

**United States Department of Labor
Employees' Compensation Appeals Board**

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| L.T., Appellant |) | |
| |) | |
| and |) | Docket No. 19-1794 |
| |) | Issued: October 2, 2020 |
| U.S. POSTAL SERVICE, POST OFFICE, |) | |
| Los Angeles, CA, Employer |) | |
| _____ |) | |

Appearances:
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On August 27, 2019 appellant, through counsel, filed a timely appeal from a June 3, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that following the June 3, 2019 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.*

ISSUES

The issues are: (1) whether appellant has met her burden of proof to expand acceptance of her claim to include benign paroxysmal positional vertigo (BPPV) causally related to her August 11, 2015 employment injury; and (2) whether she has met her burden of proof to establish total disability from work for the period May 6 through June 3, 2016 and continuing causally related to her accepted August 11, 2015 employment injury.⁴

FACTUAL HISTORY

On August 11, 2015 appellant, then a 58-year-old customer call agent, filed a traumatic injury claim (Form CA-1) alleging that on even date when she attempted to sit in a rolling chair, the chair rolled back causing her to fall backward and hit her head, back, right shoulder, right arm, and right wrist while in the performance of duty. She stopped work on August 12, 2015 and returned to modified employment on August 17, 2015. OWCP accepted the claim for cervical spine sprain, a head injury⁵, thoracic spine sprain, lumbar spine sprain, and contusion of the lower back and pelvis. On October 19, 2015 it authorized wage-loss compensation for medical appointments beginning on September 28, 2015.

In reports beginning August 12, 2015, Dr. Shelley A. Arredondo, a specialist in occupational medicine, diagnosed muscle strains of the neck, thoracic spine, lumbar spine, and a closed head injury. She also provided work restrictions. In an August 13, 2015 state workers' compensation form and progress report dated August 26, 2015, Dr. Arredondo noted that appellant had no complaints of dizziness.

In an attending physician's supplemental report (Form CA-20a) dated December 14, 2015, Dr. Arredondo diagnosed neck strain, strains of the thoracic and lumbar spine, contusions of the low back and coccyx, and BPPV. She did not respond to the question of whether appellant's current condition at that time was due to the injury for which compensation was claimed.

In a Form CA-20a dated January 5, 2016, Dr. Arredondo noted that appellant "continues to have episodes of vertigo which seem to be worse with transition or bending over." She provided the same diagnoses as in her December 14, 2015 report. Dr. Arredondo did not respond to the question on the form regarding the cause of appellant's current condition. She provided a similar report on January 26, 2016.

On February 8, 2016 Dr. Arredondo described appellant's history of an injury on August 11, 2015 when her chair slipped and she fell and hit her head on the ground. She noted that appellant had pain in her neck, upper and lower back, and head as well as continued vertigo. Dr. Arredondo diagnosed a closed head injury, thoracic spine strain, and lumbar muscle strain. She noted that appellant advised that "her biggest issue is the vertigo...."

⁴ Appellant also filed a claim for compensation (Form CA-7) for leave without pay (LWOP) for the period October 26, 2015 through January 25, 2016, for wage-loss compensation due to physical therapy appointments. However, this claim is not presently before the Board on appeal.

⁵ The diagnostic code for the accepted head injury, classified under the International Classification of Diseases (ICD) 10, was Code S134XXA. The Board notes that the condition of BPPV is designated as ICD-10 Code H81.11.

In a form report dated March 1, 2016, Dr. Arredondo noted the mechanism of injury as appellant falling and hitting her head when a rolling chair slipped when she was trying to sit down. She noted that her vertigo seemed to have resolved. Dr. Arredondo found that appellant had continued low back pain, but no further vertigo or pain in her neck and thoracic spine.

On March 22, 2016 Dr. Arredondo indicated that appellant's symptoms of vertigo had seemed to calm down. She found continued low back pain with a return of vertigo and neck and thoracic pain. Dr. Arredondo diagnosed a closed head injury, lumbar muscle strain, thoracic spine strain, and neck muscle strain. She provided work restrictions included lifting, carrying, pushing, and pulling no more than 10 pounds. Dr. Arredondo found that appellant could bend at the waist up to 75 percent of her work shift. She opined that appellant had reached maximum medical improvement (MMI).

