

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

M.M., Appellant)	
)	
and)	Docket Nos. 21-0482 & 21-1051
)	Issued: April 19, 2023
U.S. POSTAL SERVICE, THOMASTON POST OFFICE, Thomaston, GA, Employer)	
)	

Appearances:
Joanne Wright, for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On February 9, 2021 appellant, through her representative, filed a timely appeal from a January 4, 2021 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).² On July 2, 2021 appellant, through her representative, filed a timely appeal from an April 9, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP).³ Pursuant to the

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² The Clerk of the Appellate Boards assigned Docket No. 21-0482.

³ The Clerk of the Appellate Boards assigned Docket No. 21-1051.

Federal Employees' Compensation Act⁴ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case and over the January 4, 2021 nonmerit decision.⁵

ISSUES

The issues are: (1) whether OWCP properly denied her request for reconsideration of the merits of the claim pursuant 5 U.S.C. § 8128(a) with regard to OWCP's denial of disability for the period July 20 through August 1, 2019; and (2) whether appellant has met her burden of proof to establish disability from work for the period June 9, 2018 through July 19, 2019 causally related to her accepted employment injury.

FACTUAL HISTORY

On January 31, 2018 appellant, then a 54-year-old city mail carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained severe back pain causally related to factors of her federal employment, including lifting and twisting. She indicated that she first became aware of her condition and its relationship to her federal employment on March 12, 2017. OWCP accepted the claim for complications of medical care and a wedge compression fracture of unspecified thoracic vertebra, closed fracture at T5 and T6.⁶

A March 31, 2017 magnetic resonance imaging (MRI) scan of the thoracic spine demonstrated mild degenerative changes at T5-6 with discogenic endplate changes and edema. A May 2, 2018 MRI scan of the thoracic spine demonstrated mild chronic degenerative changes at T5-6 with progressive moderate type 1 endplate edema and mild chronic accentuation of mid and upper thoracic kyphosis without interval progression.

On May 14, 2018 Dr. Richard A. Rowe, a Board-certified neurosurgeon, opined that appellant could work with limitations of no lifting, bending, or stooping.⁷

In a return to work note dated June 27, 2018, Dr. Rowe noted that appellant was unable to work pending reevaluation on August 27, 2018 and advised that she could not lift, bend, or stoop.

⁴ 5 U.S.C. § 8101 *et seq.*

⁵ The Board notes that following the April 9, 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.*

⁶ By decision dated March 8, 2018, OWCP denied appellant's occupational disease claim. By decision dated May 1, 2018, it denied her request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a). Appellant appealed to the Board, but subsequently requested that her appeal be dismissed. *Order Dismissing Appeal, M.M.*, Docket No. 18-1171 (issued August 23, 2018). By decision dated December 12, 2018, OWCP modified its March 8, 2018 decision and accepted her claim for compression fractures at T5 and T6.

⁷ The record contains a June 27, 2018 report from a nurse practitioner.

A computerized tomography (CT) scan of the thoracic spine dated August 27, 2018 revealed no interval progression of the mild chronic T5 to T8 anterior wedge deformities causing slight accentuation of the thoracic kyphosis, and prominent endplate sclerosis and osteophytosis.

On August 27, 2018 Dr. Rowe opined that appellant was disabled from work. In an unsigned progress report of even date, he recounted her history of T5 and T6 compression fractures treated with a thoracic-lumbo-sacral orthosis (TLSO) brace. Dr. Rowe noted that appellant had experienced radiating pain after a pop in her back two weeks earlier. He noted that her fractures had healed and referred her for an MRI scan to rule out a herniated disc. Dr. Rowe diagnosed thoracic back sprain.

A September 4, 2018 MRI scan of the thoracic spine demonstrated stable dorsal kyphosis with slight wedging of the T4 to T8 vertebral bodies and no new abnormalities.

In a return-to-work note dated October 1, 2018, Dr. Rowe opined that appellant was disabled from work. In an unsigned progress report of even date, he related that her MRI scan had demonstrated no evidence of a herniated disc or progression of the T5 and T6 fractures.⁸ Dr. Rowe noted that appellant was doing well and that if her “x-rays look good in [two] months, then we will allow her to return to her work...”

