United States Department of Labor
Employees' Compensation Appeals Board

K.S., Appellant	)	
	)	**Docket No. 22-0357**
and	)	**Issued: October 13, 2022**
U.S. POSTAL SERVICE, POST OFFICE, Austin, TX, Employer	)	

Appearances:
Aaron B. Aumiller, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On January 11, 2022 appellant, through counsel, filed a timely appeal from a July 15, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (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 issuance of the July 15, 2021 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.*

ISSUE

The issue is whether appellant has met his burden of proof to establish his remaining claim for intermittent disability from work for the periods November 12, 2014 through August 15, 2017 and March 20 through May 1, 2018, causally related to his accepted employment injuries.

FACTUAL HISTORY

On April 8, 2017 appellant, then a 46-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a lumbar condition due to factors of his federal employment. He noted that he tried different ways to carry mail while walking, but his pain would not go away. Appellant also tried to stop walking, but that did not help his condition. He noted that he first became aware of his condition and its relationship to his federal employment on November 12, 2014. On the reverse side of the claim form, the employing establishment indicated that appellant stopped work in November 2014 due to a nonwork-related injury.

OWCP, by development letter dated April 26, 2017, informed appellant regarding the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. In a separate development letter of even date, OWCP requested additional information from the employing establishment. It afforded both parties 30 days to respond.

In response, on May 13, 2017 appellant submitted a completed OWCP development questionnaire. He attributed his claimed condition to carrying a pouch and mail, sitting or standing in one location, lifting, and bending 8 to 10 hours per day, 5 to 6 days per week.

Appellant also submitted medical evidence. In a progress note dated December 13, 2016, Dr. Okay A. Onan, a Board-certified orthopedic surgeon, provided assessments of symptomatic L2-3 disc degeneration with inflammatory modic changes and need to rule out osteopenia with a bone density test. OWCP thereafter received a progress note dated December 20, 2016 from Dr. Onan, wherein he reiterated his assessments of symptomatic L2-3 disc degeneration with inflammatory modic changes. A bone density test performed on December 20, 2016 revealed that appellant had osteopenia.

In a December 15, 2016 report, Dr. David Goldblatt, a Board-certified diagnostic radiologist, noted that appellant's lumbar spine magnetic resonance imaging (MRI) scan demonstrated discogenic degenerative changes at L2-3 with endplate changes, but was otherwise unremarkable.

Mary Lindsey, a registered nurse, in an employing establishment February 3, 2017 medical information and restriction assessment, diagnosed symptomatic L2-3 disc degeneration with inflammatory modic changes, and provided appellant's permanent restrictions.

By letter dated May 10, 2017, the employing establishment controverted appellant's claim.

OWCP, by decision dated July 13, 2017, denied appellant's occupational disease claim. It found that there was no rationalized medical evidence of record to establish that his diagnosed medical conditions were causally related to the accepted factors of his federal employment.

Thereafter, OWCP received a July 5, 2017 letter from Dr. Sammy Lerma, III, a family practitioner. Dr. Lerma diagnosed myofascial syndrome. He opined that the diagnosed condition and any other underlying structural issues were likely caused by appellant's duties as a letter carrier as there were no other causes given his presentation and history.

On August 3, 2017 appellant requested reconsideration of the July 13, 2017 decision.

OWCP received an August 16, 2017 report from Dr. Thomas E. Martens, who specializes in family medicine. Dr. Martens diagnosed lumbar disc disorder with myelopathy, and radiculopathy, lumbar region. He opined that the diagnosed conditions were likely caused by appellant's accepted employment duties. Dr. Martens concluded that appellant was unable to perform his date-of-injury position and placed him off work.

By decision dated November 1, 2017, OWCP denied modification of its July 13, 2017 decision, finding that appellant had not submitted a sufficiently rationalized medical opinion from a physician explaining how his diagnosed conditions were causally related to the accepted work factors.

On January 3, 2018 appellant requested reconsideration and submitted a January 2, 2018 letter from Dr. Martens. Dr. Martens reiterated his prior diagnoses of lumbar disc disorder with myelopathy, and radiculopathy, lumbar region. He opined that the diagnosed conditions were causally related to the accepted work factors. Dr. Martens explained that appellant's injury occurred over a period of time, and it was due to repeated stress and strain on his lower back while performing continuous repetitive duties, which included, lifting, reaching, pushing, pulling, twisting, bending, stooping, prolonged standing on concrete, walking on uneven terrain, climbing steps and stairs, mounting and dismounting, and carrying a weight-bearing satchel at work. He advised that appellant would continue to suffer from residuals of his employment-related conditions with activities of daily living, and he would experience periods of incapacitation with exacerbation of his condition.

