

popped while in the performance of duty. He did not stop work. On October 19, 2001 OWCP accepted appellant's claim for right knee strain. It authorized compensation benefits for intermittent disability beginning October 16, 2001. On April 12, 2010 OWCP expanded acceptance of appellant's claim to include tear of the right medial meniscus and unspecified internal derangement of the right knee. On January 27, 2011 appellant underwent an arthroscopic major synovectomy and medial meniscectomy of the right knee. He returned to full duty on May 2, 2011. Appellant continued to claim intermittent periods of total disability from April 19, 2014 through January 19, 2017 for which he received compensation.

On April 17, 2018 appellant filed a claim for compensation (Form CA-7) for leave without pay (LWOP) for disability during the period April 4 through 6, 2018. He used eight hours of LWOP per day due to right knee pain.

In an April 25, 2018 development letter, OWCP advised appellant of the deficiencies of his claim. It requested additional medical evidence from him to establish disability for the entire period claimed. OWCP afforded appellant 30 days to respond.²

By decision dated July 19, 2018, OWCP denied appellant's claim for compensation for disability for the period April 4 through 6, 2018. It found that he failed to submit any evidence to support his claim for LWOP causally related to his accepted work-related medical conditions.

On September 21, 2018 appellant requested reconsideration of the July 19, 2018 decision. He contended that he did not work on April 4 through 6, 2018 due to knee pain. Appellant noted that he was out of medication and his last knee injection was in December 2014. He reported that his physician had died and that he was unable to immediately find a new one. Appellant later sought treatment with Dr. Harwinder Singh, a Board-certified physiatrist on April 10, 2018.

In a note dated September 12, 2018, Dr. Singh reported that due to increased pain appellant was advised not to work on April 4 through 6, 2018. He noted that he first examined appellant on April 10, 2018.

By decision dated December 14, 2018, OWCP denied modification of the July 19, 2018 decision. It found no medical evidence was received to support that appellant's claim for LWOP was causally related to the accepted work-related medical conditions.

² Appellant continued to file Form CA-7s for intermittent dates of total disability from April 18 through December 5, 2018. On July 18, 2018 OWCP authorized 27.97 hours of compensation from April 18 through June 13, 2018. On September 25, 2018 it authorized 2 hours of compensation on July 6, 2018 and 3.76 hours of compensation on September 12, 2018. On November 23, 2018 OWCP authorized 2.85 hours of compensation on November 9, 2018.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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.⁴

Under FECA, the term disability means “the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury.”⁵ The question of whether an employee is disabled from work is an issue that must be resolved by competent medical evidence.⁶ The employee is responsible for providing sufficient medical evidence to justify payment of any compensation sought.⁷

For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from 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 his or her disability and entitlement to compensation.⁹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish disability for the period April 4 through 6, 2018, causally related to his accepted employment injuries.

While OWCP accepted appellant’s July 31, 2001 employment injury for right knee strain and tear of the right medial meniscus and unspecified internal derangement of the right knee, he bears the burden of proof to establish through rationalized medical evidence that he was totally disabled during the claimed period April 4 through 6, 2018 and that his disability was causally related to the accepted injuries.¹⁰

In support of his claim for disability, appellant provided a note dated September 12, 2018 from Dr. Singh. Dr. Singh reported that, due to increased pain, appellant was advised not to work

³ *Supra* note 1.

⁴ See *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ 20 C.F.R. § 10.5(f).

⁶ *S.A.*, Docket No. 18-0399 (issued October 16, 2018); see also *R.C.*, 59 ECAB 546, 551 (2008).

⁷ *Id.*; see *T.A.*, Docket No. 18-0431 (issued November 7, 2018); see also *Amelia S. Jefferson*, 57 ECAB 183 (2005).

⁸ See *S.M.*, Docket No. 17-1557 (issued September 4, 2018); *William A. Archer*, 55 ECAB 674, 679 (2004); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

⁹ *T.L.*, Docket No. 18-0934 (issued May 8, 2019); *Sandra D. Pruitt*, 57 ECAB 126 (2005).

¹⁰ See *V.P.*, Docket No. 09-0337 (issued August 4, 2009).

on April 4 through 6, 2018 and noted that he first examined appellant on April 10, 2018. The Board has held that the mere diagnosis of “pain” does not constitute the basis for payment of compensation.¹¹ Furthermore, the Board has held that a medical report is of no probative value if it does not provide a firm diagnosis of a particular medical condition or offer a specific opinion as to whether the accepted employment incident caused or aggravated the claimed condition.¹² As Dr. Singh’s note does not provide a firm diagnosis nor an opinion on the causal relationship between appellant’s accepted injuries and his claimed disability for work, it is insufficient to establish appellant’s claim for disability due to LWOP for the period April 4 through 6, 2018.

As the medical evidence of record is insufficient to establish that appellant was disabled from work for the period April 4 through 6, 2018 due to his accepted right knee conditions, the Board finds that appellant has not met his 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 his burden of proof to establish total disability for the period April 4 through 6, 2018, causally related to his accepted July 31, 2001 employment injury.

¹¹ *T.G.*, Docket No. 18-1064 (issued April 26, 2019); *Robert Broome*, 55 ECAB 339 (2004).

¹² *C.R.*, *supra* note 4; *J.M.*, Docket No. 16-0306 (issued May 5, 2016).

ORDER

IT IS HEREBY ORDERED THAT the December 14, 2018 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 26, 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