On October 8, 2018 Dr. Rowe indicated that appellant had a history of a lumbar decompression and fusion surgery in October 2015. He noted that she had been doing well following the surgery until February 28, 2018, when she related that she “had been lifting at work several months’ prior and developed pain in her back shooting up her back and localized between her shoulder blades.” Dr. Rowe indicated that an MRI scan had demonstrated T5 and T6 compression fractures. He advised that he had treated appellant with a TLSO brace, and that a CT scan obtained on August 27, 2018 had shown a well-healed fracture. Dr. Rowe noted that appellant had experienced a pop in her back two weeks earlier. He attributed the fractures to lifting at work and indicated that the “new injury of the pop in her back is related to the last injury due to aggravation of the current injury.”

Appellant sought treatment at the emergency room on November 4, 2018 for back pain. A CT scan obtained on that date showed moderate degenerative disc changes in the upper and mid thoracic region most severe at T5-6 that had progressed since the last scan.

On January 25, 2019 appellant filed a claim for compensation (Form CA-7) for disability from work for the period June 9 to July 6, 2018 and August 18, 2018 to January 18, 2019. The employing establishment indicated that she had used sick leave from July 7 through August 17, 2018.

In a February 15, 2019 development letter, OWCP advised appellant that the evidence submitted was insufficient to support her claim for compensation from June 9, 2018 through January 18, 2019. It requested that she submit evidence supporting that she was temporarily totally disabled for the claimed period due to her accepted employment injury. OWCP afforded appellant 30 days to submit the requested information.

⁸ In notes dated November 7 and December 17, 2018, Dr. Rowe found appellant disabled from work.

Subsequently, appellant submitted an unsigned progress report dated December 17, 2018 from Dr. Rowe.

In a memorandum of telephone call (Form CA-110) dated February 15, 2019, appellant related that she had felt a pop in her back sweeping her floor two weeks before her August 27, 2018 appointment with Dr. Rowe. OWCP informed her that Dr. Rowe should explain why she needed surgery for healed T5 and T6 fractures.

On February 20, 2019 appellant filed CA-7 forms requesting wage-loss compensation due to disability from work for the period January 19 through February 15, 2019.

In a February 20, 2019 return to work note, Dr. Rowe advised that appellant could not work pending reevaluation.

In an unsigned report dated March 4, 2019, Dr. Rowe diagnosed thoracic back sprain, reviewed the results of diagnostic studies, and recommended a fusion surgery at T4 to T7. In a return to work note of even date, he advised that appellant was unable to work indefinitely and would be scheduled for surgery.

In a development letter dated March 5, 2019, OWCP advised appellant that the evidence was insufficient to support her request for wage-loss compensation due to disability beginning January 19, 2019. It requested that she submit medical evidence supported by objective findings and rationale explaining why she was totally disabled from T5 and T6 fractures that had healed effective August 27, 2018.

On March 8, 2019 OWCP informed appellant that it was unable to authorize the requested T4 to T7 fusion surgery at the current time. It noted that her injury in August 2018 sweeping the floor was not employment related. OWCP further indicated that on August 27, 2018 Dr. Rowe had found that appellant's compression fractures had healed. It asked Dr. Rowe to explain the causal relationship between the requested T4 to T7 fusion and the compression fractures, especially given appellant's nonemployment-related history of thoracic degenerative disc disease, thoracic spondylosis, and dextroscoliosis and hyperkyphosis of the thoracic spine. OWCP afforded appellant 30 days to submit the requested information.

On April 7, 2019 Dr. Rowe discussed his treatment of appellant with a TLSO brace for compression fractures at T5 and T6. He advised that her symptoms had begun at work on March 21, 2017. Dr. Rowe indicated that during the healing of the fractures, appellant had felt a "pop" and experienced increased pain. Diagnostic studies had revealed progressive degenerative disc disease at T5 and T6, which he opined was "directly related to her original injury of the T5 and T6 fractures." Dr. Rowe again recommended a T4 to T7 fusion instrumentation.

By decision dated May 7, 2019, OWCP denied appellant's claim for wage-loss compensation due to disability from work beginning June 9, 2018 causally related to her March 12, 2017 employment injury.

On May 13, 2019 Dr. Kenechukwu Ugokwe, a Board-certified neurosurgeon serving as a district medical adviser (DMA), opined that the proposed T4 to T7 instrumentation and fusion surgery was causally related to the accepted wedge compression fracture and medically necessary. He reviewed Dr. Rowe's March 4, 2019 report and agreed that appellant's current condition was

related to the work injury as she did not have the kyphotic deformity prior to the injury. Dr. Ugokwe opined that the proposed surgery was medically necessary as conservative therapy, including the TLSO brace, had failed. He related, “The surgery is indicated due to the T5 and T6 fractures even though they are healed because although the fractures are no longer acute, the claimant has developed a progressive kyphotic deformity because of progressive compression and this progressive deformity is causing back pain.”

