

FACTUAL HISTORY

On March 11, 2020 appellant, then a 38-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral carpal tunnel syndrome (CTS) due to factors of her federal employment, including repetitive use of her hands and fingers to sort and case mail and parcels. She noted that she first became aware of her condition on September 6, 2019 and realized its relationship to her federal employment on September 23, 2019. Appellant did not stop work. On May 28, 2020 OWCP accepted the September 6, 2019 claim for bilateral CTS.

On June 4, 2020 appellant accepted a modified-duty assignment to include lifting up to 20 pounds continuously and up to 25 to 30 pounds intermittently.

In a duty status report (Form CA-17) dated June 18, 2020, Dr. Jeffrey Hill, an occupational medicine specialist, released appellant to return to full-duty work, noting that she had been performing her regular duties. In subsequent Form CA-17 reports dated July 22 and September 24, 2020, he continued to advise that she was able return to full-duty work, noting that she was performing her regular duties, but with an eight-hour per day work restriction.

In a Form CA-17 dated November 18, 2020, Dr. Kerry Bellew, a family practice physician, opined that appellant was unable to perform full-duty work, and that she could not lift any amount during the workday due to symptoms of bilateral CTS. He noted that these restrictions were based upon a visit on September 8, 2020.

In a report dated November 19, 2020, Dr. Jennifer Ross, a Board-certified occupational medicine physician, noted that appellant described moderate pain in her hands and wrists that was “awful,” constant, numb, and worsened with use. Appellant further related that she was having trouble “doing anything” with her hands. Dr. Ross reviewed appellant’s medical history and conducted a physical examination, which revealed positive Tinel’s sign and Phalen’s testing bilaterally, decreased grip strength, and tenderness over the volar aspect of the wrists. She diagnosed bilateral CTS and recommended appellant remain out of work for one week. Dr. Ross opined that the cause of appellant’s problem was related to work activities. In a Form CA-17 of even date, she continued to hold appellant off work due to CTS of the bilateral upper extremities.

In a Form CA-17 dated December 3, 2020, Dr. Bellew opined, based upon a visit on November 4, 2020 that appellant was not capable of working full duty and could not lift anything during the workday due to numbness of the bilateral wrists, arms, and shoulders from CTS.

On December 8, 2020 appellant filed a claim for wage-loss compensation (Form CA-7) for disability from work during the period November 7 through December 4, 2020.

In a December 15, 2020 letter, the employing establishment noted that appellant stopped reporting for work in October 2020 and outlined various discrepancies between the medical records and her claimed dates of disability. On that basis, it suggested that OWCP refer her for a second opinion to help resolve her work status and determine if she was due disability compensation.

In a December 22, 2020 development letter, OWCP informed appellant of the deficiencies of her claim for wage-loss compensation. It advised her of the type of additional evidence required and afforded her 30 days to respond.

On January 8, 2021 appellant filed an additional Form CA-7, claiming compensation for disability from work during the period December 5 through 18, 2020. She continued to file CA-7 forms for additional periods of disability thereafter.

In a medical report dated January 28, 2021, Dr. Hill noted that appellant related that she had been off from work since October 2020 due to symptoms of CTS and that surgery had been approved, but not scheduled because she was concerned about side effects. He indicated that she also related that she felt she could not carry, drive or deliver mail and that “there is no way I am going to work like this.” On examination, Dr. Hill noted that appellant reported extreme pain with Tinel’s sign. He also documented positive Phalen’s testing, slightly reduced grip and pinch, and possible mild atrophy impacting the thenar eminence. Dr. Hill found no edema, effusion, or ecchymosis and indicated that appellant’s subjective finding of loss of sensation to light touch in all fingers of both hands was “not necessarily consistent with carpal tunnel.” He diagnosed bilateral CTS, recommended a restricted-duty work status, and opined that “the cause of this problem is related to work activities.” In a Form CA-17 of even date, Dr. Hill released appellant to return to full-time work with continuous lifting up to 2.5 pounds and intermittent lifting up to 5 pounds. He clarified that the restrictions pertained to CTS, not her comorbid issues, and that, if she was not going to have surgery, the restrictions would be permanent.

By decision dated March 12, 2021, OWCP denied appellant’s claim for wage-loss compensation, finding that the medical evidence of record was insufficient to establish disability from work commencing December 5, 2020 due to her accepted employment injury.³

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 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

³ The Board notes that appellant also filed a Form CA-7 claiming disability for the period November 7 through December 4, 2020. However, OWCP, in its March 12, 2021 decision, did not adjudicate appellant’s disability claim for that period.