OWCP, by decision dated March 8, 2018, vacated its November 1, 2018 decision, finding that appellant had submitted sufficient medical evidence to establish that his diagnoses of lumbar disc disorder with myelopathy, and lumbar radiculopathy, were causally related to the accepted factors of his employment.

In a separate decision of March 8, 2018, OWCP accepted appellant's claim for lumbar intervertebral disc disorders with myelopathy, and lumbar radiculopathy.

OWCP subsequently received additional medical evidence from Dr. Martens. In reports and referral orders dated September 7, 2017 and March 19, 2018, Dr. Martens noted the accepted conditions and ordered physical therapy and a functional capacity evaluation (FCE). In his March 19, 2018 report, he indicated that appellant could not return to work with restrictions due to pain and limited range of motion in his lower back.

An April 11, 2018 FCE report by Kevin Dang, a physical therapist, indicated that appellant could not perform all of his required job tasks and that he was currently unable to return to full-duty work.

On April 23, 2018 appellant filed a claim for compensation (Form CA-7) for disability from work for the period November 12, 2014 through May 1, 2018. In accompanying time analysis forms (Form CA-7a) dated April 23, 2018, appellant claimed that he used up to eight hours of leave without pay (LWOP) on intermittent dates from September 2, 2017 to May 1, 2018 because he was incapacitated. On the reverse side of the Form CA-7 and on the Form CA-7a, the employing establishment controverted the claim, contending that appellant had not submitted medical evidence to support his absences from work.

In a report dated December 15, 2014, Dr. Frederic H. Taylor, a chiropractor, noted that appellant had undergone thermography and electromyographic (EMG) evaluation of the lumbar spine. He noted appellant's diagnoses as cervical, thoracic and lumbar spine dysfunction.

OWCP also received reports dated February 3 through December 3, 2015 from Heather Davis, a family nurse practitioner, who diagnosed anxiety, insomnia, and low back pain.

OWCP received reports dated April 13 through August 17, 2016 from Dr. Amanda Gibson, a chiropractor, who addressed the treatment of appellant's diagnosis of pain in an unspecified joint.

By development letter dated May 7, 2018, OWCP requested that appellant submit medical evidence to establish his claim for disability for the period November 12, 2014 through May 1, 2018. In a separate development letter of even date, it requested that the employing establishment provide information concerning the date appellant stopped work and his pay rate and total wages for the claimed period of disability. OWCP afforded both parties 30 days to submit the requested medical and factual evidence.

In a response dated May 15, 2018, the employing establishment indicated that appellant stopped work on January 9, 2017 due to his employment injury. It provided his pay rate information.

OWCP continued to receive medical evidence. In a November 12, 2014 report, Dr. Martens restated his diagnoses of the accepted conditions of radiculopathy, lumbar region, and lumbar disc disorder with myelopathy, lumbar region, and his opinion that appellant could return to work with restrictions.

In narrative reports dated March 19 and April 30, 2018 and duty status reports (Form CA-17) dated May 14 and June 4, 2018, Dr. Martens continued to diagnose the accepted conditions of lumbar disc disorder with myelopathy, lumbar region; and radiculopathy, lumbar region. He advised that appellant could resume limited-duty work with restrictions as of June 4, 2018.

In a May 3, 2018 lumbar spine MRI scan report, Dr. Ami Patel, a Board-certified diagnostic radiologist, provided impressions that straightening of the lumbar spine may be related to muscle spasm, pain, or appellant's positioning; moderate-to-severe intervertebral space narrowing, disc desiccation, endplate degenerative changes, and a shallow use disc bulge was noted with right lateral asymmetry without evidence of significant central canal stenosis or neural foraminal narrowing; and a one-centimeter superior endplate L3 Schmorl's node was noted with some increase edema signal noted within the Schmorl's node and recommended correlation with prior imaging.

In a May 21, 2018 report, Dr. Robert Josey, a Board-certified orthopedic surgeon, provided an assessment of intervertebral disc displacement, lumbar region, and recommended an extreme lateral interbody fusion at L2-3.[4]

On May 30, 2018 appellant accepted the employing establishment's May 29, 2018 job offer for a modified city carrier position.

By letter dated July 31, 2018, OWCP informed appellant that compensation was not payable for the period November 12, 2014 through January 9, 2015 because he had not provided a Form CA-7a certified by the employing establishment for the claimed period. It advised that no medical evidence had been submitted to establish that he was disabled from work as a result of his accepted work-related medical conditions for the remaining period January 10, 2015 through December 30, 2017. However, OWCP authorized payment of wage-loss compensation for the period January 2 through March 19, 2018.[5]

In Form CA-17 reports dated July 2, August 1 and 22, September 19, October 17, and November 20, 2018, Dr. Martens reiterated his diagnoses of the accepted conditions and opinion regarding appellant's work capacity.

