

employment injury; and (2) whether appellant has met her burden of proof to expand the acceptance of her claim to include the conditions of spinal stenosis, spondylolisthesis, and sacroiliac joint osteoarthritis, as causally related to the accepted May 1, 2018 employment injury.

FACTUAL HISTORY

On May 22, 2018 appellant, then a 57-year-old food service worker, filed a traumatic injury claim (Form CA-1) alleging that on May 1, 2018, she tripped over a rug and sustained knee and elbow injuries while in the performance of duty. She stopped work that day. On June 6, 2018 OWCP accepted appellant's claim for bilateral knee contusions.

On September 1, 2018 appellant submitted a claim for compensation (Form CA-7) for leave without pay (LWOP) due to total disability during the period July 7 to August 18, 2018. On September 10, 2018 she submitted a Form CA-7 for LWOP for intermittent disability during the period August 19 through September 1, 2018.

In a letter dated September 14, 2018, OWCP requested that appellant's treating physician, Dr. Marc E. Rankin, a Board-certified orthopedic surgeon, provide an updated narrative medical report detailing appellant's condition.

In a report dated September 10, 2018, Dr. Rankin diagnosed spinal stenosis of lumbar region with neurogenic claudication, presence of left artificial knee joint, spondylolisthesis, and osteoarthritis of sacroiliac joint, based on a bone scan of appellant's left knee and a magnetic resonance imaging (MRI) scan of appellant's back. He indicated that she complained of severe pain in her left knee, which she related began after a fall at work. Dr. Rankin opined that appellant was to remain off of work.

In a development letter dated September 20, 2018, OWCP informed appellant that additional medical evidence was necessary to establish her claim for compensation, and requested that she submit medical evidence establishing total disability due to the accepted conditions for the periods of wage loss claimed. It afforded her 30 days to respond.

In a separate letter of even date, OWCP advised appellant that it had received her physician's notification of newly diagnosed conditions of spinal stenosis, spondylolisthesis, and sacroiliac joint osteoarthritis, allegedly causally related to her accepted May 1, 2018 employment injury. Appellant was advised that additional medical evidence was necessary to expand acceptance of her claim. OWCP afforded her 30 days to submit the necessary evidence.

On September 20, 2018 appellant submitted a Form CA-7 for LWOP for intermittent disability for the period September 2 through 15, 2018.

In a work capacity evaluation form (Form OWCP-5c) dated September 25, 2018, Cheree Jamison, a physician assistant, indicated that appellant was still experiencing bilateral knee and leg pain. She noted that appellant was totally disabled from work, and that she had yet to reach maximum medical improvement.

On October 15, 2018 appellant submitted a Form CA-7 for LWOP for total disability for the period September 17 to October 7, 2018.

By decision dated October 23, 2018, OWCP denied appellant's claim for compensation for disability for the period beginning July 7, 2018 and continuing.

By separate decision of even date, OWCP denied the expansion of the acceptance of appellant's claim to include the additional conditions of spinal stenosis, spondylolisthesis, and sacroiliac joint osteoarthritis.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA³ has the burden of establishing 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.⁴

Under FECA 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.⁵

Whether a particular injury causes an employee disability for employment is a medical issue which must be resolved by competent medical evidence.⁶ Whether a particular injury causes an employee to be disabled from work and the duration of that disability, are medical issues that must be proven by a preponderance of the reliable, probative, and substantial medical evidence.⁷

For each period of disability claimed, the employee has the burden of proof to establish that she was disabled for work as a result of the accepted employment injury.⁸ 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 their disability and entitlement to compensation.⁹

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 causal relationship.¹⁰ Causal relationship is a medical issue and the

³ *Supra* note 1.

⁴ *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *G.T.*, Docket No. 07-1345 (issued April 11, 2008); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ 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).

⁶ *T.G.*, Docket No. 18-1064 (issued April 26, 2019).

⁷ *Id.*

⁸ *B.F.*, Docket No. 19-0123 (issued May 13, 2019); *M.D.*, Docket No. 18-0474 (issued October 3, 2018); *see Amelia S. Jefferson*, 57 ECAB 183 (2005); *see also Nathaniel Milton*, 37 ECAB 712 (1986).

⁹ *Id.*

¹⁰ *See S.J.*, *supra* note 4; *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

medical evidence required to establish causal relationship is rationalized medical evidence.¹¹ 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.¹²

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.¹³

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish total disability for the period July 7, 2018 and continuing causally related to her accepted May 1, 2018 employment injury.

