

She stated that she first became aware of the condition and its relationship to her employment on February 5, 2015.

In a note dated February 12, 2015, a person with an illegible signature stated that appellant could return to light-duty work for four hours per day over the next week.

In an unsigned duty status report (Form CA-17) dated February 12, 2015, an unidentified person indicated that appellant was not advised to resume work and could not perform the regular duties of her employment.

By letter dated March 2, 2015, Dr. Robert A. Chang, a Board-certified internist, and Dr. John R. Santa Ana, an osteopath, reported that appellant was unable to work until she received an epidural injection from Dr. Santa Ana. The physicians further noted that appellant would be unable to work for two days following the injection.

In a report dated March 31, 2015, Dr. Chang reviewed appellant's medical history and results of diagnostic testing. He diagnosed her with cervical fusion, moderately advanced spondylitic changes, and spinal cord stenosis. Dr. Chang noted that given her symptoms and the fact that these symptoms were exacerbated by her work responsibilities, she could not work regular duties without worsening her condition. He further noted that appellant's ability to return to work would depend on future visits with Dr. Santa Ana.

In a record of telephone conversation dated March 31, 2015, an OWCP representative documented that appellant had returned to work on March 30, 2015 with no restrictions.

By letter dated April 2, 2015, appellant notified OWCP that she had received an epidural injection on March 27, 2015 and returned to work on March 30, 2015.

In a record of a telephone conversation dated April 8, 2015, an OWCP representative noted that appellant had stopped work as of April 6, 2015. Appellant had worked for 1 hour and 20 minutes on April 6, 2015 and stopped work allegedly due to her work injury.

In a duty status report (Form CA-17) dated April 16, 2015, Dr. Santa Ana noted that appellant was unable to perform regular duties of her federal employment. He recommended work restrictions of lifting no more than 10 pounds continuously or 25 pounds intermittently for no more than four hours per day, pulling and pushing of no more than four hours per day, and reaching above the shoulder no more than four hours per day.

By decision dated May 18, 2015, OWCP denied appellant's claim. It noted that she had not submitted sufficient medical evidence to establish a causal relationship between duties of her federal employment and her diagnosed conditions.

On June 1, 2015 appellant requested reconsideration of OWCP's May 18, 2015 decision.

In a report dated May 28, 2015, Dr. Santa Ana diagnosed appellant with failed neck syndrome, cervical radiculopathy, and cervical stenosis of the spine. He performed an epidural steroid injection to appellant's neck, noting that, while this treatment offered relief, the pain would return when she resumed her duties as a mail carrier. Dr. Santa Ana concluded that

appellant was disabled from any form of work requiring lifting or overhead activities between the dates of February 26 to May 28, 2015. He noted that appellant was able to return to work as of May 28, 2015 with restrictions of no lifting of objects weighing more than 10 pounds; no excessive bending, twisting, or prolonged standing; and no overhead activities.

By decision dated August 28, 2015, OWCP declined to modify its May 18, 2015 decision finding that Dr. Santa Ana's May 28, 2015 report did not contain a sufficiently rationalized explanation of the causal connection between appellant's diagnosed medical conditions and the physical duties of her federal employment.

On November 19, 2015 appellant, through a representative, requested reconsideration of OWCP's August 28, 2015 decision. Appellant submitted a letter dated September 24, 2015, in which Dr. Santa Ana noted that appellant had current restrictions of no overhead activities, no lifting more than 15 pounds, and no bending or twisting. He noted that appellant's repetitive neck movements, upper extremity lifting maneuvers, and carrying mail and packages had aggravated appellant's preexisting cervical fusion at C5-7.

By letter dated November 12, 2015, Dr. Santa Ana noted that appellant was currently being treating for neck pain related to an aggravation of prior cervical fusion and stenosis directly related to her position as a postal employee. He noted that her cervical spinal stenosis and aggravation of cervical fusion were attributable to duties of persistent reaching and twisting to reach mailboxes; looking up, down, left, and right while lifting trays of mail; bundling mail; and loading tubs of mail into her postal vehicle. Dr. Santa Ana provided the diagnoses of failed neck syndrome and cervical spinal stenosis.

By decision dated November 24, 2015, OWCP accepted appellant's claim for aggravation of a cervical post laminectomy syndrome and aggravation of cervical spinal stenosis.

In December 1, 2015 appellant submitted claims for compensation (Form CA-7) for intermittent leave without pay from February 2 through December 11, 2015. The case record documents that appellant received supplemental rolls benefits from February 2 to March 20, 2015.

By letter dated October 29, 2015, Dr. Santa Ana recommended work restrictions of no lifting of objects over 10 pounds; no bending, twisting, or squatting; and no overhead activities.

In a record of a telephone conversation dated December 18, 2015, appellant stated that Dr. Chang released her to full duties in March 2015, until she stopped work on April 6, 2015.

By letter dated December 18, 2015, OWCP notified appellant that she had not submitted sufficient evidence to establish a recurrence of disability on April 6, 2015. It informed her that her claims for compensation appeared to be a claim for recurrence, because she returned to full-duty work on March 30, 2015. OWCP noted that the evidence of record was insufficient to establish her claim because Dr. Santa Ana's predominant finding was pain.

