

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work for the period August 22, 2018 and continuing, causally related to her accepted July 7, 2018 employment injury.

FACTUAL HISTORY

On July 10, 2018 appellant, then a 56-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on July 7, 2018 she sustained a head contusion, neck pain, dizziness, and headache when she struck her head forcefully on a metal combination keypad box as she stood up after picking up a fallen package while in the performance of duty.⁴ She stopped work on the date of injury.

In reports dated July 7, 2018, Dr. Diana Johns, an occupational medicine specialist, noted that appellant had struck her head on the metal bar of a combination keypad that day, with the immediate onset of headache, neck pain, and dizziness. She diagnosed a scalp contusion and neck muscle strain. Dr. Johns returned appellant to work with restrictions effective July 8, 2018.

In reports dated July 9, 2018, Dr. Johns diagnosed acute cervical myofascial strain and scalp contusion. She returned appellant to work with restrictions effective July 9, 2018. Appellant submitted periodic treatment notes from Dr. Johns through August 6, 2018 noting continued head, right-sided neck, and right trapezial pain. Dr. Johns continued to prescribe work restrictions.

Appellant returned to work on July 9, 2018.

In July 10, 2018 reports, Dr. Saumya Pandey, an osteopath specializing in family medicine, provided a history of the July 7, 2018 employment injury and related appellant's symptoms of headache, dizziness, and neck pain.⁵ She diagnosed headache syndrome, contusion of scalp and concussion without loss of consciousness. Dr. Pandey held appellant off work through July 15, 2018 and returned her to modified-duty work on July 16, 2018.

In reports dated August 1 and 6, 2018, Dr. Rakhee Urankar, Board-certified in occupational medicine, provided a history of the July 7, 2018 employment incident and diagnosed acute cervical myofascial strain, postconcussion syndrome and postconcussion headache. She returned appellant to work without restrictions.

On August 24, 2018 OWCP accepted the claim for a scalp contusion.

⁴ On July 7, 2018 the employing establishment completed an authorization for examination and/or treatment (Form CA-16). A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *B.R.*, Docket No. 21-1103 (issued July 14, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

⁵ A July 10, 2018 computerized tomography (CT) scan of the head and brain was negative for intracranial hemorrhage or skull fracture.

OWCP received chart notes from Dr. Urankar dated from August 27 through October 17, 2018 noting appellant's persistent headache and drowsiness. Dr. Urankar diagnosed acute cervical myofascial strain, postconcussion syndrome, and headache. She continued to advise that appellant could work without restrictions. In an October 17, 2018 report, Dr. Urankar noted that appellant's injury was "100% better" and that appellant was currently working. On examination appellant's musculoskeletal and neurologic findings were normal. Dr. Urankar noted that appellant "wants duty restrictions despite no objective findings on [physical examination]." She further noted that appellant requested "duty restrictions so [appellant] can be on disability and then retire in [six] years." Dr. Urankar found appellant's symptoms not credible, advised that appellant could continue to work full-duty work without restrictions and released her from medical care.

On October 9, 2018 OWCP received an August 20, 2018 emergency department report by Dr. Henry Archibald Curtis, a physician specializing in emergency medicine, who related appellant's symptoms of headache, dizziness and nystagmus following a head injury in early July 2018. Dr. Curtis obtained a CT scan of her head, which demonstrated no acute abnormality and mild ethmoid sinusitis. He diagnosed headache likely secondary to concussion.

In an October 25, 2018 report, Dr. Dale A. Helman, a Board-certified neurologist, noted that, approximately three-and-a-half months previously, appellant had dropped an item and while standing to pick it up, she "struck her scalp against a metal object." Appellant did not lose consciousness, but was dazed and had "severely twisted her spine in the process as well." On examination, Dr. Helman noted diminished reflexes at the biceps, triceps, and ankles, diminished sensation in the bilateral C6-7 and L5-S1 dermatomes, diffuse cervical and lumbar paraspinal spasm, and restricted range of cervical and lumbar spine motion. He stated an impression of postconcussion syndrome with possible nerve impingement throughout the spine. Dr. Helman ordered electrodiagnostic testing and additional imaging studies. He held appellant off work.

