

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

L.J., Appellant)	
)	
and)	Docket No. 22-0831
)	Issued: January 6, 2023
U.S. POSTAL SERVICE, WESTCHESTER)	
POST OFFICE, Westchester, IL, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 5, 2022 appellant filed a timely appeal from a February 8, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work to attend medical appointments on April 5 and May 15 and 16, 2019 causally related to her accepted employment injury.

FACTUAL HISTORY

On June 5, 2019 appellant, then a 47-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed a foot and ankle condition due to factors of her

¹ 5 U.S.C. § 8101 *et seq.*

federal employment. She indicated that her work duties involved prolonged walking on uneven terrain while delivering her mail route. Appellant noted that she first became aware of her condition on October 31, 2018 and realized its relation to her federal employment on December 31, 2018. She did not immediately stop work. By decision dated October 2, 2019, OWCP accepted appellant's claim for plantar fascial fibromatosis.

Physical therapy notes of record indicate that appellant attended physical therapy from August 13, 2019 through February 26, 2020.

In reports dated April 14, August 18, and December 15, 2020 and April 6 and July 13, 2021, Dr. Malcolm D. Herzog, a podiatrist, noted treating appellant for persistent bilateral foot pain related to prolonged standing, walking, turning, and twisting, and reaching while delivering mail over 20 years. He diagnosed bilateral plantar fasciitis, nonspecific diffuse tenosynovitis of the bilateral foot and ankle, and bilateral tarsal tunnel syndrome. Dr. Herzog indicated that OWCP accepted appellant's claim for bilateral plantar fasciitis and requested expansion of her claim to include nonspecific diffuse tenosynovitis of the bilateral foot and ankle and bilateral tarsal tunnel syndrome. He advised that the additional diagnoses were caused by repetitive motion including standing and walking for prolonged periods of time as a letter carrier. Appellant returned to work full time without restrictions on December 15, 2020.

On September 29 and 30, 2021 appellant filed claims for compensation (Form CA-7) for intermittent disability from work during the period February 2, 2019 through August 13, 2021. In accompanying Form CA-7a's, she claimed that she used leave without pay on February 4, April 5, 12, and 26, May 15, 16, and 17, June 25, July 24, August 13 and 21, September 18, October 30, and December 18, 2019, January 21 and 24, April 14, May 12, July 14, September 22, October 20, and December 15, 2020, April 6, June 1, July 13, and August 10, 2021 were "Doctor Visit" or "No Work Available."

In a November 9, 2021 note, Dr. Herzog noted that the employing establishment should allow appellant to take breaks during delivery of her mail route and be permitted to wear gym shoes. On November 10, 2021 he treated her and diagnosed work-related bilateral plantar fasciitis, nonspecific diffuse tenosynovitis, bilateral foot and ankle, and bilateral tarsal tunnel syndrome. Dr. Herzog noted that appellant was working full time without restrictions.

On December 30, 2021 OWCP authorized payment for certain claimed dates of disability during the period February 4, 2019 through July 13, 2021.² However, it informed appellant of the deficiencies of her claims for compensation for 3.05 hours on April 5, 2019, 2.17 hours on May 15, 2019, 2.12 hours on May 16, 2019, 3.71 hours on October 30, 2019, 2.15 hours on May 12, 2020, 2.66 hours on July 14, 2020, 2.35 hours on September 22, 2020, 2.30 hours on October 20, 2020,

² OWCP found that the medical evidence of record was sufficient to support compensation for the following dates: 1.90 hours on February 4, 2019, .39 hours on April 12, 2019, .69 hours on April 26, 2019, .59 hours on May 17, 2019, 2.47 hours on June 25, 2019, 2.72 hours on July 24, 2019, 2.58 hours on August 13, 2019, 2.98 hours on August 21, 2019, 2.68 hours on September 18, 2019, 2.26 hours on December 18, 2019, .92 hours on January 24, 2020, 2.29 hours on April 14, 2020, 1.79 hours on December 15, 2020, 1.24 hours on January 21, 2020, 2.30 hours on April 6, 2021, and 2.42 hours on July 13, 2021.

1.98 hours on June 1, 2021, and 1.45 hours on August 10, 2021. OWCP advised her of the type of medical evidence necessary to establish her claim and afforded her 30 days to respond.

In a note dated January 10, 2022, Dr. Herzog indicated that appellant was treated in his office on December 18, 2018, May 28, June 25, July 24, August 21, September 18, October 30, November 20, and December 18, 2019, January 21, April 14, May 12, July 14, August 18, September 22, October 20, and December 15, 2020, and February 9, April 6, June 1, July 13, August 10, and November 9, 2021.

By decision dated February 8, 2022, OWCP authorized payment for disability from work on the following dates: 3.71 hours on October 30, 2019, 2.15 hours on May 12, 2020, 2.66 hours on July 14, 2020, 2.35 hours on September 22, 2020, 2.3 hours on October 20, 2020, 1.98 hours on June 1, 2021, and 1.45 hours on August 10, 2021. However, appellant's claims for 3.05 hours on April 5, 2019, 2.17 hours on May 15, 2019, and 2.12 hours on May 16, 2019 remained denied. OWCP found that the medical evidence of record was insufficient to establish disability from work to attend medical appointments causally related to the accepted employment condition.

LEGAL PRECEDENT

OWCP's procedures provide that wages lost for compensable medical examinations or treatment may be reimbursed.³ A claimant who has returned to work following an accepted injury or illness may need to undergo examination or treatment and such employee may be paid compensation for wage loss while obtaining medical services and for a reasonable time spent traveling to and from the medical provider's location.⁴ Wage loss is payable only if the examination, testing, or treatment is provided on a day which is a scheduled workday and during a scheduled tour of duty. Wage-loss compensation for medical treatment received during off-duty hours is not reimbursable.⁵ The evidence should establish that a claimant attended an examination or treatment for the accepted work injury on the dates claimed in order for compensation to be payable.⁶ For a routine medical appointment, a maximum of four hours of compensation may be allowed. However, longer periods of time may be allowed when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain the medical care. The claims for wage loss should be considered on a case-by-case basis.⁷

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Wages Lost for Medical Examination or Treatment*, Chapter 2.901.19 (February 2013).

⁴ *Id.* at Chapter 2.901.19.a.

⁵ *Id.* at Chapter 2.901.19.a(2).

⁶ *Id.* at Chapter 2.901.19.a(3).

⁷ *Id.* at Chapter 2.901.19.c.

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work to attend medical appointments on April 5 and May 15 and 16, 2019 causally related to her accepted employment injury.

Appellant alleged on claims for compensation that she was disabled from work for 3.05 hours on April 5, 2.17 hours on May 15, and 2.12 hours on May 16, 2019 due to medical appointments. The medical evidence of record, however, does not establish that she attended medical appointments on these claimed dates. In order to establish entitlement to compensation for any time missed from work due to medical treatment for an employment-related condition, a claimant must submit supporting medical evidence.⁸ The Board, therefore, finds that the medical evidence of record is insufficient to establish appellant's claims.

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 to attend medical appointments on April 5 and May 15 and 16, 2019 causally related to her accepted employment injury.

⁸ *S.H.*, Docket No. 18-1342 (issued February 26, 2019); *Dorothy J. Bell*, 47 ECAB 624 (1996); *Zane H. Cassell*, 32 ECAB 1537 (1981).

ORDER

IT IS HEREBY ORDERED THAT the February 8, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 6, 2023
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