United States Department of Labor
Employees' Compensation Appeals Board

J.M., Appellant	)	
and	)	**Docket No. 16-0397**
	)	**Issued: September 27, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Federal Way, WA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 28, 2015 appellant filed a timely appeal from a December 17, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 has established a recurrence of disability on or after May 11, 2015 due to a material worsening of her work-related conditions.

FACTUAL HISTORY

This case has been previously before the Board. By decision dated May 12, 2014, the Board set aside a July 3, 2013 OWCP merit decision, which denied appellant's claim for

[1] 5 U.S.C. § 8101 *et seq.*

reimbursement of travel expenses for medical treatment during the dates of July 8 to 9, 2013.[2] OWCP had utilized outdated travel regulations and the case was therefore remanded for consideration under the new regulations. In a later decision dated April 28, 2015, the Board affirmed OWCP's March 25, 2014 denial of appellant's schedule award claim finding that the medical evidence failed to demonstrate a measurable impairment of bilateral trigger finger and bilateral osteoarthritis of the hands.[3]

In a subsequent decision dated June 10, 2015, the Board reversed OWCP's November 21, 2014 decision denying appellant's claim for wage-loss compensation for the period October 1 through 3, 2014.[4] The Board found that appellant's treating physician did not release her to full-duty work until her postoperative examination on October 7, 2014 and as such, she had established entitlement to disability compensation for the period October 1 to 3, 2014 as a result of her accepted condition. The facts and circumstances surrounding the prior appeals are incorporated herein by reference. The relevant facts relating to this appeal are as follows.

On July 11, 2011 appellant, then a 51-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome (CTS) and osteoarthritis in the wrist and fingers as a result of her federal employment duties. OWCP accepted the claim for bilateral hand osteoarthritis and bilateral trigger finger. Appellant sought treatment with Dr. Kurt Anderson, a Board-certified hand and orthopedic surgeon. She received wage-loss compensation for intermittent periods of disability beginning May 30, 2012.

In a September 24, 2014 report, Dr. Anderson noted that he had performed revision of trigger finger, left hand index finger, a procedure which OWCP had authorized. He restricted appellant from work due to trigger finger in a September 29, 2014 duty status report (Form CA-17). In an October 7, 2014 Form CA-17, Dr. Anderson released her to full duty due to resolved trigger finger.

OWCP approved disability compensation for the period September 20 through October 7, 2014 due to time off work for trigger finger release surgery. Appellant returned to full-duty work without restrictions based on Dr. Anderson's recommendation.

On May 15, 2015 appellant filed a claim for compensation (Form CA-7) for leave without pay beginning May 11, 2015 and continuing. In support of her claim, she submitted a May 11, 2015 Form CA-17 from Dr. Anderson. Dr. Anderson restricted appellant from working due to carpal tunnel and overuse pain, noting overuse of hands and fingers.

By letter dated May 19, 2015, OWCP informed appellant that the medical evidence of record was insufficient to support her claim for compensation for the period beginning May 11, 2015, onward. It noted that it appeared that she was alleging a recurrence of disability due to a

[2] Docket No. 14-150 (issued May 12, 2014). On remand, by decision dated August 14, 2014, OWCP approved reimbursement of travel expenses for medical treatment during the dates of July 8 to 9, 2013.

[3] Docket No. 14-1949 (issued April 28, 2015).

[4] Docket No. 15-0513 (issued June 10, 2015).

worsening of her accepted work-related condition as she was released to full duty on October 7, 2014. Appellant was advised to submit medical evidence in support of her claim.

In a June 18, 2015 narrative statement, appellant stated that she was experiencing a recurrence of disability due to a worsening of her accepted work-related condition, which caused her to submit a retirement request and stop work on May 11, 2015. She reported that she had 10 hand surgeries and, after removing four bones, her hands continued to hurt and swell after a day of carrying mail. Appellant also noted that OWCP denied Dr. Anderson's bill for the May 11, 2015 examination. In support of her claim, she submitted May 11 and June 22, 2015 medical reports from Dr. Anderson.

