

developed post-traumatic stress disorder (PTSD) while in Iraq due to factors of his federal employment. He first realized that his condition was related to his employment on April 27, 2011. Appellant submitted a narrative statement and attributed his condition to the job requirement that he prepare a vehicle that had been destroyed by a roadside bomb, including inventorying the vehicle before it was sanitized and while the body of the passenger killed in the incident was still within the vehicle.

On March 16, 2011 appellant noted the employing establishment as his duty station and listed his overseas and continental United States location preferences. He requested an accommodation and noted that his wife had started a business. Appellant advised that his youngest son was in college and asked to remain at his present location for 18 months. In an e-mail of April 8, 2011, he requested a deferment from his move to Kansas. Appellant requested to retire in Texas and noted that he was open to overseas deployment. He stated that a deployment to Kansas would require him to sell the family farm, close his wife's business and leave his son in his final year of college. Appellant stated, "I am so devastated right now that I can't even see straight, please tell me my years of service have at least given me the right to request reconsideration."

In an e-mail dated April 21, 2011, Michael Stricker, appellant's superior, stated that on April 8, 2011 appellant reported increased levels of stress as well as problems sleeping due to problems at home including his transfer from the employing establishment to Fort Riley, Kansas.

Appellant reported for a physical on April 25, 2011. He reported headaches, palpitations, and trouble sleeping. Appellant submitted a work release note from a nurse practitioner dated April 27, 2011 listing that he was totally disabled. In a note dated May 2, 2011, Dr. Luis Egelsee, a Board-certified family practitioner, diagnosed PTSD and anxiety. He stated that appellant was disabled until June 1, 2011. Jim Colbert, a licensed professional counselor, examined appellant on November 26, 2011 and diagnosed PTSD and generalized anxiety disorder due to the examination of the unsanitized vehicle in Iraq. He stated that appellant's condition caused significant difficulty in occupational functioning primarily due to his association with his employing establishment.

In a note dated December 11, 2011, Amy Eichler, Ph.D., a clinical psychologist, stated that appellant's diagnosed condition of PTSD was impeding his ability to work. She stated, "His occupational functioning is particularly weakened due to the association with his employer. On July 27, 2012 Dr. Eichler stated that appellant began to exhibit chronic somatic complaints as the first signs of PTSD beginning with his 2007 and 2008 deployment. She noted appellant's exposure to an unsanitized vehicle in Iraq which contained, blood stains, bone fragments and body tissues throughout the passenger compartment. Dr. Eichler stated that appellant persistently re-experienced this event, that he met avoidance criteria and exhibited significant levels of increased arousal. She found that he met the criteria for chronic PTSD. Dr. Eichler opined that difficult relationships at work and his change of duty station were also sources of stress for appellant, but not the root cause of his PTSD diagnosis.

OWCP accepted appellant's claim for PTSD on August 7, 2012. Appellant filed a claim for compensation on August 8, 2012 for leave without pay from April 13, 2011 through August 8, 2012. He was removed from the employing establishment effective

December 16, 2011. In a letter dated September 6, 2012, OWCP requested that appellant provide additional medical evidence addressing his disability for work during the period claimed.

Dr. Eichler completed two undated reports. She stated that appellant experienced significant panic any time he came near the employing establishment. Dr. Eichler stated that the symptoms of avoidance of places that forced him to relive the event had not significantly decreased. She stated, "In my professional opinion, his condition is prohibitive to his continued work in the military."

In an email dated November 21, 2012, the employing establishment stated that appellant was in a pay status from April 13 through 22, 2011 as he was deployed in Iraq. Appellant used sick leave from April 28 through May 25, 2011 based on the note from the nurse practitioner. The employing establishment noted that appellant submitted a note from Dr. Egelsee listing that he was totally disabled from May 2 through June 1, 2011. Appellant then requested unpaid time off under the Family Medical and Leave Act from May 9 through July 29, 2011 and began using leave without pay from August 1 through December 16, 2011.

By decision dated January 2, 2013, OWCP denied appellant's claim for disability from April 13, 2011 through August 8, 2012. It found that he was not entitled to wage-loss compensation benefits for the period April 13 through 22, 2011 because he received his regular pay. OWCP noted that appellant used sick leave from April 28 through July 29, 2011 and was placed in an absence without leave status from August 1 through December 16, 2011. Appellant retired on disability effective November 26, 2012.

Appellant requested reconsideration on October 21, 2013. On September 25, 2013 Dr. Eichler diagnosed PTSD. She opined that this condition was still active and causing symptoms. Dr. Eichler stated that appellant could return to some type of gainful employment in a limited duty capacity. She stated, "Yes, the present level of disability is a direct result of [PTSD] as it interferes with his ability to deal with anything related to the military or his previous duties." Dr. Eichler stated that appellant's PTSD was chronic and, although his work-related condition had improved, his condition had not resolved. She stated that appellant was not medically able to perform his date-of-injury position and that she did not expect him to be able to return to such duties. Dr. Eichler concluded, "To reiterate, it is my definite medical opinion that the irreversible changes in [appellant's] mental state are contraindicated by the work environment due to the dangers of continued exposure to the obvious external or internal cues.... I have determined that the sick leave [appellant] utilized for the period April 28, 2011 through July 29, 2011 was necessary and reasonable in connection for his work-related PTSD. In addition, the leave without pay for the period July 30, 2011 through March 1, 2012 was also necessary and reasonable for the same reasons."

