



## ISSUE

The issue is whether appellant has established disability commencing January 15, 2014 causally related to her accepted August 16, 2013 employment injury.

## FACTUAL HISTORY

On October 21, 2013 appellant, then a 31-year-old economist, filed a traumatic injury claim (Form CA-1) alleging that on August 16, 2013 she sustained injuries when she fell on stairs while entering the work site.

OWCP initially denied the claim for compensation by decision dated January 7, 2014. It found the factual evidence did not establish that the incident occurred as alleged.

Appellant filed a claim for compensation (Form CA-7) on March 17, 2015, claiming wage-loss compensation commencing January 15, 2014.

As to medical evidence, appellant submitted a partially illegible January 17, 2014 report from Dr. James Weiss, a Board-certified orthopedic surgeon. Dr. Weiss wrote that appellant was able to ascend and descend stairs without a cane, but remained "fairly disabled."

By report dated February 3, 2014, Dr. Weiss wrote that appellant had headaches, with discomfort in her ankles, feet, left elbow, and left wrist. He indicated that he was concerned about myofascial problems or reflex sympathetic dystrophy (RSD) developing. Dr. Weiss opined that appellant remained disabled from her normal work activities.

Dr. David Satinsky, a Board-certified neurologist, related in a February 12, 2014 report that appellant continued to have headaches, and he diagnosed postconcussion syndrome. He opined that she was fatigued to the point of disability, and is quite unable to return to work at this time.

In a report dated February 17, 2014, Dr. Weiss related that he had received a January 16, 2014 letter from a psychiatrist, Dr. Susan Rich, who opined that appellant was disabled. He reported that Dr. Rich opined that appellant had major depressive disorder, single episode, because of the stress brought on by her injuries and the inability to work. Dr. Weiss also wrote that appellant's pain medication resulted in an inability to concentrate at work, and he had diagnosed myofascial pain syndrome or RSD. He opined that appellant's diagnosed conditions were causally related to the August 16, 2013 employment incident, and that appellant could not work in her present capacity. In a May 2, 2014 report, Dr. Weiss noted that appellant had multiple symptoms and remained disabled.

On February 4, 2015 OWCP accepted appellant's claim for knee sprain, bilateral ankle sprain, right tibia contusion, and lumbar sprain.

In a report dated October 19, 2015, Dr. Kevin Crutchfield, a Board-certified neurologist, provided a history that appellant had fallen down seven or eight stairs on August 16, 2013, with a brief loss of consciousness and amnesia. He reported that appellant had developed a post-traumatic occipital neuritis, causing headaches. In addition, Dr. Crutchfield indicated that

appellant had a sensitivity to fluorescent lighting and computer screens. He opined that appellant's disability started on August 16, 2013, but she was able to work part time as of July 2015.

OWCP referred appellant for second opinion examinations by Dr. Donald Heitman, a Board-certified orthopedic surgeon, and Dr. Chandra Sharma, Board-certified in psychiatry and neurology. In a report dated October 28, 2015, Dr. Heitman provided a history and results on examination. He opined that appellant had a chronic lumbar strain with radiculopathy. Dr. Heitman wrote that it could be connected to the work injury, but diagnostic studies did not show any significant findings in the low back, and appellant did not require further treatment. He concluded that appellant had reached maximum medical improvement with respect to the accepted lumbar sprain, bilateral ankle sprain, and tibia contusion, with no continuing residuals. Dr. Heitman further opined that there were no periods of total disability for these conditions.

In a report dated November 23, 2015, Dr. Sharma provided a history and results on examination. She opined that there were no neurological injuries sustained from the employment injury and no further treatment was warranted. Dr. Sharma wrote that the sensory changes reported in the feet and left hand were causally related, but "I do not see those changes affecting the neurological function." She opined that appellant could work without restriction.

By decision dated December 11, 2015, OWCP denied the claim for compensation as of January 15, 2014. It found the medical evidence of record did not establish an employment-related disability as alleged.

On June 30, 2016 appellant, through counsel, requested reconsideration. Counsel submitted a May 12, 2016 report from Dr. Weiss, who indicated that he had reviewed medical records, including Dr. Heitman's report. Dr. Weiss opined that he disagreed with the conclusions of the second opinion examiner. He reported that diagnostic studies would be negative with RSD, and he found that appellant did have objective findings and needed continuing treatment. Dr. Weiss opined that appellant was totally disabled from August 16, 2013 to January 17, 2014, and partially disabled from January 17 to June 17, 2014 due to her employment injuries.

