

On appeal appellant contends that his claim was accepted for total disability beginning June 1, 2013, but that he was not compensated until October 4, 2013.

FACTUAL HISTORY

On March 6, 2014 OWCP accepted that appellant, a 51-year-old city carrier, sustained a displacement of cervical intervertebral disc without myelopathy as a result of delivering mail. It authorized cervical spine surgery at C3-4, performed by Dr. Jaideep Chunduri, a Board-certified orthopedic surgeon, on February 21, 2013.³

In an April 2, 2013 report, Dr. Chunduri diagnosed chronic cervical pain and status post cervical surgery. He advised that appellant could return to restricted duty with no carrying anything on the shoulder with a 25-pound weight restriction. A May 22, 2013 magnetic resonance imaging (MRI) scan of the cervical spine demonstrated surgical changes, disc bulges at C4 and C7, and degenerative disc disease.

On May 23, 2013 Dr. Chunduri noted the MRI scan findings and described appellant's complaint of severe neck pain. He related that appellant was doing well until he went back to work and had to lift objects that weighed up to 35 pounds.⁴ Dr. Chunduri recommended revision surgery at C3-4 and surgery at C6-7. He reiterated his concerns and surgical recommendation on July 5, 2013. In an August 22, 2013 treatment note, Dr. Chunduri reported appellant's complaint of continued neck pain radiating into the right arm. He reiterated that appellant was doing well until he returned to work and began having increased symptoms to the point that it was difficult for him to work. Dr. Chunduri attributed appellant's condition to cumulative trauma over years of carrying mail. He again recommended surgery.

On March 12, 2014 appellant filed a claim for intermittent wage-loss compensation (Form CA-7) during the period June 1, 2013 through March 7, 2014. On the claim form, the employing establishment indicated that appellant stopped work on June 1, 2013 and was in leave-without-pay (LWOP) status for most of the claimed period. Time analysis forms (Form CA-7a) were attached that covered the period claimed.

In an April 21, 2014 letter, OWCP advised appellant of the deficiencies of his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

In a June 13, 2014 report, Dr. Chunduri described appellant's longstanding medical history regarding his neck. He related that he had released appellant to light-duty work with restrictions, but that he subsequently had an increase in pain and was not able to return to letter carrier duties due to continued neck pain radiating into his right shoulder. Dr. Chunduri specifically reported that when appellant carried a mailbag on his hip, this aggravated his low back, and he could not carry mail on his neck. He related that appellant had longstanding back pain, but that he was disabled from work solely due to his neck injury, which had been present for over a year and resulted in the February 2013 surgery. Revision surgery was scheduled in

³ Dr. Chunduri performed an anterior cervical discectomy and fusion, at C3-4, for decompression of the spinal canal on February 21, 2013. The record does not indicate that appellant received any wage-loss compensation at the time of the February 21, 2013 surgery.

⁴ The record does not indicate the exact date appellant returned to work.

June 2014. Dr. Chunduri maintained that the employing establishment was unable to accommodate his restrictions related to appellant's accepted neck injury.

Appellant had authorized additional cervical spine surgery on June 24, 2014.

In a telephone call log dated July 2, 2014, the employing establishment indicated that, beginning June 1, 2013, there was no work available for appellant within the cervical spine restrictions provided by Dr. Chunduri, except for the brief period October 2 and 31, and December 30, 2013.

On July 8, 2014 OWCP placed appellant on the periodic rolls, retroactive to October 4, 2013.

On September 29, 2014 OWCP advised appellant of the medical evidence needed to establish his claim for total disability from June 1 through October 3, 2013. Appellant was given 30 days to respond. He submitted nothing further at that time.

By decision dated October 31, 2014, OWCP denied appellant's claim for compensation for the period June 1 through October 3, 2013 because the medical evidence of record was insufficient to support disability from work due to the accepted cervical condition.

On September 4, 2015 appellant requested reconsideration with OWCP.⁵ He asserted that the evidence on which the payment of compensation beginning October 2013 was based was the same evidence he submitted to support his request for compensation beginning June 1, 2013.

Medical evidence submitted subsequent to the October 31, 2014 decision, relevant to the period of claimed disability included a disability slip dated May 6, 2013 in which Dr. Chunduri released appellant to limited duty with no lifting over 35 pounds, and no work longer than eight hours daily. On a September 17, 2013 duty status report, Dr. Chunduri advised that appellant could perform modified duty with climbing limited to four hours a day; bending, stooping, pushing, and pulling, to two hours a day; and reaching above the shoulder to one hour a day. Appellant could not carry a satchel or any type of bag on his neck, and weight was limited to 20 pounds.

In correspondence dated September 18, 2013, appellant requested light duty in conformance with Dr. Chunduri's restrictions. On September 24, 2013 a postmaster denied this request because the employing establishment had no work available within his craft.

