

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work, commencing July 27, 2021, causally related to the accepted June 11, 2021 employment injury.

FACTUAL HISTORY

On June 16, 2021 appellant, then a 27-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 11, 2021 she sustained a neck injury while in the performance of duty when her employing establishment vehicle flipped multiple times after being struck by an automobile. She stopped work on June 11, 2021. OWCP accepted the claim for left shoulder contusion; cervical, lumbar and pelvis sprains; and other early complications of trauma.

In a report dated July 29, 2021, Dr. Marcos V. Masson, Board-certified in orthopedic surgery and hand surgery, noted that appellant was approximately seven weeks' status post motor vehicle accident. On examination he reported that appellant had normal hand examination findings, and normal peripheral nervous system findings. Dr. Masson related that a magnetic resonance imaging (MRI) scan of appellant's left shoulder found no fracture and an intact cuff. He related that she had lumbosacral tenderness, left shoulder tenderness and tightness on examination, and an otherwise normal examination. Diagnoses included lower and upper back sprain, and left shoulder impingement syndrome, improving slowly. Dr. Masson noted that appellant was off work, but recommended that appellant perform medium work for seven to eight hours a day.

In a duty status report (Form CA-17) dated July 29, 2021, Dr. Masson noted a June 11, 2021 injury and advised that appellant was currently disabled from work. He diagnosed low and upper back and cervical sprain and left shoulder contusion.

On August 13, 2021 appellant filed a claim for compensation (Form CA-7) for disability from work during the period July 27 to August 13, 2021.

In a compensation claim development letter dated August 30, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of evidence required and afforded her 30 days to submit the necessary evidence.

Thereafter, OWCP received Form CA-7 claims for compensation for disability from work during the period August 14 through October 8, 2021.

Dr. Masson, in a September 13, 2021 report, noted appellant's history of injury and her complaints. Examination findings and diagnoses were unchanged from his prior report. Dr. Masson noted that a left shoulder injection had been recommended and approved. He related that appellant could perform sedentary work with no overhead lifting, and that she would experience pain if she carried a mailbag. In a Form CA-17 of even date, Dr. Masson indicated that she was capable of sedentary work and provided work restrictions.

OWCP received physical therapy reports covering the period September 22 to October 15, 2021.

By decision dated October 18, 2021, OWCP denied appellant's claim for compensation for disability from work, commencing July 27, 2021, causally related to the accepted June 11, 2021 employment injury.

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 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 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.⁶

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.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 claimed disability and the specific employment factors identified by the claimant.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

³ *Supra* note 1.

⁴ *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).

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

⁶ *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).

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

⁸ *T.L.*, Docket No. 20-0978 (issued August 2, 2021); *V.A.*, Docket No. 19-1123 (issued October 29, 2019).

⁹ *C.T.*, Docket No. 20-0786 (issued August 20, 2021); *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *William A. Archer, supra* note 7; *Fereidoon Kharabi*, 52 ECAB 291 (2001).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work, commencing July 27, 2021, causally related to the accepted June 11, 2021 employment injury.

In support of her claim, appellant submitted reports and CA-17 form reports from Dr. Masson. In his July 29, 2021 narrative report, Dr. Masson related that appellant had normal hand examination findings, and normal peripheral nervous system findings. An MRI scan of appellant's left shoulder found no fracture and an intact cuff. Dr. Masson related that appellant had lumbosacral tenderness, left shoulder tenderness and tightness on examination, and an otherwise normal examination. Appellant's current diagnoses included lower and upper back sprain, and left shoulder impingement syndrome, improving slowly. Dr. Masson noted that appellant was off work, but recommended that appellant perform medium work for seven to eight hours a day. In the Form CA-17 dated July 29, 2021, he found appellant totally disabled.

The Board finds that Dr. Masson's report and Form CA-17 dated July 29, 2021 are contradictory and conclusory in nature regarding appellant's disability status. Further, these reports fail to explain how the accepted conditions caused disability and why appellant was unable to perform the duties of her federal employment during the period claimed.¹⁰ The Board has explained that the physician must offer an explanation as to why appellant required specific work restrictions based on objective medical evidence.¹¹ Dr. Masson related essentially normal physical findings and did not explain how any objective findings caused disability. Thus, these reports are of limited probative value and insufficient to establish appellant's disability claim.

OWCP also received a narrative report and Form CA-17 dated September 13, 2021 from Dr. Masson advising that appellant was able to work with restrictions. While he related appellant's work restrictions, his opinion was conclusory. Dr. Masson did not provide objective medical findings to explain why appellant required work restrictions due to the accepted left shoulder contusion, cervical, lumbar, and pelvis sprains, and other early complications of trauma. He did not provide any medical rationale as to why appellant could not perform her federal employment duties during the claimed period.¹² Thus, this evidence is insufficient to meet appellant's burden of proof.

¹⁰ *J.W.*, Docket No. 19-1688 (issued March 18, 2020); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

¹¹ *See S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, *supra* note 9.

¹² *See E.M.*, Docket No. 20-0738 (issued June 22, 2022); *E.M.*, Docket No. 18-0454 (issued February 20, 2020).

The remaining evidence of record consists of physical therapy notes. The Board has long held that certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.¹³ Their medical findings, reports and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.¹⁴ Consequently, this additional evidence is insufficient to meet appellant's burden of proof.

As appellant has not submitted rationalized medical evidence, based on objective medical findings, establishing disability from work for the claimed period causally related to the accepted June 11, 2021 employment injury, the Board finds that she 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish disability from work commencing July 27, 2021, causally related to the accepted June 11, 2021 employment injury.

¹³ Section 8101(2) of FECA provides that 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. § 10.5(t). See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). See also *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *A.M.*, Docket No. 20-1575 (issued May 24, 2021) (physical therapists are not physicians as defined by FECA).

¹⁴ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the October 18, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 23, 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