In a May 11, 2015 medical report, Dr. Anderson reported that appellant was a postal carrier who had a very extensive history of evaluation, consultation, conservative management, and surgical management of overuse-type symptomatology to the hands bilaterally including CTS bilaterally, triggering, and carpometacarpal (CMC) arthroplasty of the thumb base bilaterally. He noted that when he last examined her two months prior, she was doing exceptionally well and he returned her to work full time without restrictions. Appellant currently had a complete return of her symptomatology including thumb base pain and numbness and tingling to her hands bilaterally. Dr. Anderson noted that she returned with very similar complaints of pain and numbness to the hands bilaterally, which he believed was caused by her employment. He provided findings on physical examination for both the right and left hand noting no rashes or abrasions; no ecchymosis, swelling, or lymphadenopathy; no masses or effusions; full wrist and digital range of motion; no instability or laxity; no triggering; sensation intact to light touch in all distributions; 2+ radial pulse; and capillary refill in less than 3 seconds in all digits. Dr. Anderson reported that examination findings were essentially normal, but noted that appellant had subjective complaints of pain. He diagnosed sprain of unspecified site of hand and concluded that her employment was the number one reason for her continued disability and he recommended that she take retirement or disability from her employment in order to alleviate her problems.

In a June 22, 2015 report, Dr. Anderson diagnosed sprain of unspecified hand and provided physical examination findings identical to those noted in his May 11, 2015 report. He reported that appellant was a well-established patient who was currently experiencing triggering and recurrent pain in the hands bilaterally. Dr. Anderson advised that she was disabled from the employing establishment after 10 surgeries and four years of care. Accompanying his report was a June 22, 2015 Form CA-17 restricting appellant from returning to work due to overuse of hands and fingers.

By decision dated July 20, 2015, OWCP denied appellant's recurrence claim for compensation finding that the medical evidence failed to establish that she was disabled beginning May 11, 2015 due to a material change/worsening of her accepted work-related conditions of bilateral hand osteoarthritis and bilateral trigger finger.

On August 7, 2015 appellant requested reconsideration of OWCP's decision and submitted a July 28, 2015 narrative report from Dr. Anderson in support of her claim.

In a July 28, 2015 narrative, Dr. Anderson reported that appellant was an employing establishment employee he had been treating since September 2011 who had undergone numerous surgical procedures to restore normal function to her hands bilaterally. He noted that the list of surgical intervention and treatments rendered included trigger finger injections, arthritic-type joint injections, surgery to fix trigger fingers, surgery for arthritic conditions including fusions and reconstruction, and numerous postoperative infections. Dr. Anderson reported that appellant attempted to return to full-time duty as a letter carrier, but was unable to do so. Although appellant's surgical intervention was highly successful and allowed her to resume her normal activities, her ability to work as a letter carrier was very limited. As such, Dr. Anderson recommended that she pursue long-term disability and/or retirement from the employing establishment.

By decision dated August 17, 2015, OWCP denied appellant's request for reconsideration finding that she neither raised substantive legal questions nor included relevant and pertinent new evidence. It noted that the evidence submitted was cumulative and thus substantially similar to the evidence previously considered.[5]

On September 8, 2015 appellant requested reconsideration of the OWCP decision.

In an August 31, 2015 medical report, Dr. Anderson reported that appellant had numerous issues with her hands bilaterally pertaining to overuse syndrome including tendinitis and CTS. He advised that she was disabled and unable to return to her normal Postal Service activities, noting that when working her symptoms returned including her tendinitis. Dr. Anderson provided findings on physical examination for both the right and left hand noting that examination was grossly normal and postoperative incisions were well healed bilaterally. Examination of the left and right hand also revealed identical findings of tender CMC joint; negative CMC grind; thumb interphalangeal joint fused; sensitive A1 pulley of the index long and small finger; no significant triggering; distal sensory and vascular examination normal; and digital motion otherwise unaffected.

Dr. Anderson reported that an August 31, 2015 bilateral hand imaging review examination was performed. Three views of the hand bilaterally were obtained, which revealed evidence of CMC arthroplasty including trapezial removal with a well-supported first metacarpal base. Dr. Anderson further noted that the interphalangeal joints of the thumbs were fused and the remainder of the small joints of the hands had mild arthritis. He diagnosed sprain of unspecified site of hand noting that appellant had significant disease consistent with overuse and repetitive use of the hands. This included trigger finger, carpal tunnel, arthritis, sprain, and tendinitis. Appellant underwent successful surgery in the past with relief of her symptoms, but her symptoms returned after resuming her employment as a mail carrier. Dr. Anderson opined that her employment duties continued to create the same problems for her and deemed her disabled and unable to return to work. An August 31, 2015 Form CA-17 was also submitted restricting appellant from returning to work.