On June 3, 2019 appellant requested that OWCP expand the acceptance of her claim to include degenerative disc disease at T5-6.

In an unsigned report dated June 10, 2019, Dr. Rowe diagnosed cervicalgia and noted that appellant was scheduled for surgery from T4 to T7.

On June 21, 2019 OWCP authorized the requested thoracic fusion surgery.

In a July 3, 2019 return to work note, Dr. Rowe opined that appellant was unable to work until after her surgery scheduled for August 2, 2019.

On August 2, 2019 Dr. Rowe performed a T4 to T8 instrumentation and arthrodesis.

On August 21, 2019 appellant filed a CA-7 form requesting compensation for disability from work for the period July 20 through August 2, 2019.

In a development letter dated August 30, 2019, OWCP advised appellant that the return-to-work note dated July 3, 2019 from Dr. Rowe finding that she should remain off work pending surgery was insufficient to support disability from work for the claimed period July 20 through August 1, 2019. It requested that she submit a rationalized medical report explaining why she was disabled from employment. OWCP afforded appellant 30 days to submit the requested evidence.

On September 6, 2019 the employing establishment indicated that appellant had been off work since June 16, 2018 and had used sick leave from July 7 to 27, 2018.

By decision dated October 8, 2019, OWCP denied appellant’s claim for wage-loss compensation due to disability from work for the period July 20 through August 1, 2019.

In a progress report dated November 11, 2019, Dr. Rowe discussed appellant’s history of an instrumentation and fusion on August 2, 2019 and her prior history of a lumbar fusion from L4 to S1 in October 2015. He related that in May 2018 her back pain increased, and an MRI scan of the thoracic spine showed a compression fracture at T5-6. Dr. Rowe treated her with a TLSO brace but her “symptoms continued to be quite severe and were aggravated by any lifting or driving at her job.” He noted that he had pursued surgery as appellant had severe pain and disability. Dr. Rowe advised that her condition had improved following surgery.

In a return-to-work status (Form CA-3), the employing establishment advised that appellant had returned to full-time modified employment on November 19, 2019.

On February 19, 2020 appellant, through her representative, requested reconsideration of OWCP’s May 7, 2019 decision. She contended that the November 11, 2019 report from Dr. Rowe was sufficient to establish disability for the claimed period.

Appellant continued to submit progress reports and return to work notes from Dr. Rowe describing her current condition.⁹

By decision dated March 27, 2020, OWCP denied modification of its May 7, 2019 decision. It found that the medical evidence was insufficient to establish that appellant was disabled from work for the period June 9, 2018 through July 19, 2019.

On October 6, 2020 appellant, through her representative, requested reconsideration of OWCP's October 8, 2019 decision. The representative asserted that the November 11, 2019 report from Dr. Rowe provided a history of injury and supported that she was disabled due to degenerative changes that required surgery. She further contended that OWCP denied appellant's claim as the medical evidence indicated only that she was out of work pending surgery, but further found that she was entitled to wage-loss compensation effective the date of surgery.

By decision dated January 4, 2021, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On March 18, 2021 appellant, through her representative, requested reconsideration of the March 27, 2020 decision. She contended that OWCP had failed to address the November 11, 2019 report from Dr. Rowe in its March 27, 2020 decision.

By decision dated April 9, 2021, OWCP denied modification of its March 27, 2020 decision.

LEGAL PRECEDENT -- ISSUE 1

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his own motion or on application.¹⁰

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.¹¹

⁹ On March 20, 2020 Dr. Ugokwe recommended that OWCP approve Dr. Rowe's request to removal spinal hardware as medically necessary and causally related to the accepted employment injury. On May 15, 2020 Dr. Rowe removed hardware from T4 to T8.

¹⁰ 5 U.S.C. § 8128(a); *see C.V.*, Docket No. 22-0078 (issued November 28, 2022); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

¹¹ 20 C.F.R. § 10.606(b)(3); *see K.D.*, Docket No. 22-0756 (issued November 29, 2022); *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.¹² If it chooses to grant reconsideration, it reopens and reviews the case on its merits.¹³ If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.¹⁴

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of the claim, pursuant 5 U.S.C. § 8128(a) with regard to OWCP's denial of disability for the period July 20 through August 1, 2019.