⁵ An April 14, 2014 cervical spine MRI scan showed findings similar to the May 22, 2013 MRI scan. Dr. Chunduri continued to submit status reports. A functional capacity examination (FCE) dated November 21, 2014 showed that appellant could perform part-time, medium physical demand level work. When the employing establishment could not provide work within appellant's restrictions, he was referred to vocational rehabilitation services on January 23, 2015. On March 9, 2015 Dr. Chunduri released appellant to work full-time restricted duty. On September 10, 2015 OWCP proposed to reduce appellant's compensation as appellant did not respond to the June 15, 2015 modified job offered and failed to participate in vocational rehabilitation. It afforded him 30 days in which to submit evidence or argument regarding his capacity to perform the job and/or participate in vocational rehabilitation services. The issue of reduction of appellant's compensation is not presently before the Board, as OWCP did not issue a final decision on this matter before the filing of the instant appeal. See 20 C.F.R. § 501.2(c).

Appellant began private employment in the fall of 2015.

In a November 13, 2015 decision, OWCP denied modification of its October 31, 2014 decision. It found that appellant had returned to full-time, restricted duty on May 7, 2013 before he stopped work on June 1, 2013, and that the medical evidence of record was insufficient to establish disability for the period June 1 through October 3, 2013.

LEGAL PRECEDENT

Under FECA the term “disability” means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury. Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages. An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.⁶ Furthermore, 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.⁷

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁸ 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 employee.⁹ Neither the mere 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 did not meet his burden of proof to establish that he was totally disabled from work during the period claimed.

OWCP accepted the condition of displacement of cervical intervertebral disc without myelopathy as a result of delivering mail. Dr. Chunduri performed authorized cervical spine surgery at C3-4 on February 21, 2013 and then released appellant to work with restrictions of no carrying anything on the shoulder and no lifting or carrying more than 25 pounds. On March 12, 2014 appellant filed a claim for wage-loss compensation for the period June 1, 2013 through March 7, 2014. Appellant had repeat authorized cervical surgery on June 24, 2014. OWCP paid wage-loss compensation beginning October 4, 2013. In its November 13, 2015 decision, OWCP

⁶ See 20 C.F.R. § 10.5(f); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

⁷ *Fereidoon Kharabi*, 52 ECAB 291 (2001).

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

⁹ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

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

denied appellant's claim for disability compensation for intermittent dates during the period June 1 through October 3, 2013. It found that appellant had returned to work full-time restricted duty before he stopped work on June 1, 2013, and that the medical evidence submitted was insufficient to establish total disability for the period claimed.

The medical evidence relevant to the period of claimed disability includes reports from Dr. Chunduri beginning with an April 2, 2013 report in which he advised that appellant could return to restricted duties. Dr. Chunduri noted that appellant complained of severe neck pain and recommended revision surgery at C3-4 and surgery at C6-7.

The only report in which the physician discussed appellant's disability from work was in correspondence dated June 13, 2014 in which Dr. Chunduri described appellant's longstanding medical history regarding his neck. He related that he had released appellant to light-duty work with restrictions, but that appellant subsequently had an increase in pain and was unable to return to letter carrier duties due to continued neck pain that radiated into his right shoulder. Dr. Chunduri also reported that when appellant carried a mailbag on his hip, this aggravated his low back.¹¹ Dr. Chunduri also opined that appellant was disabled from work solely due to his neck injury which had been present for over a year and resulted in the February 2013 surgery with revision surgery scheduled for June 2014.

The Board has long held that a mere conclusion without the necessary medical rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is insufficient to meet appellant's burden of proof. The medical evidence must also include rationale explaining how the physician reached the conclusion he or she is supporting.¹² Dr. Chunduri found appellant disabled from work due to his neck condition without providing a rationalized explanation.

The issue of whether a claimant's disability is related to an accepted condition is a medical question which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and supports that conclusion with sound medical reasoning.¹³ The Board has long held that medical conclusions unsupported by rationale are of diminished probative value and insufficient to establish causal relationship.¹⁴ None of the medical reports explain with sufficient rationale why appellant could not perform his modified job duties due to the accepted conditions.¹⁵

As appellant failed to submit sufficient rationalized medical opinion evidence to establish that he was unable to work for the period June 1 through October 3, 2013 due to accepted

¹¹ A low back condition has not been accepted under this claim.

¹² *Beverly A. Spencer*, 55 ECAB 501 (2004).

¹³ *Sandra Pruitt*, 57 ECAB 126 (2005).

¹⁴ *See Albert C. Brown*, 52 ECAB 152 (2000).

¹⁵ *See S.B.*, Docket No. 13-1162 (issued December 12, 2013).

cervical condition, he failed to establish that the claimed disability was employment related. He was thus not entitled to wage-loss compensation for the period claimed.¹⁶

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 did not meet his burden of proof to establish that he was intermittently disabled from work during the period June 1 through October 3, 2013 causally related to the accepted cervical condition.

ORDER

IT IS HEREBY ORDERED THAT the November 13, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 25, 2017
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

¹⁶ *N.R.*, Docket No. 14-114 (issued April 28, 2014).