In a May 10, 2016 form report, Dr. Arredondo noted appellant's history of injury and diagnosed a closed head injury and strains of the neck and lumbar and thoracic spine. She noted that appellant had been off work beginning May 6, 2016 as a result of severe vertigo. Dr. Arredondo recounted that appellant was experiencing neck, upper back, and lower back pain, as well as posterior head pain and discomfort. She checked a box on the form marked "Yes" that the August 11, 2015 employment injury was the competent producing cause of the injury and disability. Dr. Arredondo noted that appellant felt unsafe working due to her dizziness and vertigo. Appellant also experienced low back pain that increased with flexion with her neck and middle back pain at baseline. Dr. Arredondo found that appellant was totally disabled from May 10 to 16, 2016 due to severe vertigo.

On May 16, 2016 Dr. Arredondo indicated that appellant was disabled from work for the period May 16 through 19, 2016 due to her continued low back pain and vertigo. She diagnosed neck muscle strain and a closed head injury. Dr. Arredondo again indicated by checking a box marked "Yes" that the August 11, 2015 employment injury was the competent producing cause of the injury and disability. She noted that appellant described her vertigo as occurring when she turned her head to the right. Appellant did not feel safe working due to dizziness.

In a report dated May 18, 2016, Dr. Prakash Desai, an osteopath Board-certified in neurology, evaluated appellant for vertigo that had begun several days earlier. He noted that she had "a history of head injury August 2015 and subsequently had benign positional vertigo which resolved. The initial injury occurred when [appellant] went to sit down on a rolling chair and it slipped away and she fell on the carpeted ground and hit her head." Dr. Desai indicated that appellant's BPPV had improved, but not resolved with physical therapy, and had returned for the past few weeks. He noted that she experienced vertigo when she turned her head to the right, when she turned onto her right side to get out of bed, and when she rose from a sitting or lying position. Dr. Desai diagnosed dizziness and right BPPV. He found that, while appellant's examination suggested benign positional vertigo, she also exhibited bilateral up-going toes and slightly hyperreflexia knee jerks. Dr. Desai advised that he would like to rule out a central nervous system lesion and referred her for a magnetic resonance imaging (MRI) scan. A June 1, 2016 form report indicated that Dr. Desai provided no documentation of medical impairment.

In a May 19, 2016 report, Dr. Arredondo opined that appellant was disabled from work for the period May 19 through 24, 2016 as it was unsafe for her to drive. She again indicated by checking a box marked "Yes" that appellant's condition was due to her accepted employment incident and noted that she had vertigo when she turned her head to the right. Dr. Arredondo

diagnosed right BPPV, a closed head injury, and lumbar muscle strain. She noted that appellant had complained of pain in her neck and bilateral upper and lower back, head pain, and dizziness. Dr. Arredondo found that she had continued low back pain with a return of vertigo, and that her neurologist had recommended additional vestibular physical therapy and a brain MRI scan. On May 19, 2016 she prescribed vestibular therapy for right BPPV.

On May 24, 2016 Dr. Arredondo found appellant totally disabled from work through June 7, 2016. She indicated by checking a box marked "Yes" that the August 11, 2015 employment incident was the competent producing cause of the injury and disability. Dr. Arredondo diagnosed right BPPV, a closed head injury, neck strain, thoracic spine strain, and lumbar muscle strain.

In a form report dated June 7, 2016, Dr. Arredondo indicated by checkmark that appellant's condition was causally related to her employment injury and found that she was totally disabled through June 16, 2016. She diagnosed right BPPV, a closed head injury, and strains of the neck, thoracic, and lumbar spine. Dr. Arredondo reviewed the results of a May 29, 2016 MRI scan of the brain, noting that it showed indeterminate signal abnormality within the pons area of the brainstem that might represent chronic small vessel ischemic change or osmotic demyelination syndrome. She indicated that Dr. Desai had provided a message that the pons findings were unrelated to head trauma and that the etiology of her dizziness was unclear as clinically it appeared more like peripheral vertigo. Dr. Arredondo noted that Dr. Desai had recommended a repeat MRI scan in six months.

On June 6, 2016 appellant filed a wage-loss claim (Form CA-7) requesting LWOP compensation from May 6 through June 3, 2016. An accompanying time analysis form (Form CA-7a) indicated that appellant claimed eight hours of compensation each day because she had been taken off work by her physician.

In a form report dated June 16, 2016, Dr. Arredondo found that appellant was totally disabled through June 23, 2016 due to uncontrolled symptoms. She diagnosed right BPPV, a closed head injury, lumbar strain, and thoracic sprain. Dr. Arredondo checked a box marked "Yes" that the described occurrence was the competent producing cause of the injury and disability. She provided the method of injury as appellant hitting her head when she fell to the ground attempting to sit on a rolling chair.

