United States Department of Labor
Employees' Compensation Appeals Board

C.T., Appellant	)	
and	)	**Docket No. 24-0916**
	)	**Issued: September 10, 2026**
U.S. POSTAL SERVICE, CENTER POINT POST OFFICE, Birmingham, AL, 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 September 11, 2024 appellant filed a timely appeal from an August 16, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 the remaining claimed disability from work during the period January 11 through March 5, 2024, causally related to her accepted November 14, 2023 employment injury.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the August 16, 2024 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 December 19, 2023 appellant, then a 52-year-old senior city delivery specialist, filed a traumatic injury claim (Form CA-1) alleging that on November 14, 2023 she injured her back and left leg when delivering a parcel while in the performance of duty. She stopped work on November 14, 2023. OWCP accepted the claim for lumber intervertebral disc displacement.[3]

On January 19, 2024 appellant filed a claim for compensation (Form CA-7) for intermittent disability from work for the period November 20, 2023 through January 13, 2024. She continued to file Form CA-7 claims for subsequent periods of disability through April 5, 2024.

In support thereof, appellant submitted a January 11, 2024 attending physician's report (Form CA-20), wherein Dr. Robert Agee, a Board-certified family practitioner, diagnosed lumbar disc protrusion after lifting a heavy box. He related that appellant was on her work route when she lifted a large and heavy package weighing between 40 and 50 pounds and felt discomfort in her lower back. Dr. Agee explained that the heavy lifting placed significant pressure on the intervertebral discs in her lumbar spine and that these compressive forces lead to deformation of the discs, causing the outer layer to weaken and tear such that lifting the heavy box caused the lumbar disc to protrude. He found that appellant was partially disabled from work commencing January 10, 2024, and provided work restrictions including no lifting over 10 pounds, no driving at work, and standing and walking for one hour at a time with a 10-minute break. Dr. Agee also completed a January 10, 2024 work capacity evaluation (Form OWCP-5c) and diagnosed lumbar disc protrusion. He found that she could not return to her date-of-injury position, but could work eight hours a day with restrictions. Dr. Agee related that appellant could sit, walk, and stand for one hour each with a 10-minute break every hour, that she could not twist, bend, stoop, squat, kneel, climb or operate a motor vehicle at work, and that she could push, pull, and lift up to 10 pounds for eight hours a day.

In a report dated March 6, 2024, Dr. Agee recounted the accepted November 14, 2023 employment injury and repeated the accepted diagnosis of lumbar intervertebral disc displacement. He related that appellant was not working as the employing establishment had no work available within her restrictions. Dr. Agee completed a duty status report (Form CA-17) of even date and reported that she could sit, stand, and walk for 1 to 2 hours a day and could twist for 30 minutes a day. He further determined that appellant could lift, pull, and push up to 10 pounds for eight hours a day. Dr. Agee indicated that she could perform fine manipulation and reaching above the shoulders for eight hours a day but could not drive nor operate machinery. He recommended desk duty or administrative duties only with a 10-minute break every 1 to 2 hours, as needed.

[3] OWCP assigned the present claim OWCP File No. xxxxxx852. Appellant has a prior occupational disease claim (Form CA-2) under OWCP File No. xxxxxx982, alleging that she developed spondylolisthesis at L3-4, and multilevel spondylosis at L4-5 and L5-S1 as of December 5, 2023, due to factors of her federal employment. OWCP has administratively combined OWCP File Nos. xxxxxx982 and xxxxxx852, with the latter serving as the master file.

By development letter dated May 9, 2024, OWCP noted its receipt of appellant's CA-7 forms claiming disability for the period November 18, 2023 through April 5, 2024. With regard to the period January 11 through April 5, 2024, it requested that the employing establishment provide information on whether modified-duty work was provided to appellant. OWCP afforded the employing establishment 15 days to respond.

On May 14, 2024 R.C., an employing establishment human resource officer, responded to OWCP's May 9, 2024 development letter. He stated that the employing establishment would have been able to accommodate the January 10, 2024 work restrictions for "up to" two hours per day. In an attached April 19, 2024 e-mail, in response to whether there was work available within appellant's restrictions, B.A., an employing establishment representative, replied, "Casing … only (casing is usually an hour…. Possible double casing on some days)."

