

² The Board notes that a June 21, 2023 merit decision is also within the Board's jurisdiction. However, appellant has only sought appeal from the August 29, 2023 decision. Thus, the June 21, 2023 decision is not properly before the Board and will not be addressed in this decision. *See* 20 C.F.R. § 501.3.

Pursuant to the Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.⁴

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work for the period April 18, 2022 through June 23, 2023, causally related to her accepted March 3, 2022 employment injury.

FACTUAL HISTORY

On March 8, 2022 appellant, then a 31-year-old sales distribution associate, filed a traumatic injury claim (Form CA-1) alleging that on March 3, 2022 she sustained a partial right shoulder fracture and tissue damage after a shelf fell on her right shoulder while in the performance of duty. She stopped work on March 3, 2022 and did not return. Appellant received emergency medical treatment on the date of the claimed incident and submitted a March 3, 2022 emergency room report documenting treatment with Dr. Leigh Nesheiwat, Board-certified in emergency medicine. Dr. Nesheiwat indicated that he would obtain x-rays.

Beginning in May 2022, appellant filed claims for compensation (Form CA-7) for disability from work for the period April 18 through June 3, 2022.

In support of her claim, appellant submitted March 3, 2022 diagnostic studies documenting x-rays of the right elbow, right forearm, right wrist, right shoulder, right humerus, and right scapula, as well as a May 31, 2022 magnetic resonance imaging (MRI) scan of the right shoulder.

In a June 10, 2022 attending physician's report (Form CA-20), Dr. Mohammad Ahmed, a Board-certified orthopedic surgeon, indicated that appellant was totally disabled from work as of that date. He noted a March 3, 2022 date of injury, diagnosed right shoulder impingement and neck and back sprain, and checked a box marked "Yes" indicating that the condition had been caused or aggravated by the employment activity.

In reports dated May 5 and 30, 2023, Dr. Ahmed evaluated appellant for ongoing neck, low back, and right shoulder pain. In his May 5, 2023 report, he diagnosed lumbosacral disc displacement, cervical disc displacement, sprain of the lumbar spine and pelvis, sprain of joints and ligaments of the neck. In his May 30, 2023 report, Dr. Ahmed noted that a heavy shelf fell on appellant at work on March 3, 2022 causing her to be transported to the hospital by ambulance; he included the above-noted diagnoses and also diagnosed right shoulder impingent syndrome, bursitis of the right shoulder, low back pain, and cervicalgia. In both reports, he determined that appellant was totally disabled due to the March 3, 2022 employment injury. Dr. Ahmed explained

³ 5 U.S.C. § 8101 *et seq.*

⁴ The Board notes that, following the August 29, 2023 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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.

that all of the injuries were a component and a provocative cause of the impairment and disability and that there was a causal relationship between the March 3, 2022 employment injury and the conditions noted in his report.

By decision dated June 21, 2023, OWCP accepted the claim for neck sprain and sprain of the lumbar spine and pelvis.

In a development letter dated June 21, 2023, OWCP informed appellant of the deficiencies of her claim for wage-loss compensation commencing April 18, 2022. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

On June 30, 2023 appellant filed a Form CA-7 for disability from work for the period April 18, 2022 through June 23, 2023.

In another development letter dated July 7, 2023, OWCP informed appellant of the deficiencies of her claim for disability claim commencing April 18, 2022. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

In response to the July 7, 2023 development letter, appellant submitted Dr. Ahmed's May 26, 2023 report noting restrictions and activity modification due to pending right shoulder arthroscopy.

By decision dated August 29, 2023, OWCP denied appellant's claim for disability from work commencing April 18, 2022, finding that the medical evidence of record was insufficient to establish disability during the claimed period due to her accepted March 3, 2022 employment injury.

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.⁵

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.⁶ Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.⁷ 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.⁸ When, however, the medical evidence

⁵ S.W., Docket No. 18-1529 (issued April 19, 2019); J.F., Docket No. 09-1061 (issued November 17, 2009); Kathryn Haggerty, 45 ECAB 383 (1994); Elaine Pendleton, 40 ECAB 1143 (1989).

⁶ 20 C.F.R. § 10.5(f).

⁷ See L.W., Docket No. 17-1685 (issued October 9, 2018).

⁸ See K.H., Docket No. 19-1635 (issued March 5, 2020).

establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.⁹

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 accepted employment injury.¹⁰

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 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 their disability and entitlement to compensation.¹²

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work for the period April 18, 2022 through June 23, 2023, causally related to her accepted March 3, 2022 employment injury.

In support of her claim for compensation, appellant submitted a series of reports by Dr. Ahmed dated May 5 through 30, 2023. Dr. Ahmed explained that appellant worked as a letter carrier for the employing establishment and sustained an injury on March 3, 2022 after a shelf fell on her right shoulder, causing injury to her neck, back, and right arm. He evaluated her and diagnosed lumbosacral disc displacement, right shoulder impingent syndrome, bursitis of the right shoulder, sprain of lumbar spine and pelvis, sprain of joints and ligaments of neck, cervical disc displacement, low back pain, and cervicgia, which he opined were causally related to the March 3, 2022 employment injury resulting in her disability. Initially, the Board notes that OWCP has not accepted appellant's claim for lumbosacral disc displacement, right shoulder impingent syndrome, bursitis of the right shoulder, cervical disc displacement, and cervicgia. While Dr. Ahmed opined that appellant's injuries were caused by the March 3, 2022 employment injury resulting in disability, he does not provide rationale explaining why she was disabled due to the accepted sprains.¹³ He did not provide medical rationale, based on objective findings, supporting disability from work during the claimed period causally related to the accepted employment

⁹ See *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

¹⁰ *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

¹¹ See *B.D.*, Docket No. 18-0426 (issued July 17, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

¹² *Id.*

¹³ *H.K.*, Docket No. 23-0739 (issued September 27, 2023).

injury.¹⁴ The Board has held that a mere conclusion without the necessary rationale as to whether a medical condition or disability is due to an accepted employment condition is insufficient to meet a claimant's burden of proof.¹⁵

In a June 10, 2022 Form CA-20, Dr. Ahmed indicated that appellant was totally disabled from work as of that date. He noted a March 3, 2022 date of injury, diagnosed right shoulder impingement and neck and back sprain, and checked a box marked "Yes" indicating that the condition had been caused or aggravated by the employment activity. However, the Board has held that when a physician's opinion regarding whether a claimed condition or period of disability is related to the history given consists only of checking "Yes" to a form question, without more by the way of medical rationale, that opinion is of limited probative value and is insufficient to establish causal relationship.¹⁶ Accordingly, this report is insufficient to satisfy appellant's burden of proof.

As appellant has not submitted medical evidence sufficient to establish disability from work during the claimed period due to her accepted March 3, 2022 employment injury, the Board finds that she has not met her burden of proof to establish her claim.

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 April 18, 2022 through June 23, 2023, causally related to her accepted March 3, 2022 employment injury.

¹⁴ *B.L.*, Docket No. 23-0551 (issued September 21, 2023).

¹⁵ *J.M.*, Docket No. 21-1261 (issued September 11, 2023).

¹⁶ *L.B.*, Docket No. 22-0339 (issued June 21, 2023).

ORDER

IT IS HEREBY ORDERED THAT the August 29, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 28, 2024
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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