In a June 20, 2016 development letter, OWCP requested that appellant submit additional medical evidence in support of her claim that she was disabled from employment due to her accepted employment injuries. It noted that her physician had found that she was at MMI on March 22, 2016, and that she stopped working on May 6, 2016 and found to be disabled beginning May 10, 2016 due to vertigo. OWCP advised appellant that, if she was off work as a result of vertigo rather than an accepted condition, she should submit a report with rationale explaining the relationship between the vertigo and her August 11, 2015 employment injury. It further noted that the medical report should address Dr. Desai's opinion that the MRI scan changes were not industrial. OWCP further advised that appellant should submit medical evidence supporting disability for the period claimed. It afforded her 30 days to respond.

On June 23, 2016 Dr. Arredondo found that appellant was totally disabled through July 8, 2016. In separate reports of even date, she attributed appellant's disability to her employment injury. Dr. Arredondo diagnosed right BPPV, closed head injury, thoracic spine

strain, and lumbar muscle strain. She advised that she had reviewed the MRI scan with appellant and that the changes were “not thought to be industrial.”

Appellant submitted notes from a physical therapist, Stacey C. Kim, dated June through August 2016.

In a July 8, 2016 form report, Dr. Arredondo checked a box marked “Yes” that the August 11, 2015 employment incident was the competent producing cause of appellant’s injury and disability. She also completed a treatment note which recounted that appellant’s vertigo had significantly improved with vestibular therapy, but that she continued to experience a sense of imbalance. Dr. Arredondo repeated her diagnoses of right BPPV, closed head injury, neck muscle strain, thoracic spine strain, and lumbar muscle strain. She found that appellant had continued low back pain with resolution of vertigo. Dr. Arredondo indicated that appellant could return to modified work with restrictions on bending at the waist and lifting or carrying more than 10 pounds.

In a Form CA-7 dated July 11, 2016, appellant requested wage-loss compensation from June 6 through July 8, 2016.⁶

By decision dated October 31, 2018, OWCP denied appellant’s claim for compensation for the period May 6 through June 3, 2016 and continuing. It found that the medical evidence of record failed to establish that the diagnosed condition of vertigo was caused or aggravated by the accepted August 11, 2015 employment incident.⁷

On November 7, 2018 appellant, through counsel, requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review.

A hearing was held on March 18, 2019. Appellant alleged that she developed vertigo as a result of her August 2015 employment injury such that she was unable to drive or “get up” in May 2016. She also alleged that her back pain increased due to sitting at work and that she experienced continuous headaches. Appellant retired in September 2016.

By decision dated June 3, 2019, OWCP’s hearing representative affirmed OWCP’s October 31, 2018 decision. She found that there was no medical evidence supporting that appellant was disabled from May 6 through June 3, 2016 and continuing due to her accepted employment injury.

⁶ In a report dated September 26, 2016, Dr. Steve Huang, a Board-certified physiatrist, indicated that appellant stopped work on September 19, 2016 due to her claim for wrist, arm, and shoulder injuries due to sitting and typing continuously at work since February 2013. He diagnosed right trigger finger, right trigger thumb, and left rotator cuff syndrome. Dr. Huang found that appellant was disabled through September 30, 2016.

⁷ By decision dated December 27, 2017, OWCP denied appellant’s wage-loss claim for the period October 26, 2015 through January 25, 2016 for LWOP due to medical treatment.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA⁸ has the burden of proof to establish the essential elements of his or her claim, including the fact that he or she is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁹

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.¹⁰

Causal relationship is a medical question that requires medical opinion evidence to resolve the issue.¹¹ The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the accepted employment injury.¹²

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to expand acceptance of her claim to include BPPV causally related to her August 11, 2015 employment injury.

OWCP accepted that appellant sustained cervical, thoracic, and lumbar sprain and a contusion of the lower back and pelvis due to her work injury. It further accepted a head injury. The issue is whether appellant has established the additional condition of BPPV causally related to her accepted employment injury.¹³

Appellant was initially seen by Dr. Arredondo on August 12, 2015. In a report dated August 13, 2015, Dr. Arredondo indicated that appellant had no complaints of dizziness, but did not diagnose BPPV.

In Form CA-20a reports dated December 14, 2015 and January 5 and 26, 2016, Dr. Arredondo diagnosed BPPV. However, she failed to opine on the form whether appellant's condition was causally related to the injury for which compensation was claimed. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's

⁸ *Supra* note 2.

⁹ *See C.W.*, Docket No. 17-1636 (issued April 25, 2018).

¹⁰ *K.T.*, Docket No. 19-1718 (issued April 7, 2020); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

¹¹ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹² *Id.*

¹³ *See supra* note 5.

condition is of no probative value on the issue of causal relationship.¹⁴ Therefore, these form reports are insufficient to establish that appellant's claim should be expanded to include the additional condition of BPPV.