On January 7, 2016 appellant, through a representative, responded to OWCP's letter dated December 18, 2015. In an attached letter of the same date, Dr. Santa Ana noted that appellant had a history of cervical fusion that was aggravated by her repetitive work, lifting, and

other work-related activities. He noted that on March 27, 2016 he performed a cervical epidural injection to address her pain and neuropathy. After returning to work at full duty two days after the injection, Dr. Santa Ana noted that it was apparent that appellant would be unable to perform some duties of her federal employment due to neck pain and persistent upper extremity weakness. He noted that she was put back on restrictions on April 6, 2015, and be recommended no bending, lifting, or twisting activities. Dr. Santa Ana noted that due to the nature of her position, repetitive head, neck, and upper arm movements would aggravate her prior cervical fusion, causing symptoms of radiculopathy and stenosis. He concluded, “Her condition will not allow her to continue with her current and similar occupation.”

By decision dated March 8, 2016, OWCP denied appellant’s claim for recurrence of disability as of April 6, 2015. It noted that Dr. Santa Ana’s predominant finding was pain, and that he failed to provide objective evidence demonstrating a material change or worsening in the nature or extent of her accepted conditions.

LEGAL PRECEDENT

Under FECA,² the term disability is defined as incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of injury.³ Disability is not synonymous with a physical impairment which may or may not result in an incapacity to earn the wages. An employee who has a physical impairment causally related to a federal employment injury, but who nonetheless has the capacity to earn wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.⁴

OWCP’s procedures recognize that if an alleged recurrence occurs less than 90 days after a return to light or full duty, the claimant is not required to produce the same evidence as for a recurrence claimed long after apparent recovery and return to work. Therefore, in cases where recurring disability for work is claimed within 90 days or less from the first return to duty, the focus is on disability rather than causal relationship.⁵

ANALYSIS

OWCP accepted appellant’s claim for aggravation of cervical post laminectomy syndrome and aggravation of cervical spinal stenosis on November 24, 2015. Appellant filed claims for compensation (Form CA-7) for leave without pay between February 2 and December 11, 2015. OWCP found that appellant had not established her claim for recurrence commencing April 6, 2015, after a return to work at full duty on March 30, 2015.

² *Id.*

³ *See Prince E. Wallace*, 52 ECAB 357, 358 (2001).

⁴ *Cheryl L. Decavitch*, 50 ECAB 397 (1999); *Maxine J. Sanders*, 46 ECAB 835, 840 (1995).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.5(a) (June 2013). *See R.C.*, Docket No. 12-1879 (issued March 21, 2013).

The Board finds that appellant has not submitted sufficient evidence to establish a recurrence of disability on April 6, 2015.

The record establishes that appellant returned to work on March 30, 2015 with no restrictions. Appellant submitted reports from Dr. Chang dated March 2 and 31, 2015. In his March 31, 2015 report, Dr. Chang related that appellant could not work regular duty without worsening her condition, but he conceded that appellant's ability to return to work would depend on future visits with Dr. Santa Ana. He did not relate appellant's inability to work to the accepted employment conditions.⁶ Dr. Chang's reports are therefore of reduced probative value regarding appellant's disability status after April 6, 2015 as his opinion was contingent upon the medical opinion of Dr. Santa Ana.

In a letter dated January 7, 2016, Dr. Santa Ana stated that appellant had a history of cervical fusion that was aggravated by her repetitive work, lifting, and other work-related activities. He noted that on March 27, 2016 he performed a cervical epidural injection to address her pain and neuropathy. After returning to work at full duty two days after the injection, Dr. Santa Ana noted that it was apparent that appellant would be unable to perform some duties of her federal employment due to neck pain and persistent upper extremity weakness. He noted that she was put back on restrictions on April 6, 2015, recommending no bending, lifting, or twisting activities. Dr. Santa Ana noted that, due to the nature of her position, repetitive head, neck, and upper arm movements would aggravate her prior cervical fusion, causing symptoms of radiculopathy and stenosis. He opined, "Her condition will not allow her to continue with her current and similar occupation."

While Dr. Santa Ana's letter of January 7, 2016 noted that appellant was placed on restrictions from work on April 6, 2015, he merely noted appellant's neck pain and upper extremity weakness, and then concluded that continued work would aggravate her prior cervical fusion. His restrictions are thus found to be prophylactic in nature. However, restrictions premised only on a fear of future injury are not compensable under FECA.⁷

The Board also notes that Dr. Santa Ana did not explain why he had released appellant to full duty as of March 30, 2015, but then concluded that appellant could not perform her work duties as of April 6, 2015. As such, the Board finds that Dr. Santa Ana's reports of record are insufficient to establish a recurrence of total disability.

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.⁸

⁶ The Board has found that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value of the issue of causal relationship. See *W.S.*, Docket No. 15-0602 (issued August 11, 2016); *Michael E. Smith*, 50 ECAB 313 (1999).

⁷ See *C.L.*, Docket No. 16-0004 (issued June 14, 2016).

⁸ *L.F.*, Docket No. 15-1069 (August 12, 2015).

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability beginning April 6, 2015.

ORDER

IT IS HEREBY ORDERED THAT the March 8, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 22, 2016
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board