On November 26, 2018 appellant filed a claim for compensation (Form CA-7) for disability from work for the period October 13 through November 9, 2018. An accompanying time analysis form (Form CA-7a) indicated that she was claiming disability commencing October 17, 2018. Thereafter, appellant filed Form CA-7 claims for disability from work for the period November 10 through December 7, 2018. She filed subsequent Form CA-7 claims for the period October 7, 2018 through February 1, 2019.

In a development letter dated December 11, 2018, OWCP informed appellant of the deficiencies of her claim for compensation commencing October 17, 2018. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

In response, appellant submitted a December 13, 2018 report by Dr. Helman reiterating previous findings.

In January 2, 2019 reports, Dr. Helman noted appellant's continued headaches, neck pain, and back pain with radiation into the extremities. He opined that she had "very significant issues with her spine" requiring electrodiagnostic testing. Dr. Helman held appellant off work.

In an undated report received by OWCP on January 8, 2019 Dr. Helman opined that the accepted injury continued to disable appellant from work. He noted objective findings of

diminished reflexes of both biceps, triceps, and ankles, and “very significant spasms throughout her spine” indicative of nerve impingement.

In a report dated January 24, 2019, Dr. Helman diagnosed postconcussion syndrome and cervical radiculopathy.

By decision dated February 20, 2019, OWCP denied appellant’s claims for disability from work for the period October 19, 2018 and continuing. It found that the medical evidence of record did not establish that the accepted employment injury disabled her from work during the claimed period due to her accepted July 7, 2018 employment injury.

In chart notes dated from March 6 through May 29, 2019, Dr. Helman opined that appellant’s condition had deteriorated. He diagnosed cervical and lumbar radiculopathy with evidence of nerve root impingement. Dr. Helman opined that the July 7, 2018 employment injury caused a cervical spine injury, which continued to disable appellant from work.⁶

Dr. Helman submitted periodic chart notes and work status reports dated from July 11, 2019 through May 5, 2020 noting continued diminished reflexes, occipital headaches, and significant neck pain.⁷ He held appellant off work through June 20, 2020.

On June 2, 2020 appellant filed a Form CA-7 for disability from work for the period August 22, 2018 through May 29, 2020. The employing establishment indicated that she had stopped work on August 22, 2018 and had not returned.

In a development letter dated June 16, 2020, OWCP informed appellant of the deficiencies of her claim for disability commencing August 22, 2018. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

In response, appellant submitted a June 18, 2020 report by Dr. Helman finding her totally disabled from work as her condition had deteriorated.

In a report dated June 26, 2020, Dr. Helman opined that the accepted July 7, 2018 employment incident caused cervical spine and other spine injuries. He related appellant’s symptoms of severe cervical spine pain radiating into all extremities. Dr. Helman opined that she was totally and permanently disabled from all gainful employment as she could not sit for more than a few minutes or perform repetitive upper extremity motions due to pain.

⁶ A March 14, 2019 MRI scan of the cervical spine demonstrated mild multilevel degenerative disc disease throughout the cervical spine with posterior disc protrusions that abut the anterior margin of the spinal cord at C3-4, C4-5, and C5-6, mild-to-moderate right-sided foraminal narrowing at C3-4, and mild foraminal narrowing at C5-6 and C6-7. A June 14, 2019 electromyography and nerve conduction velocity study of the upper extremities demonstrated bilateral C6-7 radiculopathy and bilateral carpal tunnel syndrome.

⁷ A November 18, 2019 MRI scan of appellant’s brain was negative for a acute infarction, intracranial hemorrhage, or intracranial mass lesion. A November 18, 2019 MRI scan of the cervical spine demonstrated straightening of the cervical lordosis, grade 1 retrolisthesis at C3-4 with central disc protrusion and mild right foraminal narrowing, mild right neural foraminal narrowing at C4-5, grade 1 retrolisthesis at C5-6 with mild bilateral neural foraminal narrowing and mild central canal stenosis at C6-7 with moderate bilateral neural foraminal narrowing.

