

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work, for the period July 18 through August 31, 2020, causally related to her accepted employment injury.

FACTUAL HISTORY

On December 20, 2019 appellant, then a 70-year-old pharmacy technician, filed an occupational disease claim (Form CA-2) alleging that she developed numbness, tingling, stiffness, and throbbing in her hands and wrists due to factors of her federal employment, including repetitively opening and closing medication bottles, lifting, reaching, pushing, and using the medication cart. She noted that she first became aware of her claimed condition and realized its relation to her federal employment on September 17, 2018. On March 16, 2020 OWCP accepted appellant's claim for bilateral carpal tunnel syndrome. By decision dated May 26, 2020, it expanded acceptance of her claim to include bilateral shoulder osteoarthritis, left middle trigger finger, and de Quervain's radial styloid tenosynovitis.

Appellant continued to receive medical treatment. In a report dated June 25, 2020, Dr. Massoud Hertzl Soumekh, a Board-certified neurosurgeon, indicated that appellant had worked as a pharmacy technician for 20 years and recently complained of hand pain, numbness, and tingling sensation, and weakness. He reported objective examination findings of hypesthesia at the distribution of the median nerve of both hands, mild atrophy of the small muscles of the hands, mild weakness of thenar eminence muscles, and positive electromyography and nerve conduction velocity (EMG/NCV) study for bilateral carpal tunnel syndrome. Dr. Soumekh diagnosed moderately severe bilateral carpal tunnel syndrome. He recommended bilateral carpal tunnel release surgery.

In a work excuse note dated June 25, 2020, Dr. Soumekh reported a diagnosis of carpal tunnel syndrome and indicated that appellant was totally disabled from June 25 through September 1, 2020.

On September 1, 2020 Dr. Soumekh performed a left carpal tunnel release surgery. The operative report noted a preoperative diagnosis of bilateral carpal tunnel syndrome. OWCP paid appellant wage-loss compensation on the supplemental rolls, effective September 1, 2020.

On December 18, 2020 appellant filed a claim for compensation (Form CA-7) for disability from work for the period July 18 through December 18, 2020.

In a March 24, 2021 development letter, OWCP informed appellant of the deficiencies of her claim for wage-loss compensation. It advised her of the type of additional medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to provide the necessary evidence. No additional evidence was received by OWCP.

By decision dated May 5, 2021, OWCP denied wage-loss compensation for the period July 18 through August 31, 2020, finding that the medical evidence of record was insufficient to establish that appellant was disabled from work commencing July 18, 2020 due to her accepted employment injury.

On May 27, 2021 appellant, through counsel, requested reconsideration of the May 5, 2021 decision. No additional medical evidence was received.

By decision dated July 16, 2021, OWCP denied modification of the May 5, 2021 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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.⁵ 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.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 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.⁸

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.⁹

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.¹⁰

⁴ *Supra* note 2.

⁵ *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).

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

⁷ *See T.J.*, Docket No. 20-0819 (issued June 17, 2021); *D.G.*, Docket No. 18-0597 (issued October 3, 2018).

⁸ *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

⁹ *K.H.*, Docket No. 19-1635 (issued March 5, 2020); *V.A.*, Docket No. 19-1123 (issued October 29, 2019).

¹⁰ *A.R.*, Docket No. 20-0057 (issued April 7, 2021); *S.G.*, *supra* note 8; *William A. Archer*, 55 ECAB 674 (2004).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work for the period July 18 through August 31, 2020, causally related to her accepted employment injury.

Appellant submitted a report and work excuse note dated June 25, 2020 by Dr. Soumekh who conducted an examination and diagnosed moderately severe bilateral carpal tunnel syndrome. He noted that appellant was totally disabled from work from June 25 through September 1, 2020. Although Dr. Soumekh noted that appellant was unable to work during part of the claimed period of disability, he did not provide any medical rationale explaining how appellant's accepted bilateral upper extremity conditions prevented her from working.¹¹ The Board has held that medical evidence must include rationale explaining how the physician reached the conclusion that he or she is supporting.¹² Dr. Soumekh's report, therefore, is of limited probative value and insufficient to establish appellant's disability claim.

As the medical evidence of record is insufficient to establish disability from work for the period July 18 through August 31, 2020, due to her accepted 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 for the period July 18 through August 31, 2020, causally related to her accepted employment injury.

¹¹ *T.G.*, Docket No. 20-0121 (issued May 17, 2022); *F.S.*, Docket No. 18-0098 (issued August 13, 2018); *P.W.*, Docket No. 17-0514 (issued June 9, 2017).

¹² *M.M.*, Docket No. 18-0817 (issued May 17, 2019); *Beverly A. Spencer*, 55 ECAB 501 (2004).

ORDER

IT IS HEREBY ORDERED THAT the July 16, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 3, 2023
Washington, DC

Patricia H. Fitzgerald, Deputy 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