

**United States Department of Labor  
Employees' Compensation Appeals Board**

D.C., Appellant	)	
	)	
and	)	Docket No. 22-0648
	)	Issued: September 15, 2022
U.S. POSTAL SERVICE, POST OFFICE,	)	
Jackson, WY, Employer	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On February 25, 2022 appellant filed a timely appeal from a December 14, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the December 14, 2021 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## ISSUE

The issue is whether appellant met his burden of proof to establish disability from work for the period, commencing April 26, 2021, causally related to his accepted August 1, 2018 employment injury.

## FACTUAL HISTORY

On September 19, 2018 appellant, then a 57-year-old lead clerk, filed an occupational disease claim (Form CA-2) alleging that he developed wrist tenosynovitis causally related to factors of his federal employment, including repetitive hand motions required perform his duties. He alleged that he first became aware of this condition on August 1, 2018, but did not realize its connection to factors of his federal employment until August 10, 2018. OWCP accepted the claim for right carpal tunnel syndrome, right ulnar nerve lesion, right wrist post-traumatic osteoarthritis, right-hand primary osteoarthritis of first carpometacarpal joint, and right middle trigger finger. It authorized right carpal tunnel surgery and right wrist ulnar nerve revision, which appellant underwent on February 12, 2019, and right wrist surgery and right middle finger A1 pulley release, which appellant underwent on August 27, 2019. OWCP paid appellant wage-loss compensation on the supplemental rolls, commencing February 12, 2019, on the periodic rolls from June 23, 2019 through January 30, 2021, and on the supplemental rolls again from January 31 to February 15, 2021

On February 12, 2021 appellant accepted a modified lead sales and services associate position and returned to work on February 16, 2021 with restrictions. The physical requirements of the position required up to 5.20 hours of lifting up to 10 pounds frequently, up to 2.40 hours of lifting 20 pounds occasionally, and up to 8 hours of sitting, walking, standing, reaching, bending, and twisting.

On April 7, 2021 appellant was seen at an emergency department for right wrist pain by Dr. Barron J. Reyes, a Board-certified emergency medicine physician. Dr. Reyes noted an illness history, detailed examination findings, and diagnosed wrist pain. Appellant attributed his wrist pain to his accepted employment injury and overuse from his job. A disability note of even date requested that appellant be allowed a few days off work to allow his right wrist to heal.

In a work capacity evaluation form (Form OWCP-5c) dated April 26, 2021, Dr. Heidi E. Yost, Board-certified in orthopedic and hand surgery, found appellant totally disabled due to right wrist and left arm conditions. She advised that his restrictions were permanent.

On May 12, 2021 appellant filed a claim for compensation (Form CA-7) for the period April 26 through May 7, 2021.

In a development letter dated May 21, 2021, OWCP informed appellant that the evidence submitted was insufficient to establish disability from work commencing April 26, 2021. It advised him of the type of additional evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to provide the necessary evidence.

Appellant continued to file additional CA-7 forms claiming disability.

In a report dated June 3, 2021, Dr. Yost reported treating appellant for right wrist radial styloidectomy, right wrist proximal row carpectomy (PRC), right index extensor digitorum communis (EDC) repair, right wrist excision carpal boss base of third metacarpal. She noted that appellant continued to have pain, which worsened following his return to work on February 16, 2021 and that he had sought care in an emergency room on April 7, 2021. Due to appellant's ongoing pain and difficulties, Dr. Yost recommended appellant be placed in an off-work status as his light-duty job was too intense for his right wrist pain/prognosis.

By decision dated August 2, 2021, OWCP denied appellant's claim for disability from work commencing April 26, 2021 and continuing.

OWCP received reports covering the period April 26 to August 9, 2021 from Dr. Yost. In an April 26, 2021 office visit note, Dr. Yost reports appellant was seen for complaints of right wrist pain. Appellant related that he been assigned a sedentary job, but was placed on the window by himself, which caused pain and visit to the emergency room. He further indicated that computer work caused him pain, and that any wrist manipulation resulted in pain. Dr. Yost diagnosed right wrist post-traumatic osteoarthritis, right wrist radial styloidectomy, right wrist PRC, right index EDC repair, and right wrist excision carpal boss base of third metacarpal. She recommended appellant be placed in an off-work status finding the light-duty job was too intense for his right wrist prognosis/pain. Dr. Yost also noted right hand nerve and muscle wasting. In the remaining reports, she opined that the light-duty/sedentary job was too intense for appellant's wrist pain/prognosis and recommended that he be placed in an off-work status.