[5] OWCP explained that Dr. Anderson's July 28, 2015 narrative did not have any objective examination findings and failed to provide a reasoned medical opinion as to how appellant's condition worsened such that she was no longer able to perform the duties of her position beginning on May 11, 2015.

By decision dated December 17, 2015, OWCP affirmed the July 20, 2015 decision finding that the medical evidence failed to establish that appellant was disabled on or after May 11, 2015 as a result of her accepted work-related conditions.

LEGAL PRECEDENT

A recurrence of disability is defined as the inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness, without an intervening injury or new exposure to the work environment that caused the illness.[6] The term also means the inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn, except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force. The Board has held that when a claimant stops work for reasons unrelated to the accepted work injury there is no disability within the meaning of FECA.[7]

A claimant who claims a recurrence of disability has the burden of proof to establish by the weight of substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the employment injury. This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the original compensable condition. Moreover, the physician's conclusion must be supported by sound medical reasoning.[8]

Whether a particular injury causes an employee to be disabled and the duration of that disability are medical issues, which must be proved by a preponderance of the reliable, probative, and substantial medical evidence.[9] Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work. When a physician's statements consist only of a repetition of the employee's complaints that excessive pain caused an inability to work, without making an objective finding of disability, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.[10] The Board will not require OWCP to pay compensation for disability without 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]

[6] 20 C.F.R. 10.5(x); *Bryant F. Blackmon*, 56 ECAB 752 (2005); *Cecelia M. Corley*, 56 ECAB 662 (2005).

[7] *Hubert Jones, Jr.*, 57 ECAB 467 (2006).

[8] *D.W.*, Docket No. 11-1144 (issued July 19, 2012); *Louise G. Malloy*, 45 ECAB 613 (1994).

[9] *See Fereidoon Kharabi*, 52 ECAB 291, 293 (2001); *Edward H. Horton*, 41 ECAB 301, 303 (1989).

[10] *G.T.*, 59 ECAB 447 (2008); *see Huie Lee Goal*, 1 ECAB 180,182 (1948).

[11] *Id.*

OWCP's procedures provide that wages lost for compensable medical examination or treatment may be reimbursed.[12] It notes that a claimant who has returned to work following an accepted injury or illness may need to undergo examination or treatment and such employee may be paid compensation for wage loss while obtaining medical services and for a reasonable time spent traveling to and from the medical provider's location.[13] As a rule, no more than four hours of compensation or continuation of pay should be allowed for routine medical appointments. 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.[14]

ANALYSIS

OWCP accepted that appellant developed bilateral hand osteoarthritis and trigger finger as a result of her federal employment duties. On September 24, 2014 appellant underwent surgery for left trigger finger and was released to full duty without restrictions on October 7, 2014. She has the burden of proving by the weight of the substantial, reliable, and probative evidence that she sustained a material worsening of her accepted work-related conditions.[15] The reports of appellant's physician, Dr. Anderson, do not provide a rationalized medical opinion finding appellant disabled for work beginning May 15, 2011 due to her accepted injuries of osteoarthritis and bilateral trigger finger. Therefore, the medical evidence submitted is insufficient to meet her burden of proof.[16]

Dr. Anderson released appellant to full-duty work on October 7, 2014 following revision of left trigger finger surgery on September 24, 2014. In medical reports dated May 11 and June 22, 2015, he reported that examination findings of the right and left hand were within normal limits despite subjective complaints of pain. Dr. Anderson noted a complete return of symptomatology with very similar complaints of pain and numbness to the hands bilaterally, which he believed that was caused by her employment. He diagnosed sprain of unspecified site of hand and concluded that appellant's employment was the number one reason for her continued disability, recommending that she take disability from her employment in order to alleviate her problems.

The Board finds that Dr. Anderson's reports are insufficient to establish disability beginning on or after May 11, 2015. Dr. Anderson did not relate appellant's continued disability to the accepted employment injuries of osteoarthritis and bilateral trigger finger. The May 11, 2015 Form CA-17 noted CTS and overuse of hands as the cause of disability. However, CTS is not a condition accepted in this occupational disease claim. Dr. Anderson only generally diagnosed sprain of hand and failed to provide any diagnostic testing, which established

[12] *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.901.19 (February 2013).

[13] *See also Daniel Hollars*, 51 ECAB 355 (2000); *Jeffrey R. Davis*, 35 ECAB 950 (1984).

