

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

_____)	
T.G., Appellant)	
)	
and)	Docket No. 23-0851
)	Issued: October 31, 2023
U.S. POSTAL SERVICE, MADISON POST OFFICE, Madison, GA, 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 June 5, 2023 appellant filed a timely appeal from a December 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.²

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work for the period September 23 through October 21, 2022, causally related to her accepted July 18, 2022 employment injury.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the December 8, 2022 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.*

FACTUAL HISTORY

On July 22, 2022 appellant, then a 50-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on July 18, 2022 she sustained a left calf gastrocnemius tear when she stepped off a gap between the lift and dock while in the performance of duty. She stopped work on July 18, 2022.

On September 23, 2022 appellant filed claim for compensation (Form CA-7) for disability from work for the period September 23 through 30, 2022.

By decision dated September 27, 2022, OWCP accepted appellant's claim for left gastrocnemius muscle tear.

In a development letter dated September 27, 2022, OWCP informed appellant of the deficiencies of her disability claim. It advised her of the type of factual and medical evidence needed and afforded her 30 days to respond.

On October 8, 2022 appellant filed a Form CA-7 claim for disability from work for the period September 30 through October 7, 2022. No evidence was submitted.

On October 22, 2022 appellant filed a Form CA-7 claim for disability from work for the period October 7 through 21, 2022.

In an October 4, 2022 left knee magnetic resonance imaging (MRI) scan report, Dr. Patrick Aldred, a Board-certified diagnostic radiologist, noted a history and associated diagnosis of "crushing injury of left lower leg" and compared the MRI scan to left tibia and fibula radiographs of July 18, 2022. He provided an impression of partially imaged lower leg lateral superficial mild soft tissue edema distal to knee which may correspond to patient's known injury, potentially resolving contusion or seroma, and patellar median ridge focal near full-thickness fissure.

In an October 18, 2022 report, Dr. Tracy Ray, a sports medicine specialist, noted that appellant, a mail carrier, was seen for her complaints of left knee and lower leg pain that stemmed from a July 2022 injury. He indicated that appellant was initially seen by P.S., a certified physician assistant, for a lateral leg hematoma received when she "slipped losing the dog and a left." Dr. Ray reviewed the left knee October 4, 2022 MRI scan and found left knee chondromalacia patella with no true meniscal tear. He released appellant to full duty without restriction on October 24, 2022. In an October 18, 2022 note, Dr. Ray cleared appellant to return to work on Monday, October 24, 2022. He noted that until that day appellant had restrictions of no climbing and sedentary work only.

By decision dated December 8, 2022, OWCP denied appellant's claims for wage-loss compensation for the period September 23 through October 21, 2022, finding that the medical

evidence of record was insufficient to establish disability from work for the claimed period due to the accepted employment-related conditions.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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.³ 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 probative and reliable medical opinion evidence.⁴

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. Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages. 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.⁵

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁶ Rationalized medical evidence is medical evidence, which includes a physician’s detailed medical opinion on the issue of whether there is a causal relationship between the claimant’s claimed disability and the accepted employment injury. 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 period of disability and the accepted employment injury.⁷

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.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

³ See *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019); *D.W.*, Docket No. 18-0644 (issued November 15, 2018); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ 20 C.F.R. § 10.5(f); *B.O.*, *supra* note 3; *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

⁵ *Id.*

⁶ *J.M.*, Docket No. 19-0478 (issued August 9, 2019).

⁷ *R.H.*, Docket No. 18-1382 (issued February 14, 2019).

⁸ 20 C.F.R. § 10.501(a); *C.E.*, Docket No. 19-1617 (issued June 3, 2020); *M.M.*, Docket No. 18-0817 (issued May 17, 2019); see *T.A.*, Docket No. 18-0431 (issued November 7, 2018); see also *Amelia S. Jefferson*, 57 ECAB 183 (2005).

would essentially allow an employee to self-certify his or her disability and entitlement to compensation.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work for the period September 23 through October 21, 2022, causally related to her accepted July 18, 2022 employment injury.

OWCP received October 18, 2022 reports from Dr. Ray. While Dr. Ray indicated that appellant had work restrictions of no climbing and sedentary work only prior to October 24, 2022, he did not provide a rationalized medical opinion causally relating these restrictions to the July 18, 2022 employment incident. The Board has held that medical evidence that does not provide sufficient rationale on the issue of causal relationship is of limited probative value.¹⁰ Therefore, this evidence is insufficient to establish appellant's disability claim.

OWCP also received a November 2, 2022 report signed by a physical therapist. The Board has held that the report of a physical therapist does not constitute probative medical evidence as a physical therapist is not considered a physician as defined under FECA.¹¹ Therefore, the November 2, 2022 physical therapy report is of no probative value and, thus, is insufficient to establish appellant's disability claim.¹²

The record also contains diagnostic studies. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship, as they do not provide an opinion as to whether the employment incident caused any of the diagnosed conditions.¹³ Accordingly, these diagnostic studies are insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish disability for the claimed period causally related to the accepted July 18, 2022 employment injury, the Board finds that appellant has not met her burden of proof.

⁹ *C.E., id.; M.M., id.; see V.B.*, Docket No. 18-1273 (issued March 4, 2019); *S.M.*, Docket No. 17-1557 (issued September 4, 2018); *William A. Archer*, 55 ECAB 674, 679 (2004); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

¹⁰ *See S.F.*, Docket No. 20-0347 (issued March 31, 2023); *T.B.*, Docket No. 20-0255 (issued March 11, 2022).

¹¹ Section 8101(2) of FECA defines a physician as 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 (January 2013). *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (a physical therapist is not considered a physician as defined under FECA); *see David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). A report from a physical therapist will be considered medical evidence if countersigned by a qualified physician.

¹² *T.W.*, Docket No. 22-0790 (issued March 9, 2023); *A.P.*, Docket No. 21-0300 (issued April 6, 2022).

¹³ *E.B.*, Docket No. 19-1390 (issued May 7, 2020); *F.S.*, Docket No. 19-0205 (issued June 19, 2019).

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 September 23 through October 21, 2022, causally related to her accepted July 18, 2022 employment injury.

ORDER

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

Issued: October 31, 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