In support of her claim, appellant submitted a medical report from Dr. Rankin. In his September 10, 2018 report, Dr. Rankin diagnosed several lumbar conditions and noted the presence of a left artificial knee joint. He indicated that appellant complained of severe pain in her left knee, which she related began after a fall at work, and also opined that appellant was to remain off of work. However, Dr. Rankin did not provide medical rationale which explained why objective findings of appellant's accepted knee conditions caused her disability.¹⁴ Subjective complaints of pain are insufficient, in and of themselves, to support payment of compensation.¹⁵ When physician's statements regarding an employee's ability to work consist only of recitation of the employee's complaints that he or she was in too much pain to work, without objective findings of disability being shown, the physician has not presented a rationalized opinion on the issue of disability.¹⁶ The Board finds that, without medical rationale supporting disability, Dr. Rankin's reports are insufficient to meet appellant's burden of proof.¹⁷ His reports, therefore, do not establish that appellant was disabled from work during the claimed period due to her accepted knee conditions.

¹¹ *Id.*

¹² *See supra* note 10.

¹³ *V.B.*, Docket No. 18-1273 (issued March 4, 2019); *see William A. Archer*, 55 ECAB 674 (2004); *see also Fereidoon Kharabi*, 52 ECAB 291 (2001).

¹⁴ *See D.V.*, Docket No. 17-1344 (issued March 19, 2018).

¹⁵ *B.F.*, *supra* note 8.

¹⁶ *B.F.*, *supra* note 8; *P.D.*, Docket No. 14-0744 (issued August 6, 2014); *G.T.*, 59 ECAB 447 (2008).

¹⁷ *S.H.*, Docket No. 18-1398 (issued March 12, 2019).

Appellant also submitted a Form OWCP-5c from Ms. Jamison, a physician assistant. However, physician assistants are not considered physicians under FECA and their opinions regarding disability therefore do not constitute probative medical evidence.¹⁸

As the medical evidence of record is insufficient to establish that appellant was disabled from work for the period July 7, 2018 and continuing due to her accepted knee conditions, the Board finds that appellant has not met her burden of proof.

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.

LEGAL PRECEDENT -- ISSUE 2

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.¹⁹

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.²⁰ To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence supporting causal relationship.²¹ The opinion of the physician must be based on a complete factual and medical background of the employee, 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.²²

Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the claimant's own belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.²³

¹⁸ 5 U.S.C. § 8102(2) of FECA provides that the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.404; *R.V.*, Docket No. 18-1037 (issued March 26, 2019); *E.T.*, Docket No. 17-0265 (issued May 25, 2018) (physician assistants are not considered physicians under FECA); *C.P.*, Docket No. 17-0042 (issued December 27, 2016); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006); *Roy L. Humphrey*, 57 ECAB 238 (2005).

¹⁹ *R.K.*, Docket No. 18-1409 (issued April 15, 2019); *see T.F.*, Docket No. 17-0645 (issued August 15, 2018); *Jana K. Asaramo*, 55 ECAB 200 (2004).

²⁰ *See D.V.*, *supra* note 14.

²¹ *R.K.*, *supra* note 19; *see S.A.*, Docket No. 18-0399 (issued October 16, 2018); *Leslie C. Moore*, 52 ECAB 132 (2000).

²² *Id.*

²³ *C.P.*, Docket No. 18-1645 (issued March 8, 2019); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include spinal stenosis, spondylolisthesis, and sacroiliac joint osteoarthritis as causally related to the accepted May 1, 2018 employment injury.

In his September 10, 2018 report, Dr. Rankin noted a history of appellant's accepted injury and provided examination findings based on diagnostic testing. He diagnosed spinal stenosis of lumbar region with neurogenic claudication, spondylolisthesis, and osteoarthritis of sacroiliac joint. However, Dr. Rankin did not address the causal nature of these additional diagnoses. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.²⁴ Thus, this evidence is insufficient to meet appellant's burden of proof.

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 total disability for the period July 7, 2018 and continuing causally related to her accepted May 1, 2018 employment injury. The Board also finds that she has not met her burden of proof to expand the acceptance of her claim to include additional conditions of spinal stenosis, spondylolisthesis, and sacroiliac joint osteoarthritis as causally related to the accepted May 1, 2018 employment injury.

²⁴ *T.K.*, Docket No. 18-1239 (issued May 29, 2019).

ORDER

IT IS HEREBY ORDERED THAT the October 23, 2018 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: August 9, 2019
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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