⁴ *Supra* note 1.

⁵ See *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ See *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *M.C.*, Docket No. 18-0919 (issued October 18, 2018).

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.⁷

Under FECA the term “disability” means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.⁸ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, prevent the employee from continuing in his or her employment, he or she is entitled to compensation for any loss of wages.⁹

The question of whether an employee is disabled from work is an issue that must be resolved by competent medical evidence.¹⁰ The employee is responsible for providing sufficient medical evidence to justify payment of any compensation sought. 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.¹¹

To establish causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such causal relationship.¹² The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.¹³

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.¹⁴

⁷ See *K.C.*, Docket No. 17-1612 (issued October 16, 2018).

⁸ 20 C.F.R. § 10.5(f); *S.T.*, Docket No. 18-0412 (issued October 22, 2018).

⁹ *J.T.*, Docket No. 19-1813 (issued April 14, 2020); *Merle J. Marceau*, 53 ECAB 197 (2001).

¹⁰ *S.A.*, Docket No. 18-0399 (issued October 16, 2018); *R.C.*, 59 ECAB 546, 551 (2008).

¹¹ *L.O.*, Docket No. 20-0170 (issued August 13, 2021); *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).

¹² *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

¹³ *C.B.*, Docket No. 18-0633 (issued November 16, 2018); *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹⁴ *T.L.*, Docket No. 18-0934 (issued May 8, 2019); *Sandra D. Pruitt*, 57 ECAB 126 (2005).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work commencing December 5, 2020 causally related to her accepted September 6, 2019 employment injury.

In support of her claim for compensation, appellant submitted Forms CA-17 dated November 18 and December 3, 2020 by Dr. Bellew, who opined that she was unable to perform full-duty work, and that she could not lift any amount during the workday due to symptoms of bilateral CTS. He did not, however, provide objective medical findings explaining why she was totally disabled due to the accepted medical condition of bilateral CTS and did not explain why she could not perform her federal employment duties during the claimed period.¹⁵ For these reasons, these reports are insufficient to establish appellant's disability claim.

In her November 19, 2020 report, Dr. Ross documented appellant's various complaints and her physical examination findings. She diagnosed bilateral CTS, opined that appellant should remain out of work for one week, and indicated that "the cause of [appellant's] problem was related to work activities." As noted above, the medical evidence must directly address the specific dates of disability for which compensation is claimed.¹⁶ Dr. Ross' opinion that appellant was unable to work for "one week" as of November 19, 2020 does not address whether appellant was disabled from work commencing December 5, 2020 and, therefore, is insufficient to meet her burden of proof to establish appellant's disability claim.

Similarly, in his January 28, 2021 Form CA-17 and report of even date, Dr. Hill released appellant to restricted-duty work with continuous lifting of no more than 2.5 pounds and intermittent lifting up to 5 pounds. However, he did not directly address the specific date of disability for which compensation is claimed.¹⁷ Moreover, Dr. Hill did not explain how the restrictions were related to the September 6, 2019 employment injury or why appellant could only work with specific restrictions.¹⁸ In addition, although his report outlined work restrictions, it did not indicate that she was totally disabled from work due to her September 6, 2019 employment injury, commencing December 5, 2020.¹⁹ Accordingly, Dr. Hill's opinion is of diminished probative value and is insufficient to establish appellant's disability claim.

The evidence of record is, therefore, insufficient to establish appellant's claim for disability from work commencing December 5, 2020.

¹⁵ See *N.L.*, Docket No. 22-1011 (issued July 5, 2023); *E.M.*, Docket No. 20-0738 (issued June 22, 2022); *E.M.*, Docket No. 18-0454 (issued February 20, 2020); see also *J.J.*, Docket No. 15-1329 (issued December 18, 2015).

¹⁶ *Supra* note 14.

¹⁷ *Id.*

¹⁸ See *M.B.*, Docket No. 22-0422 (issued April 3, 2023); *D.V.*, Docket No. 19-0868 (issued March 21, 2022); *M.M.*, Docket No. 18-0817 (issued May 17, 2019).

¹⁹ *C.B.*, Docket No. 18-0400 (issued May 7, 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 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 December 5, 2020, causally related to her accepted September 6, 2019 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the March 12, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 11, 2023
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board