OWCP also received additional CA-7 forms from appellant claiming disability from work.

On August 18, 2021 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated December 14, 2021, OWCP's hearing representative affirmed the August 2, 2021 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> For each period of disability claimed, the employee has the

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> See *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *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); see also *Nathaniel Milton*, 37 ECAB 712 (1986).

<sup>5</sup> 20 C.F.R. § 10.5(f); *S.T.*, Docket No. 18-0412 (issued October 22, 2018); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.<sup>6</sup>

Whether a particular injury causes an employee to become 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.<sup>7</sup> 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 claimed disability and the specific employment factors identified by the claimant.<sup>8</sup>

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.<sup>9</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish disability from work, commencing April 26, 2021, causally related to his accepted employment injury.

Appellant accepted a modified job offer on February 12, 2021 and returned to work on February 16, 2021. He subsequently filed claims for wage-loss compensation for disability from work commencing April 26, 2021.

In support of his claims for compensation, appellant submitted a series of reports from Dr. Yost. In reports covering the period April 26 to August 6, 2021, Dr. Yost diagnosed right wrist post-traumatic osteoarthritis, right wrist radial styloidectomy, right wrist PRC, right index EDC repair, and right wrist excision carpal boss base of third metacarpal. She found appellant totally disabled, noting that the modified job was too intense for appellant's right wrist pain/prognosis. In an April 26, 2021 Form OWCP-5c, Dr. Yost found appellant totally disabled due to right wrist and left arm conditions. Although she opined that appellant was totally disabled in these reports, they are of limited probative value in establishing his claim for disability, commencing April 26, 2021, as she did not explain why he was disabled beginning that date due to his accepted employment conditions. To establish a period of disability, the medical evidence must provide a discussion of how objective medical findings attributable to the accepted conditions support a

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<sup>6</sup> See *A.S.*, Docket No. 20-0406 (issued August 18, 2021); *D.G.* Docket No. 18-0597 (issued October 3, 2018); *Amelia S. Jefferson*, 57 ECAB 183 (2005).

<sup>7</sup> *A.S., id.*; *Amelia S. Jefferson, id.*; *William A. Archer*, 55 ECAB 674 (2004).

<sup>8</sup> *T.L.*, Docket No. 20-0978 (issued August 2, 2021); *V.A.*, Docket No. 19-1 123 (issued October 29, 2019).

<sup>9</sup> *C.T.*, Docket No. 20-0786 (issued August 20, 2021); *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

finding that appellant could not perform his job duties.<sup>10</sup> A medical opinion is of limited probative value if it is conclusory in nature.<sup>11</sup> For these reasons, the Board finds that Dr. Yost's reports are insufficient to establish appellant's disability claim.

In an April 7, 2021 emergency room report, Dr. Reyes diagnosed right wrist pain. In a disability note of even date, he requested that the appellant have a few days off to allow his right wrist to heal. Dr. Reyes, however, offered no opinion on whether the accepted employment injury caused disability from employment. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.<sup>12</sup> Moreover, the Board has also held that pain is a symptom and not a compensable medical diagnosis.<sup>13</sup> Thus, the disability note and report from Dr. Reyes are of no probative value and insufficient to establish appellant's disability claim.

As appellant has not submitted rationalized medical evidence establishing disability from work causally related to the accepted employment conditions, the Board finds that he 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 disability from work, commencing April 26, 2021, causally related to his accepted employment conditions.

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<sup>10</sup> See *D.V.*, Docket No. 19-0868 (issued March 21, 2022); *M.M.*, Docket No. 19-0061 (issued November 21, 2019); *W.E.*, Docket No. 17-0451 (issued November 20, 2017)

<sup>11</sup> *D.V.*, *id.*; *R.B.*, Docket No. 19-1527 (issued July 20, 2020); *R.S.*, Docket No. 19-1774 (issued April 3, 2020).

<sup>12</sup> See *D.P.*, Docket No. 22-0184 (issued June 7, 2022); *A.M.*, Docket No. 20-1144 (issued July 23, 2021); *L.S.*, Docket No. 20-0570 (issued December 15, 2020); *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>13</sup> See *B.M.*, Docket No. 21-0198 (issued June 29, 2021); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 14, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 15, 2022  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board