Dr. Eichler also completed a work capacity evaluation and advised that appellant's work restrictions limited him from any work environment close to a military base, or any activity that had to do with weaponry or military. She found that appellant could work eight hours a day within these restrictions.

By decision dated February 26, 2014, OWCP reviewed the merits of appellant's claim and denied modification of the January 2, 2013 decision. It found that Dr. Eichler's report was speculative and not expressed in terms of a reasonable degree of medical certainty.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing 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.³ 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, *i.e.*, a physical impairment resulting in loss of wage-earning capacity.⁴

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative and substantial medical evidence.⁵ Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work. When a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation.⁶ The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.⁷

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.⁸ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 diagnosed condition and the specific employment factors identified by the claimant.⁹ Neither the fact that a

² 5 U.S.C. §§ 8101-8193.

³ *G.T.*, 59 ECAB 447 (2008); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ 20 C.F.R. § 10.5(f); *see, e.g., Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

⁵ *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁶ *Id.*

⁷ *Id.*

⁸ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *Leslie C. Moore*, 52 ECAB 132 (2000).

disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

ANALYSIS

OWCP accepted appellant's claim for PTSD based on the medical evidence in the records, specifically the reports of Dr. Eichler. In her reports, Dr. Eichler did not provide any specific periods of disability related to appellant's diagnosed condition. She did note that appellant's PTSD prohibited him from continuing to work in the military. These reports did not include a specific period of disability and therefore were not sufficient to meet appellant's burden of proof in establishing his claim. As noted above, the Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed.¹¹

Dr. Eichler completed a report on September 25, 2013 and again diagnosed PTSD finding that this condition was still active and causing appellant's symptoms. She stated that appellant's current disability was the direct result of PTSD and that this condition interfered with his ability to deal with anything related to the military or his previous duties." Dr. Eichler stated that appellant was not medically able to perform his date-of-injury position and that she did not expect him to be able to return to these duties. She concluded, "I have determined that the sick leave [appellant] utilized for the period of April 28, 2011 through July 29, 2011 was necessary and reasonable in connection for his work-related PTSD. In addition, the leave without pay for the period July 30, 2011 through March 1, 2012 was also necessary and reasonable for the same reasons."

Dr. Eichler has provided a diagnosis of appellant's accepted employment injury and opined that this condition resulted in appellant's disability for work beginning on April 28, 2011. She opined that appellant's disability for work continued until March 2012 and that he remained partially disabled due to PTSD such that he could not return to his date-of-injury position. Dr. Eichler has reviewed appellant's symptoms and repeatedly concluded that appellant had chronic PTSD, that this condition rendered appellant disabled from working at the employing establishment or other military installation and that appellant's disability for work began on April 28, 2011 when he began to utilize sick leave. Appellant also submitted a report from Dr. Egelsee dated May 2, 2011 diagnosing PTSD as well as anxiety and finding that appellant was disabled through June 1, 2011. The Board finds that these reports are sufficient to establish that appellant was totally disabled beginning April 28, 2011 due to his accepted condition and that he remains partially disabled due to this condition such that he cannot return to the employing establishment.

¹⁰ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹¹ *Id.*

Appellant also submitted records from a nurse practitioner. These notes do not constitute medical evidence as nurse practitioners are not physicians under FECA and are not competent to render a medical opinion.¹²

The Board finds that appellant has established a period of disability due to his accepted PTSD and remands the case for OWCP to ascertain if appellant wishes to repurchase sick leave from April 28 through May 25, 2011¹³ and to determine his compensation benefits after May 25, 2011. After this and such other development as OWCP deems, necessary, OWCP should pay appropriate benefits.

CONCLUSION

The Board finds that appellant has established that he was totally disabled for work due to his accepted employment injury of PTSD beginning April 28 through May 25, 2011. Additionally, the Board finds that the case be remanded to determine any compensation benefits after May 25, 2011.

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2014 decision of the Office of Workers' Compensation Programs is reversed and the case remanded for further development consistent with this decision of the Board.¹⁴

Issued: May 20, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

¹² *G.G.*, 58 ECAB 389 (2007).

¹³ As noted by OWCP, appellant is not entitled to dual benefits and cannot receive benefits under FECA for a period during which he received his regular pay or utilized leave. 5 U.S.C. §§ 8116(a) and 8118(c); *H.S.*, Docket No. 06-1329 (issued September 18, 2006).

¹⁴ Michael E. Groom, Alternate Judge, participated in the original decision but was no longer a member of the Board effective December 27, 2014.