In reports dated February 8 and March 1 and 22, 2016, Dr. Arredondo discussed appellant's history of an injury on August 11, 2015 when her chair slipped and she fell, striking her head on the ground. On February 8, 2016 she diagnosed a closed head injury, thoracic spine strain, and lumbar muscle strain. Dr. Arredondo discussed appellant's complaints of vertigo, which she indicated was her most significant problem. On March 1 and 22, 2016 she provided the same diagnoses and found that appellant's vertigo had either resolved or decreased. While Dr. Arredondo provided a history of the August 11, 2015 employment injury, she did not address the issue of causation. As noted, the Board has held that medical evidence that fails to offer an opinion regarding the cause of a diagnosed condition is of no probative and thus these reports are insufficient to establish claim expansion.¹⁵

In a form report dated May 10, 2016, Dr. Arredondo noted that appellant had sustained her injury when she fell and hit her head when she tried to sit down in a chair that rolled. She found that appellant was totally disabled due to severe vertigo. In a form report dated May 16, 2016, Dr. Arredondo diagnosed a neck strain and closed head injury and opined that appellant was disabled due to low back pain and vertigo. She noted that appellant felt unsafe working due to her vertigo. In a May 19, 2016 report, Dr. Arredondo evaluated appellant for head pain, neck and back pain, and dizziness. She diagnosed right BPPV, a closed head injury, and lumbar strain. Dr. Arredondo noted that appellant's vertigo had returned. In May 24 and July 8, 2016 reports, she diagnosed right BPPV, a closed head injury, neck strain, thoracic spine strain, and lumbar muscle strain. In June 16 and 23, 2016 form reports, Dr. Arredondo diagnosed right BPPV, a closed head injury, lumbar and thoracic sprain. In addressing causation on the reports dated May through July 2016, she checked a box marked "Yes" on the form that the August 11, 2015 employment injury was a competent producing cause of the injury and disability. The Board has held however that when a physician's opinion as to the cause of a period of disability consists only of a checkmark on a form, without further explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹⁶ In a June 7, 2016 form report, Dr. Arredondo diagnosed right BPPV and checked a box marked "Yes" that appellant's condition was causally related to her employment injury. She indicated that a May 29, 2016 MRI scan of the brain demonstrated indeterminate signal abnormality within the pons area of the brainstem that might represent chronic small vessel ischemic change or osmotic demyelination syndrome. Dr. Arredondo noted that Dr. Desai had found the results on the brain MRI scan as unrelated to head trauma and that the etiology of her dizziness was unclear as it clinically appeared like peripheral vertigo. In a June 23, 2016 report, she noted that appellant related that her injury had occurred when she tried to sit on a chair that rolled away. Dr. Arredondo diagnosed right BPPV, a closed head injury, thoracic and lumbar strain, and found continued vertigo and low back pain. She advised that the changes on the MRI scan were not thought to be industrial. Dr. Arredondo checked a box marked "Yes" that the described work incident was the competent producing cause

¹⁴ See *O.M.*, Docket No. 18-1055 (issued April 15, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁵ *Id.*

¹⁶ *O.M.*, *supra* note 14; *Gary J. Watling*, 52 ECAB 278 (2001).

of the injury and disability. Again, however, an opinion consisting only of a check mark on a form report is insufficient to establish causal relationship.¹⁷

On May 18, 2016 Dr. Desai evaluated appellant for vertigo, noting that she had a history of an August 2015 head injury when she hit her head after her chair slipped. He indicated that she subsequently experienced BPPV that had resolved, but then returned. Dr. Desai diagnosed right BPPV and dizziness and recommended a brain MRI scan. Again, however, while he provided the history of the August 2015 employment injury, he failed to offer an opinion addressing the cause of the diagnosed condition of right BPPV. Consequently, Dr. Desai's opinion is insufficient to meet appellant's burden of proof.¹⁸

OWCP advised appellant of the need to submit rationalized medical evidence addressing the causal relationship between her symptoms of vertigo and her accepted employment injury. Appellant failed to submit such evidence and thus has not met her burden of proof to expand acceptance of her claim.¹⁹

LEGAL PRECEDENT -- ISSUE 2

An employee seeking benefits under FECA²⁰ has the burden of proof to establish the essential elements of his or her claim by the preponderance of the evidence.²¹ Under FECA the term "disability" means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.²² Whether a particular injury caused an employee to be disabled from employment and the duration of that disability are medical issues which must be proven by the preponderance of the reliable, probative, and substantial evidence.²³

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific date 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.²⁴

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See *E.T.*, Docket No. 19-0948 (issued July 27, 2020).

