

² The Board notes that, following the October 8, 2024 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. *Id.*

ISSUE

The issue is whether appellant has met his burden of proof to establish disability from work commencing December 28, 2023, causally related to the accepted November 11, 2023 employment injury.

FACTUAL HISTORY

On November 16, 2023 appellant, then a 31-year-old customer service clerk, filed a traumatic injury claim (Form CA-1) alleging that on November 11, 2023 he experienced heat exhaustion, causing him to fall and strike his head on a glass door, landing on his lower back while in the performance of duty. He stopped work on November 12, 2023.

In a work status note dated December 8, 2023, Dr. Ricardo Terlaje, a Board-certified family practitioner, diagnosed low back pain and indicated that appellant was off work from December 8, 2023 through January 8, 2024. In an attending physician's report (Form CA-20) dated December 8, 2023, he recounted appellant's history of injury and indicated a diagnosis of low back pain. Dr. Terlaje's physical examination indicated full range of motion of the back with mild pain on bending, tenderness over the paraspinal area, negative straight leg raises, intact sensation, and intact strength. Dr. Terlaje checked a box marked "Yes," indicating that appellant was not disabled from work. In a January 8, 2024 report of work status, he diagnosed low back pain and returned appellant to work with restrictions including no lifting over five pounds from January 11 through 30, 2024. In a Form CA-20 dated January 8, 2024, Dr. Terlaje again related appellant's diagnosis of low back pain and checked a box marked "Yes," indicating that appellant was not disabled from work.

On January 18, 2024, appellant filed a claim for compensation (Form CA-7) for disability from work for the period December 28, 2023 through January 10, 2024. He continued to file claims for compensation for periods of disability thereafter.

OWCP subsequently received additional evidence. In a work status note dated January 10, 2024, Dr. Terlaje returned appellant to regular duty with restrictions of no lifting over 50 pounds, effective January 12, 2024. In a work status note dated January 11, 2024, he diagnosed low back pain and returned appellant to regular duty on January 12, 2024.³

Dr. Terlaje, in a work status note dated January 29, 2024, diagnosed low back pain. He returned appellant to work with restrictions of no lifting over five pounds from January 19 through February 28, 2024.

In a Form CA-3 received on January 29, 2024, OWCP noted that appellant's work restrictions changed on January 28, 2024 to no lifting over five pounds.

³ On January 11, 2024, the employing establishment offered appellant a light duty assignment as a modified mail processing/distribution clerk effective January 12, 2024. The duties of the modified job included processing mail with a 50-pound restriction and the physical requirements included no lifting more than 50 pounds. Appellant accepted the position and returned to work. Also submitted was a job description for a mail processing clerk.

In a report dated February 9, 2024, Dr. Terlaje reported treating appellant on November 18, 2023 after sustaining an injury to his head and back on November 15, 2023. He indicated that appellant experienced heat stroke, which caused him to fall. In a February 12, 2024 patient visit record, Dr. Terlaje noted his treatment of appellant in follow-up and noted that he was not experiencing symptoms and was doing well. He diagnosed low back pain and advised that appellant could resume full-duty work. Similarly, in a February 16, 2024 report, Dr. Terlaje related appellant's history of injury and diagnosed heat exhaustion. In a work status note dated February 26, 2024, he diagnosed low back pain and returned appellant to work with restrictions of no lifting over five pounds from February 28 through March 18, 2024.

By decision dated March 15, 2024, OWCP accepted appellant's claim for heat exhaustion.

In a Form CA-3 received on March 21, 2024, OWCP noted that on March 21, 2024 appellant returned to full-time regular-duty work.

In a March 25, 2024 work status note, Dr. Terlaje related that appellant returned to full-duty work on February 9, 2024.

By decision dated April 17, 2024, OWCP denied appellant's claims for disability from work commencing December 28, 2023, finding that the medical evidence of record was insufficient to establish disability from work during the claimed period causally related to the accepted November 11, 2023 employment injury.