[14] *Id.*

[15] *Supra* note 6.

[16] *Alfredo Rodriguez*, 47 ECAB 437 (1996).

work-related residuals or disability.[17] Moreover, despite normal examination findings, he related appellant's disability to her work-related injuries based on subjective complaints of pain. Dr. Anderson's opinion that she was asymptomatic until she resumed work at the Postal Service is equivocal in nature. The Board has held that an opinion that a condition is causally related because the employee was asymptomatic before the injury is insufficient, without adequate rationale, to establish causal relationship.[18]

Dr. Anderson's subsequent July 28 and August 31, 2015 reports also fail to establish employment-related disability on or after May 11, 2015. In his July 28, 2015 report, he determined that appellant was disabled in her ability to work as a letter carrier despite highly successful surgical intervention, which allowed her to resume normal activities. Dr. Anderson failed to provide a rationalized opinion explaining why she was unable to perform her employment duties in any capacity despite successful surgical intervention. While the August 31, 2015 report discussed objective testing *via* bilateral hand imaging review, he failed to identify any source of disability other than documenting prior surgical intervention and arthritis. Moreover, Dr. Anderson listed numerous diagnoses including trigger finger, CTS, arthritis, sprain, and tendinitis. His reports fail to address the additional conditions not accepted in this claim, making it unclear if appellant is experiencing residuals of a preexisting nonoccupational injury or that of her accepted osteoarthritis and bilateral trigger finger.[19] Thus, Dr. Anderson's opinion on causation is deficient.

Dr. Anderson failed to provide a fully rationalized explanation as to why appellant was disabled on or after May 11, 2015 other than generally noting pain and limited functional ability.[20] He did not specifically address her capacity for work or the reasons why she was unable to continue her current duties. Dr. Anderson failed to have any understanding of appellant's work duties and did not provide support for a spontaneous material change of a work-related injury without an intervening incident. His explanation that her employment duties caused a return of symptoms is insufficient to establish her claim for disability. An increase in pain alone does not constitute objective evidence of disability.[21] Though Dr. Anderson generally supported that appellant's continued symptoms were a result of her occupational bilateral hand injuries, his opinion on causal relationship was conclusory in nature without any additional explanation as to how the conditions caused disability or remained symptomatic.[22]

[17] *T.G.*, Docket No. 13-76 (issued March 22, 2013); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

[18] *M.R.*, Docket No. 14-11 (issued August 27, 2014); *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

[19] A well-rationalized opinion is particularly warranted when there is a history of preexisting condition. *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, *id.*

[20] *A.J.*, Docket No. 13-614 (issued July 9, 2013).

[21] *See supra* note 12 at *Recurrences*, Chapter 2.1500.6.a(2) (June 2013).

[22] *See George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

Appellant did not submit any medical reports from a physician who, on the basis of a complete and accurate factual and medical history, concluded that she was totally disabled on after May 11, 2015 due to residuals of her accepted injuries.[23] She failed to establish by the weight of the reliable, probative, and substantial evidence, a change in the nature and extent of the injury-related condition resulting in her inability to perform her employment duties. As appellant has not submitted any medical evidence showing that she was disabled on or after May 11, 2015 due to her accepted employment injuries, the Board finds that she has not met her burden of proof.[24] For the reasons stated above, OWCP's denial of the claimed compensation for disability was proper under the law and facts of the case.[25]

Appellant may submit new evidence or argument with a written request for reconsideration to the 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 failed to establish a recurrence of disability on or after May 11, 2015 due to a material worsening of her accepted work-related conditions.

[23] The Board notes that appellant could be entitled to wage-loss compensation for attending medical appointments on or after May 11, 2015. If a claimant has returned to work following an accepted injury or the onset of an occupational disease and must leave work and lose pay or use leave to undergo treatment, examination or testing for the accepted condition, compensation should be paid for wage loss under section 8105 of FECA, while undergoing the medical services and for a reasonable time spent traveling to and from the location where services were rendered. 5 U.S.C. § 8105. For a routine medical appointment, a maximum of four hours of compensation is usually allowed. *See supra* note 12. *See also William A. Archer*, 55 ECAB 674 (2004).

[24] *J.G.*, Docket No. 13-737 (issued October 29, 2013).

[25] *Beverly A. Spencer*, 55 ECAB 501 (2004).

ORDER

IT IS HEREBY ORDERED THAT the December 17, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 27, 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