

indicated that she was carrying box flats when she stepped on a box and twisted the left side of her body, including her left leg/foot. Appellant did not stop work, but began working in a limited-duty position for the employing establishment without wage loss.

In an authorization form for examination and/or treatment (Form CA-16) dated May 6, 2016, an individual with an illegible signature noted in the “attending physician’s report” section that appellant reported tripping over a box while carrying a container. The author diagnosed low back pain with sciatica due to the incident and found that appellant could work as of May 6, 2016 with a restriction of lifting no more than 10 pounds.²

OWCP accepted that appellant sustained a sprain of ligaments of her lumbar spine.

In a July 20, 2016 narrative report, Dr. William S. Johnson, an attending Board-certified orthopedic surgeon, indicated that appellant reported experiencing pain in her left lower back and left lower extremity since her May 4, 2016 accident.³ He noted that the reported left lower extremity pain had a nondermatomal distribution. Dr. Johnson advised that, upon physical examination, appellant exhibited tenderness on palpation of her left lumbar region and posterior superior iliac spine, left lumbar muscle spasms, and positive leg raise test of her left leg. He diagnosed acute left low back pain and lumbar sprain. In a July 20, 2016 form report, Dr. Johnson posited that appellant could perform modified work.

In August 2016, appellant began to participate in OWCP-approved sessions with a physical therapist on a periodic basis.

In an October 5, 2016 report, Dr. Johnson noted that appellant reported “somewhat worse” pain in her left lower back and left lower extremity and indicated, “In general, the current spine problem is basically stable and unchanged since its outset.” The physical examination on that date revealed left lumbar muscle spasms and tenderness on palpation of the left lumbar region and posterior superior iliac spine. Dr. Johnson diagnosed left S1 radicular pain, lumbar sprain, acute low back pain, and possible herniated disc (worsening). He recommended that appellant engage in activity modification and continue with physical therapy at home.

In an October 5, 2016 form report, Dr. Johnson diagnosed lumbar strain and a possible herniated disc and checked a box marked “no work for now.” On October 6, 2016 he filed a request for appellant to undergo a magnetic resonance imaging (MRI) scan.

Appellant stopped work on October 6, 2016. On October 24, 2016 she filed a claim for compensation (Form CA-7) claiming that she was disabled for the period October 6 to 14, 2016 due to her May 4, 2016 employment injury. Appellant subsequently filed additional claims for compensation claiming disability for intermittent periods between October 17 and November 25, 2016.

² In a May 4, 2016 duty status report (Form CA-17), the same individual recommended various work restrictions, including no engaging in climbing, kneeling, and twisting.

³ Appellant reported that her left lower back pain was worse than her left lower extremity pain.

In a November 2, 2016 development letter, OWCP requested that appellant submit additional evidence in support of her disability claim, including a physician's opinion supported by a medical explanation as to how the May 4, 2016 employment injury caused disability on or after October 6, 2016. It further indicated that such an opinion should discuss any clinical findings showing that the May 4, 2016 employment-related condition had materially worsened to the point that she was disabled. OWCP provided appellant 30 days to submit the requested evidence.

In response to the development letter, appellant submitted a November 16, 2016 report from Dr. Johnson who described the physical examination performed on that date. Dr. Johnson noted that she reported her lower back and left lower extremity pain had "not changed with time" and that her symptoms were only present on an intermittent basis. The physical examination on November 16, 2016 showed left lumbar muscle spasms and tenderness on palpation of the left lumbar region, left sciatic notch, and left posterior superior iliac spine. Dr. Johnson diagnosed left S1 radicular pain, lumbar sprain, acute low back pain, and degenerative disc disease at L4-5 and L5-S1. He recommended that appellant engage in activity modification.

In a November 16, 2016 form report, Dr. Johnson diagnosed lumbar strain and checked a box denoting the need for "modified duty; restrictions" as of that date. He noted that appellant was restricted from lifting more than 15 pounds or engaging in overhead lifting, pushing, or pulling.

The findings of a November 11, 2016 MRI scan of appellant's low back contained an impression of mild degenerative-type changes at L3-4, L4-5, and L5-S1 with no evidence of focal disc herniation or significant central lateral/forminal stenosis.

In a December 8, 2016 decision, OWCP denied appellant's disability claim because she failed to submit medical evidence sufficient to establish disability on or after October 6, 2016 due to her May 4, 2016 employment injury. It found that the medical evidence of record did not contain a rationalized medical opinion which causally related appellant's claimed disability to her accepted employment injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ In general the term disability under FECA means incapacity because

⁴ *Supra* note 1.

⁵ *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

of injury in employment to earn the wages which the employee was receiving at the time of such injury.⁶ This meaning, for brevity, is expressed as disability from work.⁷

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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 claimant.⁸

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability on or after October 6, 2016 due to her May 4, 2016 employment injury.