Appellant has not shown that OWCP erroneously applied or interpreted a specific point of law, or advanced a relevant legal argument not previously considered by OWCP. Her representative questioned why OWCP denied the claim when the medical evidence indicated that she was off work until surgery, and OWCP had paid her wage-loss compensation beginning the date of surgery. However, the relevant issue is whether appellant has established disability from work for the period July 20 through August 1, 2019, prior to the date of surgery. The Board has held that the submission of evidence or argument which does not address the issue involved does not constitute a basis for reopening a case.¹⁵

Appellant's representative further argued that Dr. Rowe's report dated November 11, 2019 was sufficient to establish disability. However, the representative's argument is not relevant to the underlying issue of whether appellant was disabled from July 20 through August 1, 2019 due to her accepted employment injury. This is a medical issue which must be addressed by relevant medical evidence.¹⁶ Consequently, appellant is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under section 10.606(b)(3).¹⁷

Moreover, appellant has not provided relevant and pertinent new evidence in support of her request for reconsideration. In support of her request, she submitted the November 11, 2019

¹² *Id.* at § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

¹³ *Id.* at § 10.608(a); *see also D.B.*, Docket No. 22-0518 (issued November 28, 2022); *F.V.*, Docket No. 18-0239 (issued May 8, 2020); *M.S.*, 59 ECAB 231 (2007).

¹⁴ *Id.* at § 10.608(b); *Y.K.*, Docket No. 18-1167 (issued April 2, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

¹⁵ *See S.H.*, Docket No. 22-1179 (issued January 17, 2023); *P.G.*, Docket No. 20-1419 (issued September 16, 2021); *C.C.*, Docket No. 20-0950 (issued October 29, 2020); *Edward Matthew Diekemper*, 31 ECAB 224 (1979).

¹⁶ *See L.F.*, Docket No. 22-0576 (issued September 13, 2022); *L.W.*, Docket No. 22-0141 (issued May 16, 2022); *A.M.*, Docket No. 18-1033 (issued January 8, 2019); *Bobbie F. Cowart*, 55 ECAB 746 (2004); *Edward Matthew Diekemper, id.*

¹⁷ 20 C.F.R. § 10.606(b)(3)(i) and (ii); *see also C.K.*, Docket No. 18-1019 (issued October 24, 2018).

report from Dr. Rowe. Dr. Rowe noted appellant's history of an instrumentation and fusion on August 2, 2019, and fusion from L4 to S1 in October 2015. He advised that in May 2018 she sustained increased back pain, and indicated an MRI scan of the thoracic spine revealed a T5-6 compression fracture. Dr. Rowe treated appellant with a brace, but her symptoms of pain and disability continued until surgery. He did not, however, address the relevant issue of whether appellant was disabled from July 20 through August 1, 2019 due to her accepted employment injury. As discussed, the submission of evidence or argument which does not address the issue involved does not constitute a basis for reopening a case.¹⁸

Appellant further submitted progress reports and work status reports from Dr. Rowe that addressed her current condition. Again, this evidence is not relevant to the pertinent issue of whether she was disabled from work for the period July 20 through August 1, 2019, and consequently, does not constitute a basis for reopening a claim.¹⁹

The Board, accordingly, finds that appellant did not meet any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.²⁰

LEGAL PRECEDENT -- ISSUE 2

An employee seeking benefits under FECA²¹ has the burden of proof to establish the essential elements of his or her claim including the fact that any disability or specific condition for which compensation is claimed is causally related to the employment injury.²²

Under FECA, the term disability means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.²³ Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.²⁴ An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.²⁵ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical

¹⁸ See *supra* note 16.

¹⁹ *Id.*; see also *E.N.*, Docket No. 19-1687 (issued May 27, 2020).

²⁰ *D.A.*, Docket No. 22-0762 (issued September 30, 2022); *T.G.*, Docket No. 20-0329 (issued October 19, 2020); *C.C.*, Docket No. 17-0043 (issued June 15, 2018).

²¹ *Supra* note 4.

²² *A.R.*, Docket No. 20-0583 (issued May 21, 2021); *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

²³ 20 C.F.R. § 10.5(f); see *J.M.*, Docket No. 18-0763 (issued April 29, 2020); *Bobbie F. Cowart*, *supra* note 16.

²⁴ *D.W.*, Docket No. 20-1363 (issued September 14, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

²⁵ See *M.W.*, Docket No. 20-0722 (issued April 26, 2021); *D.G.*, Docket No. 18-0597 (issued October 3, 2018).

stand point, they prevent the employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.²⁶

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.²⁷

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met her burden of proof to establish disability from work for the period June 9, 2018 through July 19, 2019 causally related to her accepted employment injury.

