

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work for the period September 15 through October 12, 2018, causally related to her accepted June 19, 2018 employment injury.

FACTUAL HISTORY

On June 20, 2018 appellant, then a 61-year-old markup clerk, filed a traumatic injury claim (Form CA-1) alleging that on June 19, 2018 she sustained a sprain of the left thigh and upper leg when her chair rolled backwards as she sat down while in the performance of duty. She stopped work on June 20, 2018. OWCP accepted the claim for sprain of the left thigh/hip. Appellant subsequently returned to full-duty work with restrictions on June 28, 2018.

On May 25, 2022 appellant filed a claim for compensation (Form CA-7) for disability from work for the period September 15 through 28, 2018.

In a development letter dated May 31, 2022, OWCP informed appellant of the deficiencies of her disability claim for the period September 15 through 28, 2018. It advised her of the type of medical evidence needed and afforded her 30 days to submit the necessary evidence. No medical evidence was received.

By decision dated August 3, 2022, OWCP denied appellant's claim for wage-loss compensation for disability from work for the period September 15 through 28, 2018. It explained that it had not received any medical evidence regarding either medical treatment or disability for the period claimed. OWCP, therefore, concluded that there was insufficient evidence to establish that appellant was disabled from work due to her accepted employment injury.

On August 9, 2022 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review with regard to the August 3, 2022 decision.

On August 16, 2022 appellant filed a Form CA-7 for disability from work for the period September 29 through October 12, 2018.

In a development letter dated August 17, 2022, OWCP advised appellant that there was no medical evidence of record related to the period September 29 through October 12, 2018. It advised her that additional evidence was needed to establish disability from work during the period claimed, and provided 30 days to submit the requested information. No medical evidence was received.

By decision dated September 19, 2022, OWCP denied appellant's claim for wage-loss compensation for disability from work for the period September 29 through October 12, 2018. It explained that it had not received any medical evidence which pertained to either treatment or disability for the claimed period. OWCP concluded that there was insufficient evidence to establish that appellant was disabled from work due to her accepted employment injury.

On September 23, 2022 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

A hearing was held on December 6, 2022 regarding disability during the period September 15 through October 12, 2018.

By decision dated January 27, 2023, an OWCP hearing representative affirmed the August 3 and September 19, 2022 decisions.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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.⁴ 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.⁵ 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.⁶ Findings on examination are generally needed to support a physician's opinion that an employee is disabled from work.⁷

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.⁸ Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.⁹ 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.¹⁰

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.

³ *Id.*

⁴ *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *M.C.*, Docket No. 18-0919 (issued October 18, 2018); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Id.*; *William A. Archer*, 55 ECAB 674 (2004).

⁶ *V.H.*, Docket No. 18-1282 (issued April 2, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, *id.*

⁷ *Dean E. Pierce*, 40 ECAB 1249 (1989).

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

⁹ *G.T.*, Docket No. 18-1369 (issued March 13, 2019); *Robert L. Kaaumoana*, 54 ECAB 150 (2002).

¹⁰ *See* 20 C.F.R. § 10.5(f); *N.M.*, Docket No. 18-939 (issued December 6, 2018).

To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹¹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work for the period September 15 through October 12, 2018, causally related to her accepted June 19, 2018 employment injury.

As noted, it is appellant's burden of proof to submit medical evidence addressing the specific dates of disability for which compensation is claimed.¹² The Board finds that there is no medical evidence of record pertaining to the claimed period of disability.

As appellant has not provided rationalized medical opinion evidence establishing disability during the period September 15 through October 12, 2018, causally related to the accepted employment injury, the Board finds that she 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 September 15 through October 12, 2018, causally related to her accepted June 19, 2018 employment injury.

¹¹ See *B.K.*, Docket No. 18-0386 (issued September 14, 2018); *Amelia S. Jefferson*, *supra* note 6; see also *C.S.*, Docket No. 17-1686 (issued February 5, 2019).

¹² *Id.*

ORDER

IT IS HEREBY ORDERED THAT the January 27, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 2, 2023
Washington, DC

Patricia H. Fitzgerald, Deputy 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