OWCP accepted that appellant sustained a sprain of ligaments of her lumbar spine on May 4, 2016 and she continued working after that date in a modified position for the employing establishment without wage loss. Appellant fully stopped work on October 6, 2016 and filed a claim for compensation alleging that she was disabled beginning October 6, 2016 and continuing due to her May 4, 2016 employment injury.

The Board notes that OWCP properly found that appellant failed to submit medical evidence sufficient to establish disability on or after October 6, 2016 due to her May 4, 2016 employment injury. The medical evidence appellant submitted did not contain a rationalized medical opinion addressing the causal relationship between her claimed disability and the accepted employment injury.⁹

In an October 5, 2016 form report, Dr. Johnson diagnosed lumbar strain and possible herniated disc and checked a box marked “no work for now.” The submission of this report does not establish appellant’s claim for disability on or after October 6, 2016 due to her May 4, 2016 employment injury because he did not provide any opinion on the causal nature of her disability. The Board has held that medical evidence which does not offer an opinion regarding the cause of an employee’s condition/disability has no probative value on the issue of causal relationship.¹⁰

In an October 5, 2016 report, Dr. Johnson noted that the physical examination on that date revealed left lumbar muscle spasms and tenderness on palpation of the left lumbar region and posterior superior iliac spine. He diagnosed left S1 radicular pain, lumbar sprain, acute low back

⁶ See 20 C.F.R. § 10.5(f).

⁷ *Roberta L. Kaaumoana*, 54 ECAB 150 (2002); see also *A.M.*, Docket No. 09-1895 (issued April 23, 2010).

⁸ See *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

⁹ See *D.R.*, Docket No. 16-0528 (issued August 24, 2016) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining the relationship between an accepted employment injury and claimed condition/disability).

¹⁰ See *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

pain, and possible herniated disc (worsening). However, this report also is of no probative value regarding appellant's disability claim because it does not contain any opinion regarding disability.¹¹ Moreover, the Board notes that the findings contained in Dr. Johnson's October 5, 2016 report are very similar to those found in reports produced prior to her claimed period of disability.¹² Therefore, the October 5, 2016 report does not show a notable worsening of appellant's medical condition, let alone a worsening of her employment-related condition which caused disability on or after October 6, 2016.

In a November 16, 2016 report, Dr. Johnson indicated that the physical examination performed on that date showed left lumbar muscle spasms and tenderness on palpation of the left lumbar region, left sciatic notch, and left posterior superior iliac spine. He diagnosed left S1 radicular pain, lumbar sprain, acute low back pain, and degenerative disc disease at L4-5 and L5-S1. In a November 16, 2016 form report, Dr. Johnson diagnosed lumbar strain and checked a box denoting the need for "modified duty; restrictions" as of that date. He noted that appellant was restricted from lifting more than 15 pounds or engaging in overhead lifting, pushing, or pulling.

The submission of these reports does not establish appellant's claim for disability on or after October 6, 2016 due to her May 4, 2016 employment injury because Dr. Johnson did not provide any opinion on the cause of her partial disability.¹³ Moreover, these reports do not otherwise show a worsening of her employment-related condition such that she could no longer perform the modified work she had been performing without wage loss since her May 4, 2016 employment injury.¹⁴

Appellant failed to submit medical evidence sufficient to establish disability on or after October 6, 2016 due to her May 4, 2016 employment injury. OWCP provided her an opportunity to submit a medical report showing that she sustained such disability, but she failed to submit this evidence within the allotted period. For these reasons, appellant has not met her burden of proof to establish disability on or after October 6, 2016 due to her May 4, 2016 employment injury.¹⁵

¹¹ *See id.*

¹² In fact, Dr. Johnson noted, "In general, the current spine problem is basically stable and unchanged since its outset."

¹³ *See supra* note 8.

¹⁴ In his November 16, 2016 report, Dr. Johnson indicated that appellant reported her lower back and left lower extremity pain had "not changed with time" and that her symptoms were only present on an intermittent basis. The findings of a November 11, 2016 MRI scan of her low back contained an impression of mild degenerative-type changes at L3-4, L4-5, and L5-S1 with no evidence of focal disc herniation or significant central lateral/forminal stenosis. The Board notes that appellant's claim has not been accepted for degenerative lumbar disease and there is no medical evidence of record relating this condition to employment factors.

¹⁵ Appellant submitted a Form CA-16 which was completed by an individual with an illegible signature on May 6, 2016. Where an employing establishment properly executes a Form CA-16 authorizing medical treatment related to a claim for a work injury, the form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination/treatment regardless of the action taken on the claim. *See Tracy P. Spillane*, 54 ECAB 608 (2003). The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. *See* 20 C.F.R. § 10.300(c).

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 on or after October 6, 2016 due to her accepted May 4, 2016 employment injury.

ORDER

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

Issued: May 11, 2018
Washington, DC

Patricia H. Fitzgerald, Deputy 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