

ISSUE

The issue is whether appellant has met his burden of proof to establish disability from work for the period February 17 through April 20, 2015, causally related to his accepted employment injury.

FACTUAL HISTORY

On January 9, 2015 appellant, then a 58-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging a back injury due to factors of his federal employment. He noted that he first became aware of his claimed condition and its relationship to his federal employment on December 9, 2014.⁴ Appellant stopped work on December 16, 2014. OWCP accepted his claim for back sprain, lumbar region; and left hip and thigh sprain.

A July 23, 2015 medical report from Dr. Ernest Miller, a Board-certified orthopedic surgeon serving as a OWCP second-opinion physician, indicated that appellant had related he had been off work since December 16, 2014 due to a nonwork-related right knee surgery performed on that day.

On October 25, 2017 appellant filed a claim for compensation (Form CA-7) for disability from work from February 17 through April 20, 2015. In accompanying time analysis forms (Form CA-7a), he requested 336 hours of wage-loss compensation for leave without pay (LWOP) from February 17 through April 20, 2015.

OWCP, by development letter dated November 8, 2017, informed appellant of the deficiencies of his claim. It advised him of the type of medical evidence needed to establish his claim for compensation for total disability from work during the period February 17 through April 20, 2015. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP subsequently received medical evidence from Dr. Gundala S. Reddy, an attending anesthesiologist. In a procedure report dated October 18, 2017, Dr. Reddy noted that appellant had undergone a bilateral sacroiliac (SI) joint injection under fluoroscopy to treat appellant's diagnoses of bilateral SI joint and lower back pain. In a December 15, 2017 letter, Dr. Reddy requested that OWCP authorize a repeat therapeutic bilateral SI joint injection with imaging and moderate sedation.

By decision dated December 18, 2017, OWCP denied appellant's claim for compensation for disability from work during the period February 17 through April 20, 2015, finding that he had not provided medical evidence to establish that he was totally disabled from work during the claimed period due to his accepted employment conditions.

Medical records dated October 18, 2017 through November 7, 2018 were received. On October 18, 2017, January 10, April 11, August 1, and November 7, 2018 Dr. Reddy reported that appellant had undergone bilateral sacroiliac joint injections.

⁴ The Board notes that appellant has a prior claim for a traumatic injury sustained on April 2, 2005, to which OWCP assigned OWCP File No. xxxxxx687. OWCP accepted that claim for contusion of the face, scalp, and neck except the eye(s); sprain of lumbosacral (joint) (ligament); sprain of neck; sprain of right shoulder and upper arm, unspecified site; other affections of right shoulder region, not elsewhere classified.

In a January 11, 2018 prescription, Dr. Mario K. Sabian, an orthopedic surgeon, excused appellant from work from November 12 through 18, 2018 due to severe right knee pain.

On December 18, 2018 appellant, through his then-representative, requested reconsideration regarding the December 18, 2017 decision. In an accompanying undated narrative statement dated December 3, 2018, appellant reiterated his history of injury.

In support of his request for reconsideration, appellant submitted a September 29, 2018 report from Dr. James Jones, a Board-certified anesthesiologist. Dr. Jones noted a history of his treatment of appellant's employment injury commencing December 11, 2014. He provided appellant's continuing symptoms and noted that appellant received steroid injections and took pain medication to treat his bilateral sacroiliac joint and lower back pain. Dr. Jones opined that appellant could not return to work until it was safe for him to do so, and he had completed his treatment course. He excused appellant from work from January 30 to April 16, 2015.

On February 11, 2019 Dr. Reddy requested authorization of therapeutic bilateral SI joint injection.

By decision dated March 8, 2019, OWCP denied modification of the December 18, 2017 decision.

OWCP subsequently received additional reports dated March 13, 2019 through February 12, 2020 from Dr. Reddy and Dr. Sabian.

On March 9, 2020 appellant, through his then-representative, requested reconsideration of the March 8, 2019 decision.

OWCP continued to receive progress reports dated January 9, 2020 through October 12, 2021 from Dr. Sabian and Dr. Reddy.