The employing establishment separated appellant from employment effective July 6, 2020 due to unsatisfactory attendance.

In July 13, 2020 reports, Dr. Helman noted findings of cervical and lumbosacral spasm. He diagnosed cervical and lumbosacral radiculopathy.

By decision dated September 16, 2020, OWCP denied appellant's claim for compensation commencing August 22, 2018 and continuing. It found that the medical evidence of record did not establish that she was totally disabled from work during the claimed period due to the accepted July 7, 2018 employment injury.

On October 12, 2020 OWCP received August 25, 2020 reports by Dr. Helman, who opined that appellant's cervical and lumbar conditions continued to worsen. He prescribed physical therapy.

On October 15, 2020 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review, subsequently changed per counsel to a request for a review of the written record.

On November 23, 2020 OWCP received September 30, 2020 reports by Dr. Helman, finding appellant totally disabled from work due to cervical and lumbar radiculopathy causally related to the July 7, 2018 employment injury.

In a December 9, 2020 report, Dr. Helman explained that the mechanics of the July 7, 2018 employment injury caused injuries to the cervical and lumbar spine as it was "impossible for [appellant] to have a head injury causing scalp contusion and concussion without similarly affecting both by compression and twisting the entire spine." He opined that degenerative disc disease and nerve root impingement confirmed by diagnostic studies were objective evidence of the spinal injuries. Dr. Helman diagnosed postconcussion syndrome, cervical radiculopathy, and lumbar radiculopathy causally related to the July 7, 2018 employment injury.

In a December 16, 2020 report, Dr. John B. Dorsey, a Board-certified orthopedic surgeon, provided a history of injury, reviewed medical records and related appellant's symptoms of dizziness and migraine headaches. On examination, he observed significant spasm in the cervical paraspinal muscles with significantly restricted motion, a positive occipitovertebral compression test, lumbosacral tenderness to palpation with restriction flexion and extension, bilaterally positive shoulder impingement signs, significant pain to palpation in the bicipital groove bilaterally, bilaterally positive Tinel's, Phalen's, Flick's, and Durkan's signs, and bilateral grip strength weakness. Dr. Dorsey opined that the July 7, 2018 employment injury caused chronic migrainous headaches, cervical degenerative disc disease, and bilateral C6-7 radiculopathy, with consequential conditions of lumbar spine sprain with radiculopathy, bilateral carpal tunnel syndrome, bilateral shoulder impingement syndrome, and a left knee strain with possible lateral internal derangement. He explained that the July 7, 2018 employment injury caused a neck sprain superimposed on degenerative changes, shoulder conditions, bilateral carpal tunnel syndrome, lumbar problems, and a left knee condition caused by appellant's work as a mail carrier for 19 years. Dr. Dorsey opined that she was disabled from work due to multiple radiculopathies. He recommended electrodiagnostic studies of the lower extremities and additional imaging studies of the upper and lower extremities.

In a December 23, 2020 report, Dr. Helman opined that appellant's continued cervical and lumbar spine pain were due to the mechanism of the July 7, 2018 employment injury. On December 28, 2020 he requested that OWCP authorize physical therapy.

In a January 25, 2021 statement, counsel contended that the reports of Dr. Helman and Dr. Dorsey were sufficient to establish the claimed period of disability. Additionally, he requested that OWCP expand the acceptance of appellant's claim to include chronic migrainosus headaches, cervical disc disease with degenerative changes, bilateral C6-7 radiculopathy, lumbar sprain with radiculopathy, bilateral carpal tunnel syndrome, bilateral shoulder impingement syndrome, and a left knee strain.