Counsel also submitted a June 29, 2016 report from Dr. Crutchfield. Dr. Crutchfield reiterated his opinion that the August 16, 2013 fall had resulted in post-traumatic occipital neuritis, which had induced chronic, secondary headaches. He opined that appellant could not have performed office work due to flexing of the neck and photosensitivity. Dr. Crutchfield indicated that occipital nerve surgery had been recommended.

By decision dated December 20, 2016, OWCP reviewed the merits of the claim, but denied modification. It found the weight of the evidence was represented by the second opinion physicians.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>3</sup> 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.<sup>4</sup> 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 wages.<sup>5</sup>

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.<sup>6</sup> To establish causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>7</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>8</sup> The opinion of the physician must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship.<sup>9</sup>

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so, would essentially allow an employee to self-certify his or her disability and entitlement to compensation.<sup>10</sup>

## ANALYSIS

OWCP accepted that appellant fell on stairs while in the performance of duty on August 16, 2013. The accepted conditions are knee sprain, bilateral ankle sprains, right tibia contusion, and lumbar sprain. Appellant has claimed compensation commencing January 15, 2014.

The Board finds that appellant has not established that she was disabled from work as of January 15, 2014 causally related to her accepted August 16, 2013 employment injury.

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<sup>3</sup> *Supra* note 2.

<sup>4</sup> *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> 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).

<sup>6</sup> *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

<sup>7</sup> *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

<sup>8</sup> *Elizabeth Stanislaw*, 49 ECAB 540 (1998).

<sup>9</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>10</sup> *See William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

The Board notes initially that none of appellant's treating physicians offered a specific medical opinion addressing whether appellant's disability from work as of January 15, 2014 was causally related to the accepted conditions.<sup>11</sup> As appellant did not provide medical evidence containing a rationalized opinion supporting that she could not work beginning January 15, 2014 due to her accepted conditions, she did not meet her burden of proof.

Appellant's treating physicians, Dr. Weiss, Dr. Santinsky, and Dr. Crutchfield, opined that appellant was disabled. However, Dr. Weiss diagnosed RSD, Dr. Satinsky diagnosed post-concussion syndrome, and Dr. Crutchfield diagnosed an occipital neuritis. Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>12</sup> The medical opinion 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 incident.<sup>13</sup> As appellant's treating physicians did not provide a rationalized medical opinion as to how the accepted employment injury caused the additional diagnosed conditions, their opinions fail to establish causal relationship between any disability from the diagnosed conditions and the accepted employment injury.<sup>14</sup>

OWCP's second opinion physician, Dr. Heitman, found no additional employment-related conditions and no disability. Dr. Sharma, the second opinion neurologist, found no employment-related neurological condition. The issue of whether appellant's disability is causally related to the accepted employment injury is a medical question which must be established on the basis of a complete and accurate factual and medical history.<sup>15</sup> Both second opinion physicians noted appellant's history of injury and results from her physical examinations. They related that the diagnostic studies did not show significant findings related to the accepted injury. Therefore, they both concluded that appellant had no disability from work due to the accepted injury. As their opinions were based on a proper factual and medical history, and were supported by medical rationale, they constitute the weight of the medical evidence.<sup>16</sup>

The Board therefore finds that because the medical evidence of record does not establish disability as of January 15, 2014 causally related to the August 16, 2013 accepted employment injury, appellant has not met her burden of proof.

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<sup>11</sup> See *L.J.*, Docket No. 17-1048 (issued October 27, 2017).

<sup>12</sup> See *D.H.*, Docket No. 17-0609 (issued October 5, 2017).

<sup>13</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>14</sup> See *L.J.*, Docket No. 17-1048 (issued October 27, 2017).

<sup>15</sup> See *Sandra D. Pruitt*, 57 ECAB 126 (2006).

<sup>16</sup> *Supra* note 14.

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 has not met her burden of proof to establish disability as of January 15, 2014 causally related to her accepted August 16, 2013 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 20, 2016 is affirmed.

Issued: December 19, 2017  
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