 through March 31, 2015. Appellant also submitted a billing record indicating that she underwent 13 hours of physical therapy from February 23 through March 31, 2015 and 13 hours of separately coded physical therapy from February 25 through March 31, 2015. She submitted physical therapy notes dated March 2, 9, 12, 16, 19, 23, 26, and 30, 2015 from Ms. Ross.

Appellant returned to limited-duty work on August 25, 2014. On November 19, 2015 the employing establishment provided her with a limited-duty assignment working eight hours a day with restrictions.

By decision dated January 27, 2016, OWCP denied modification of the July 22, 2015 decision denying appellant's claim for compensation. It found that appellant had not submitted the necessary medical opinion evidence to establish her claimed period of disability.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof 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

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.⁵

An injured employee may be entitled to compensation for lost wages incurred while obtaining authorized medical services.⁶ This includes the actual time spent obtaining the medical services and a reasonable time spent traveling to and from the medical provider's location.⁷ As a matter of practice, OWCP generally limits the amount of compensation to four hours with respect to routine medical appointments. However, longer periods of time may be allowed when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain the medical care.⁸

² 5 U.S.C. §§ 8101-8193.

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 *Id.*

⁶ *See* 5 U.S.C. § 8103(a); *Gayle L. Jackson*, 57 ECAB 546 (2006).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Compensation Claims*, Chapter 2.901.19(a)(1); Chapter 2.901.19a(3)(c) (February 2013).

⁸ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Administrative Matters*, Chapter 3.900.8 (November 1998).

ANALYSIS

The Board finds that OWCP improperly denied appellant's claim for compensation for March 2, 9, 16, 19, 23, and 30, 2015 as the evidence supports that she was procuring authorized medical services on those dates.

The record establishes that appellant returned to a limited-duty position on August 25, 2015 following her August 19, 2014 employment injury which had been accepted for lumbar intervertebral disc disease and radiculopathy. Appellant continued to work in limited-duty positions. She filed Form CA-7s for periods of intermittent disability beginning on November 3, 2014 for medical appointments and physical therapy visits. OWCP authorized compensation benefits for these intermittent periods of disability through February 6, 2015.

On May 6, 2015 appellant filed a Form CA-7 and requested compensation for LWOP intermittently from March 2 through April 3, 2015 for a total of 15 hours. She alleged that she used 2.5 hours of LWOP on March 2, 9, 16, 19, 23, 26 and 30, 2015 for physical therapy. In support of this request, appellant submitted notes signed by a physical therapist, Ms. Ross, dated March 2, 9, 12, 16, 19, 23, 26 and 30, 2015. She also submitted a note dated June 1, 2015 signed by Ms. Pettitt, a member of the office staff of Dr. Benson, indicating that appellant attended physical therapy two days a week for six weeks during the period February 23 through March 31, 2015.

The Board finds that appellant has provided evidence that she attended approved physical therapy on March 2, 9, 12, 16, 19, 23, 26, and 30, 2015 as confirmed by Ms. Ross. Appellant requested 2.5 hours of compensation on six of these eight occasions, March 2, 9, 16, 19, 23, 26 and 30, 2015 for LWOP as noted by the employing establishment. Appellant is therefore entitled to compensation for LWOP on the dates substantiated as approved physical therapy for a total of 15 hours.

CONCLUSION

The Board finds that appellant is entitled to compensation for 15 hours of LWOP for attending authorized medical treatment on March 2, 9, 16, 19, 23, 26 and 30, 2015. On remand OWCP will pay appropriate compensation benefits in accordance with this opinion of the Board.

ORDER

IT IS HEREBY ORDERED THAT January 27, 2016 decision of Office of Workers' Compensation Programs is reversed and remanded for payment of compensation in keeping with this decision of the Board.

Issued: November 15, 2016
Washington, DC

Christopher J. Godfrey, 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