By decision dated February 10, 2021, an OWCP hearing representative affirmed the September 16, 2020 decision, finding that appellant had not submitted sufficient medical evidence to establish disability from work for the period August 22, 2018 and continuing, causally related to her accepted July 7, 2018 employment injury. The hearing representative found that the medical evidence of record did not establish that appellant sustained chronic migrainosus headache, degenerative cervical disc disease, bilateral C6-7 radiculopathy, lumbar sprain with radiculopathy, bilateral carpal tunnel syndrome, bilateral shoulder impingement syndrome, or left knee strain causally related to the July 7, 2018 employment injury. Additionally, OWCP's hearing representative indicated that, upon return of the case to the District Office, OWCP "should consider expanding the claim to include neck sprain."⁸

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.⁹ 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.¹⁰ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues which must be proven by the preponderance of the reliable, probative, and substantial medical evidence.¹¹

⁸ The Board notes that, in its February 10, 2021 decision, OWCP's hearing representative did not formally accept a neck strain or otherwise render an opinion on the issue of expansion of its acceptance of the claim to include chronic migrainosus headaches, degenerative cervical disc disease, bilateral C6-7 radiculopathy, lumbar sprain, lumbar radiculopathy, bilateral carpal tunnel syndrome, bilateral shoulder impingement syndrome, and a left knee strain.

⁹ *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *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).

¹⁰ *Id.*; *William A. Archer*, 55 ECAB 674 (2004).

¹¹ 20 C.F.R. § 10.5(f); *L.M.*, Docket No. 21-0063 (issued November 8, 2021); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

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.¹² 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.¹³

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.¹⁴ 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 accepted employment injury and the claimed period of disability.¹⁵

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.¹⁶

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work for the period August 22, 2018 and continuing, causally related to her accepted July 7, 2018 employment injury.

In support of her claim for compensation, appellant submitted numerous reports from Dr. Helman dated from October 25, 2018 through December 23, 2020 noting her history of injury on July 7, 2018 and detailing physical examination findings. Dr. Helman found her disabled from work due to postconcussion syndrome, nerve root impingement throughout the cervical and lumbar spine, cervical radiculopathy, and lumbar radiculopathy. He attributed these conditions to the July 7, 2018 employment injury. In Dr. Helman’s December 9 and 23, 2020 reports, he explained that it was physiologically impossible for appellant to have sustained the accepted scalp contusion, as well as a concussion, without compressive and twisting forces on the spine sufficient to cause cervical and lumbar nerve root impingement as documented on diagnostic studies. However, he

¹² *Id.* at § 10.5(f); *see B.K.*, Docket No. 18-0386 (issued September 14, 2018); *S.M.*, 58 ECAB 166 (2006); *Bobbie F. Cowart*, 55 ECAB 746 (2004).

¹³ *Id.*

¹⁴ *J.M.*, Docket No. 19-0478 (issued August 9, 2019).

¹⁵ *L.M.*, *supra* note 11; *K.H.*, Docket No. 19-1635 (issued March 5, 2020); *V.A.*, Docket No. 19-1123 (issued October 29, 2019); *R.H.*, Docket No. 18-1382 (issued February 14, 2019).

¹⁶ *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *M.A.*, Docket No. 20-0033 (issued May 11, 2020); *A.W.*, Docket No. 18-0589 (issued May 14, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

did not offer an opinion as to whether she was disabled from work commencing August 22, 2018 due to the accepted July 7, 2018 employment injury. Therefore, this evidence is of no probative value and is insufficient to establish her claim for compensation.¹⁷

In his December 16, 2020 report, Dr. Dorsey opined that the July 7, 2018 employment injury caused a neck sprain superimposed on preexisting degenerative changes, causing or aggravating multilevel cervical radiculopathy. He did not, however, address whether the accepted scalp contusion disabled appellant from work for the claimed period. Dr. Dorsey's reports, therefore, are of no probative value and are insufficient to establish appellant's claim for compensation.¹⁸

The remainder of the evidence of record consists of diagnostic study reports.¹⁹ The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injury caused any of the additional diagnosed conditions.²⁰

As the medical evidence of record is insufficient to establish disability during the claimed period causally related to the accepted July 7, 2018 employment injury, the Board finds that appellant has not met her 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 her burden of proof to establish disability from work for the period August 22, 2018 and continuing, causally related to her accepted July 7, 2018 employment injury.

¹⁷ *F.S., id.*; see *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁸ *Id.*

¹⁹ *Supra* note 8.

²⁰ *F.S.*, *supra* note 16; *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

ORDER

IT IS HEREBY ORDERED THAT the February 10, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 21, 2023
Washington, DC

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

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

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