By decision dated November 4, 2021, OWCP denied modification of the March 8, 2019 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ 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.⁶ 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.⁷ Whether a particular injury causes an

⁵ *Supra* note 2.

⁶ *See D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *See L.F.*, Docket No. 19-0324 (issued January 2, 2020); *T.L.*, Docket No. 18-0934 (issued May 8, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.⁸

Under FECA, the term disability means an incapacity because of an employment injury, to earn the wages the employee was receiving at the time of the injury.⁹ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, prevent the employee from continuing in his or her employment, he or she is entitled to compensation for any loss of wages.¹⁰

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.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 between the claimed disability and the accepted employment injury.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

The Board finds that appellant has not met his burden of proof to establish disability from work for the period February 17 through April 20, 2015, causally related to his accepted employment injury.

In support of his claim, appellant submitted a September 29, 2018 report from Dr. Jones. Dr. Jones opined that appellant was disabled from work for the period January 30 through April 16, 2015 due to his continuing employment-related symptoms. He explained that it was unsafe for him to return to work based on his continuing employment-related symptoms until he had completed his treatment course. While Dr. Jones opined that the accepted employment injury rendered appellant totally disabled from work for the claimed period, he did not explain with sufficient rationale as to how his inability to work was due to his accepted lumbar and left hip

⁸ See 20 C.F.R. § 10.5(f); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

⁹ *Id.* at § 10.5(f); see e.g., *G.T.*, 18-1369 (issued March 13, 2019); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

¹⁰ *G.T., id.*; *Merle J. Marceau*, 53 ECAB 197 (2001).

¹¹ See *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

¹² *T.S.*, Docket Nos. 20-1177 and 20-1296 (issued May 28, 2021); *V.A.*, Docket No. 19-1123 (issued October 29, 2019).

¹³ See *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

injuries, and would have rendered appellant unable to perform his work duties. Thus, his opinion is of limited probative value and is insufficient to establish appellant's disability claim.¹⁴

Although Dr. Sabian's January 11, 2018 prescription indicated that appellant was disabled from work for the period November 12 through 18, 2018, he did not provide an opinion specifically addressing appellant's disability for the claimed period. The Board has held that medical evidence that does not address the specific dates of disability claimed is of no probative value on the issue of causal relationship.¹⁵ For these reasons, the Board finds that Dr. Sabian's prescription is of no probative value and is insufficient to establish appellant's claim for compensation.

Similarly, the remaining reports of Dr. Sabian and Dr. Reddy documented appellant's ongoing medical treatment, but failed to offer an opinion on causal relationship between the claimed period of disability and the accepted employment injury. Therefore, these reports are of no probative value and are insufficient to establish appellant's claim for compensation.¹⁶

OWCP also received a July 23, 2015 report from Dr. Miller. Dr. Miller noted that appellant had related to him that he had been off work since December 16, 2014 due to a nonwork-related right knee surgery performed on that day. This report did not support a finding that the accepted employment injury caused the claimed period of disability.¹⁷ This report is therefore insufficient to establish appellant's claim for compensation.

As appellant has not submitted rationalized medical opinion evidence sufficient to establish employment-related disability during the claimed period due to his accepted employment conditions, the Board finds that he has not met his burden of proof to establish his claim.

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 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 disability from work for the period February 17 through April 20, 2015, causally related to his accepted employment injury.

¹⁴ *A.V.*, Docket No. 19-1575 (issued June 11, 2020); *M.L.*, Docket Nos. 18-1058, 18-1224 (issued November 21, 2019); *T.H.*, Docket No. 19-0436 (issued August 13, 2019); *C.B.*, Docket No. 18-0040 (issued May 7, 2019).

¹⁵ *See D.P.*, Docket No. 22-0184 (issued June 7, 2022); *T.S.*, Docket No. 20-1229 (issued August 6, 2021); *J.M.*, Docket No. 19-1169 (issued February 7, 2020); *A.L.*, 19-0285 (issued September 24, 2019).

¹⁶ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁷ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the November 4, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 25, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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