On June 6, 2024 the employing establishment related that appellant stopped work on November 14, 2023, and that she claimed sick leave, holiday leave, and leave without pay. It related, "The [postmaster] has since stated no work can be provided for claimant within the restrictions of medical dated March 6, 2024."

On July 24, 2024 OWCP paid appellant wage-loss compensation on the supplemental rolls for six hours a day for the period January 13 through March 8, 2024. It noted that it had authorized payment to appellant for six hours per day per the employing establishment's statement that they would have been able to accommodate the January 10, 2024 work restrictions for up to two hours per day.

On August 14, 2024 OWCP paid wage-loss compensation on the supplemental rolls for an additional two hours a day on March 6 through 8, 2024.

By decision dated August 16, 2024, OWCP denied the remaining claimed disability from work for the period January 11 through March 5, 2024 as causally related to the accepted November 14, 2023 employment injury.[4]

LEGAL PRECEDENT

An employee seeking benefits under FECA[5] 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.[6] Under FECA the term disability means incapacity, because of an employment injury, to earn the wages that the

[4] Appellant had previously received six hours of wage-loss compensation for the period January 13 through March 5, 2024. OWCP denied eight hours of wage-loss compensation on January 11 and 12, 2024, and two hours of wage-loss compensation each day from January 13 through March 5, 2024.

[5] *Supra* note 1.

[6] *See S.F.*, Docket No. 20-0347 (issued March 31, 2023); *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); *see also L.S.*, Docket No. 18-0264 (issued January 28, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019).

employee was receiving at the time of 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] 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.[9]

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.[10] Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.[11] 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.[12] When, however, the medical evidence 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.[13]

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.[14]

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.[15]

[7] 20 C.F.R. § 10.5(f); *J.S.*, Docket No. 19-1035 (issued January 24, 2020).

[8] *T.W.*, Docket No. 19-1286 (issued January 13, 2020).

[9] *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

[10] 20 C.F.R. § 10.5(f); *see J.M.*, Docket No. 18-0763 (issued April 29, 2020); *Bobbie F. Cowart*, 55 ECAB 746 (2004).

[11] *D.W.*, Docket No. 20-1363 (issued September 14, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

[12] *See M.W.*, Docket No. 20-0722 (issued April 26, 2021); *D.G.*, Docket No. 18-0597 (issued October 3, 2018).

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

[14] *D.S.*, Docket No. 23-0414 (issued December 4, 2023); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

[15] *See M.J.*, Docket No. 19-1287 (issued January 13, 2020); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi, supra* note 9.

ANALYSIS

The Board finds that this case is not in posture for decision.

By development letter dated May 9, 2024, OWCP noted its receipt of appellant's CA-7 forms claiming disability for the period November 18, 2023 through April 5, 2024. With regard to the period January 11 through April 5, 2024, it requested that the employing establishment provide information regarding appellant's work restrictions and on whether modified-duty work was provided to her appellant. OWCP afforded the employing establishment 15 days to respond. On May 14, 2024 R.C., an employing establishment human resource officer, responded to OWCP's May 9, 2024 development letter. He stated that the employing establishment would have been able to accommodate the January 10, 2024 work restrictions for "up to" two hours per day. In an attached April 19, 2024 e-mail, in response to whether there was work available within appellant's restrictions, B.A., an employing establishment representative, replied, "Casing … only (casing is usually an hour…. Possible double casing on some days)." Based upon the foregoing, the Board finds that it is unclear whether and/or how much work was available within appellant's restrictions for the period claimed.[16]

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence, particularly when such evidence is of the character normally obtained from the employing establishment or other governmental source.[17] It should have obtained clarification from the employing establishment regarding whether and/or how much appropriate light-duty work was available to appellant during the period claimed.

As such, the Board shall remand the case for OWCP to further develop appellant's disability claim. On remand, OWCP shall request that the employing establishment clarify whether and/or how much light-duty work is available for appellant within her work restrictions for the period January 11 through March 5, 2024. Following this and other such further development as may be deemed necessary OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

[16] *A.H.,* Docket No. 22-0001 (issued July 29, 2022).

[17] *K.L.,* Docket No. 24-0871 (issued December 2, 2024); *A.F.*, Docket No. 20-1635 (issued June 9, 2022); *N.S.*, 59 ECAB 422 (2008).

ORDER

IT IS HEREBY ORDERED THAT the August 16, 2024 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 10, 2026
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