²⁰ *Supra* note 2.

²¹ *M.C.*, Docket No. 18-0919 (issued October 18, 2018); *Amelia S. Jefferson*, 57 ECAB 183 (2005); see also *Nathaniel Milton*, 37 ECAB 712 (1986).

²² *A.S.*, Docket No. 17-2010 (issued October 12, 2018); *S.M.*, 58 ECAB 166 (2006); *Bobbie F. Cowart*, 55 ECAB 746 (2004); 20 C.F.R. § 10.5(f).

²³ *M.J.*, Docket No. 19-1287 (issued January 13, 2020); *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

²⁴ *M.J.*, *id.*; *J.B.*, Docket No. 19-0715 (issued September 12, 2019).

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met her burden of proof to establish total disability from work for the period May 6 through June 3, 2016 and continuing causally related to her accepted August 11, 2015 employment injury.

In a May 16, 2016 form report, Dr. Arredondo diagnosed muscle strain and a closed head injury. She opined that appellant was totally disabled from May 16 through 19, 2016 due to continued low back pain and vertigo. Dr. Arredondo checked a box marked “Yes” that the August 11, 2015 employment injury was the competent producing cause of her disability. As noted, however, when a physician’s opinion as to the cause of a period of disability consists only of a checkmark on a form, without further explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.²⁵

On May 19, 2016 Dr. Arredondo discussed appellant’s complaints of dizziness and pain in her neck, back, and head. She diagnosed right BPPV, a closed head injury, and lumbar muscle strain. Dr. Arredondo checked “Yes” that the disability was due to the employment injury and opined that appellant was disabled from work May 19 through 24, 2016 because she could not safely drive. She provided a similar report on May 24, 2016 finding that appellant was totally disabled from employment through June 7, 2016. In form reports dated June 7 through July 8, 2016, Dr. Arredondo diagnosed BPPV, a closed head injury, and strains of the neck, thoracic, and lumbar spine and found appellant totally disabled. She again checked a box marked “Yes” that the described employment injury was the competent producing cause of the injury and disability which the Board has held is insufficient to establish causal relationship.²⁶

In a May 10, 2016 report, Dr. Arredondo diagnosed a closed head injury, lumbar strain, thoracic strain, and neck strain. She noted that appellant had stopped work on May 6, 2016 due to vertigo. Dr. Arredondo opined that appellant was disabled from May 10 to 16, 2016 due to severe vertigo. As she failed to relate any disability to the accepted employment conditions beyond checking a box on a form report, Dr. Arredondo’s opinion is insufficient to meet appellant’s burden of proof.²⁷

The record contains a May 18, 2016 report from Dr. Desai, who evaluated appellant for vertigo. Dr. Desai did not address the issue of disability during the claimed period. The Board has held that medical evidence that does not provide an opinion regarding whether a period of disability is due to an accepted employment condition is insufficient to establish a claim.²⁸

Appellant submitted reports from a physical therapist dated June through August 2016. Certain healthcare providers such as physician assistants, nurse practitioners, and physical

²⁵ *O.M.*, *supra* note 14.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *C.R.*, Docket No. 19-1427 (issued January 3, 2020).

therapists are not considered “physician[s]” as defined under FECA.²⁹ Therefore, these reports are insufficient to meet appellant’s burden of proof.

As noted, appellant must submit reasoned medical evidence directly addressing the specific dates of disability for work for which she claims compensation.³⁰ She did not provide medical evidence containing a rationalized opinion establishing that she could not work from May 6 through June 3, 2016 and continuing causally related to her accepted August 11, 2015 employment injuries, and thus she has not met her burden of proof.³¹

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to expand acceptance of her claim to include BPPV causally related to her August 11, 2015 employment injury. The Board further finds that she has not met her burden of proof to establish total disability from work for the period May 6 through June 3, 2016 and continuing causally related to her accepted August 11, 2015 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the June 3, 2019 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: October 2, 2020
Washington, DC

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

Christopher J. Godfrey, Deputy Chief Judge
Employees’ Compensation Appeals Board

Janice B. Askin, Judge
Employees’ Compensation Appeals Board

²⁹ Section 8101(2) of FECA provides that physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2). *See also David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *J.F.*, Docket No. 19-1694 (issued March 18, 2020) (physical therapists are not considered physicians under FECA).

³⁰ *K.A.*, Docket No. 16-0592 (issued October 26, 2016).

³¹ *A.S.*, *supra* note 22.