On June 24, 2024, appellant requested reconsideration. In support thereof appellant submitted additional evidence.

In a form report dated April 24, 2024, Dr. Terlaje noted that appellant was totally disabled from work during the period November 12, 2023 through January 8, 2024. In a work status note of even date, he diagnosed back pain and returned appellant to regular duty on April 25, 2024.

Dr. Terlaje, in a May 14, 2024 patient visit record, related that appellant was back at work and symptom free since being cleared in February. He noted no orthopedic abnormalities. Dr. Terlaje diagnosed low back pain and continued his work status.

By decision dated June 27, 2024, OWCP denied modification of the April 17, 2024 decision.

On August 4, 2024, appellant requested reconsideration. In support thereof, he submitted a February 21, 2024 patient visit record, wherein Dr. Terlaje noted his treatment of appellant for a work-related back injury. Dr. Terlaje related that appellant's back pain had improved and released appellant to light-duty work.

By decision dated August 9, 2024, OWCP denied modification of the June 27, 2024 decision.

On September 19, 2024, appellant requested reconsideration and resubmitted evidence previously of record.

By decision dated October 8, 2024, OWCP denied modification of the August 9, 2024 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of their 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 they were disabled from work as a result of the accepted employment injury.⁶ Whether a particular injury causes an employee to be disabled from employment and the duration of that disability are medical issues, which must be proven by a preponderance of the reliable, probative, and substantial medical evidence.⁷ Findings on examination are generally needed to support a physician's opinion that an employee is disabled from work.⁸

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.⁹ Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.¹⁰ 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.¹¹

The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence 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.¹²

⁴ *Id.*

⁵ See *S.F.*, Docket No. 20-0347 (issued March 31, 2023); *M.C.*, Docket No. 18-0919 (issued October 18, 2018); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *S.B.*, Docket No. 23-0999 (issued March 28, 2024); *William A. Archer*, 55 ECAB 674 (2004).

⁷ *V.H.*, Docket No. 18-1282 (issued April 2, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, *id.*

⁸ *G.P.*, Docket No. 23-1133 (issued March 19, 2024); *Dean E. Pierce*, 40 ECAB 1249 (1989).

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

¹⁰ *G.T.*, Docket No. 18-1369 (issued March 13, 2019); *Robert L. Kaaumoana*, 54 ECAB 150 (2002).

¹¹ See 20 C.F.R. § 10.5(f); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

¹² See *B.K.*, Docket No. 18-0386 (issued September 14, 2018); *Amelia S. Jefferson*, *supra* note 7; *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001); *see also C.S.*, Docket No. 17-1686 (issued February 5, 2019).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish disability from work commencing December 28, 2023, causally related to the accepted November 11, 2023 employment injury.

In reports and patient visit records dated February 9, 12, 16, and 21, April 24, and May 14, 2024, Dr. Terlaje failed to provide an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹³ Therefore, this evidence is insufficient to establish appellant's disability claim.

In CA-20 forms dated December 8, 2023 and January 8, 2024, Dr. Terlaje indicated by checking a box marked "Yes" that appellant was not disabled from work. The Board has held that medical evidence that negates causal relationship is of no probative value.¹⁴ Therefore, this evidence is insufficient to establish appellant's disability claim.

OWCP also received several work status notes from Dr. Terlaje dated December 8, 2023 through April 24, 2024. However, these notes do not include an opinion on causal relationship. As explained above, the Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹⁵ Thus, this evidence is also insufficient to establish appellant's disability claim.

As the medical evidence of record is insufficient to establish disability from work commencing December 28, 2023, causally related to the accepted November 11, 2023 employment injury, the Board finds that appellant has not met his 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 his burden of proof to establish disability from work commencing December 28, 2023, causally related to the accepted November 11, 2023 employment injury.

¹³ See *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁴ *T.W.*, Docket No. 19-0677 (issued August 16, 2019).

¹⁵ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the October 8, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 27, 2025
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