On November 11, 2019 Dr. Rowe noted that appellant had undergone lumbar fusions in October 2015 and August 2, 2019. Her back pain subsequently increased, and an MRI scan revealed a T5-6 compression fracture. Dr. Rowe noted that lifting and driving at work aggravated her symptoms. Due to her continued pain and disability, he recommended surgery, after which her condition had improved. Dr. Rowe, however, did not address the relevant issue of whether appellant was disabled from June 9, 2018 through July 19, 2019. Evidence that does not address the specific dates of disability is of no probative value and insufficient to establish the claim.²⁸

In return-to-work notes dated June 27, 2018 through July 3, 2019, Dr. Rowe found that appellant was disabled from work. He did not, however, address the cause of her disability. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.²⁹ Consequently, the return-to-work notes are insufficient to meet appellant's burden of proof.

In an October 8, 2018 report, Dr. Rowe advised that appellant had been doing well after an October 2015 lumbar decompression and fusion until February 28, 2018, when she developed pain in her back after doing several months of lifting at work. He diagnosed T5 and T6 compression fractures, and treated with a TLSO brace. Dr. Rowe related that a CT scan from August 2018 had shown a healed fracture. He asserted that appellant's feeling of a "pop" in her back was an aggravation of the prior injury. Dr. Rowe did not, however, provide an opinion regarding whether

²⁶ See *A.R.*, *supra* note 22; *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

²⁷ See *M.J.*, Docket No. 19-1287 (issued January 13, 2020); *C.S.*, Docket No. 17-1686 (issued February 5, 2019); *William A. Archer*, 55 ECAB 674 (2004).

²⁸ See *G.J.*, Docket No. 22-0942 (issued January 10, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

²⁹ See *C.S.*, Docket No. 21-1048 (issued April 20, 2022); *R.O.*, Docket No. 20-1243 (issued May 28, 2021); *D.C.*, Docket No. 19-1093 (issued June 25, 2020).

appellant was disabled from work for the period in question. Accordingly, his report is insufficient to establish her claim for compensation.³⁰

On April 7, 2019 Dr. Rowe indicated that diagnostic studies had shown progressive degenerative disc disease at T5 and T6 directly related to the accepted employment-related fractures at T5 and T6. He found that appellant required a fusion at T4 to T7. Again, however, Dr. Rowe failed to address whether appellant was disabled from June 9, 2018 through July 19, 2019. As discussed, evidence that does not address the specific dates of disability is of no probative value and insufficient to establish the claim.³¹

The record contains unsigned reports by Dr. Rowe dated August 27, October 1, November 27, and December 17, 2018 and March 4 and June 10, 2019. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification, and cannot be considered probative medical evidence as the author cannot be identified as a physician.³² Accordingly, these reports are insufficient to meet appellant's burden of proof to establish disability for the claimed period.

For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work during the claimed period as a result of the accepted employment injury.³³ As the medical evidence of record is insufficient to establish disability from work during the claimed period due to the accepted employment 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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP properly denied her request for reconsideration of the merits of the claim, pursuant 5 U.S.C. § 8128(a) with regard to OWCP's denial of disability for the period July 20 through August 1, 2019. The Board further finds that appellant has not met her burden of proof to establish disability from work for the period June 9, 2018 through July 19, 2019 causally related to her accepted employment injury.

³⁰ See *T.T.*, Docket No. 22-0632 (issued November 16, 2022); *S.G.*, Docket No. 20-0828 (issued January 6, 2022); *L.V.*, Docket No. 19-1725 (issued April 5, 2021); *Sandra D. Pruitt*, 57 ECAB 126 (2005).

³¹ See *supra* note 29.

³² See *L.E.*, Docket No. 22-1061 (issued January 23, 2023); *A.H.*, Docket No. 22-0001 (issued July 29, 2022); *M.A.*, Docket No. 19-1551 (issued April 30, 2020); *T.O.*, Docket No. 19-1291 (issued December 11, 2019); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

³³ See *J.P.*, Docket No. 22-0061 (issued January 13, 2023); *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *William A. Archer*, *supra* note 27; *Fereidoon Kharabi*, 52 ECAB 291 (2001).

ORDER

IT IS HEREBY ORDERED THAT the January 4 and April 9, 2021 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 19, 2023
Washington, DC

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

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

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