OWCP, by decision dated November 29, 2018, denied appellant's claim for disability from work for the period November 12, 2014 through December 30, 2017 because the medical evidence of record was insufficient to establish disability causally related to the accepted employment injuries. It also noted that his claim for compensation was approved from January 2 through March 19, 2018.

On December 11, 2018 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review, which was held on April 5, 2019.

In a June 19, 2019 decision, an OWCP hearing representative affirmed in part and modified in part the November 29, 2018 decision. He authorized payment of wage-loss compensation for the period August 16, 2017 through January 1, 2018. The claim remained denied, however, as appellant had not provided medical evidence establishing that he was disabled from work as a result of his accepted work-related medical conditions for the period November 12, 2014 through August 15, 2017 and March 20 through May 1, 2018.

OWCP thereafter received a letter dated June 21, 2019, wherein Dr. Martens requested that it expand acceptance of the claim to include other intervertebral disc displacement, lumbar region, and need for surgery based on Dr. Josey's findings. Dr. Martens opined that the effects of

[4] On August 13, 2018 Dr. Nizar Souayah, Board-certified in neurology and neuromuscular medicine and serving as a district medica adviser, reviewed the medical record, including Dr. Josey's May 21, 2018 report, and a statement of accepted facts. Dr. Souaya opined that the requested lumbar fusion was medically necessary and causally related to the accepted employment-related conditions. On December 10, 2018 OWCP authorized Dr. Josey's surgery request.

[5] An automated compensation payment system (ACPS) form dated July 31, 2018 indicated that OWCP paid appellant wage-loss compensation on the supplemental rolls for the period January 2 through March 19, 2018.

appellant's accepted work-related injury prevented him from returning to full-capacity work. He noted that appellant had retired[6] and his prognosis was guarded.

OWCP continued to receive medical evidence regarding appellant's continuing medical treatment in 2019 and 2020.

An ACPS form dated December 23, 2019 indicated that OWCP paid appellant wage-loss compensation on the supplemental rolls for the period August 16, 2017 through January 1, 2018.

On March 12, 2020 appellant, through counsel, requested reconsideration of the June 19, 2019 decision and submitted a March 5, 2020 letter from Dr. Martens. In his March 5, 2020 letter, Dr. Martens related appellant's diagnoses of lumbar radiculopathy, and lumbar disc disorder with myelopathy and opined that appellant was totally disabled from work for the period March 20 through May 1, 2018 due to his accepted conditions.

In a June 9, 2020 decision, OWCP denied modification of the June 19, 2019 decision.

On June 9, 2021 counsel, on behalf of appellant, requested reconsideration of the June 9, 2020 decision and submitted additional medical evidence.

In support of his reconsideration request, appellant submitted a July 12, 2018 electromyogram/nerve conduction velocity (EMG/NCV) study performed by Dr. Russell C. Packard, a Board-certified neurologist. Dr. Packard reported electrodiagnostic evidence supportive of right L5-S1 and left L4-5 radiculopathy; reinnervated motor unit potentials that were identified exclusively on needle EMG without evidence of active denervation; and no definite evidence of sacral plexopathy, focal right peroneal, or tibial neuropathies in their knee or ankle segments, lateral plantar neuropathies in their ankle or foot segments, and lower limbs large fiber peripheral polyneuropathy or myopathy.

OWCP, by decision dated July 15, 2021, denied modification of its June 9, 2020 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA[7] 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.[8] 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.[9] Whether a particular injury causes an

[6] By letter dated January 15, 2019 and an accompanying Form SF-50 dated November 24, 2018, the employing establishment informed OWCP that appellant retired, effective December 19, 2018.

[7] *Supra* note 2.

[8] *See 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).

[9] *See L.F.*, Docket No. 19-0324 (issued January 2, 2020); *T.L.*, Docket No. 18-0934 (issued May 8, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

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.[10]

Under FECA, the term disability means an incapacity because of an employment injury, to earn the wages the employee was receiving at the time of the injury.[11] When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, prevent the employee from continuing in his or her employment, he or she is entitled to compensation for any loss of wages.[12]

To establish causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such causal relationship.[13] The opinion of the physician 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 incident identified by the employee.[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]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish his remaining claim for intermittent disability from work for the periods November 12, 2014 through August 15, 2017 and March 20 through May 1, 2018, causally related to his accepted employment injuries.

Appellant filed a Form CA-7 claim for intermittent disability from work commencing November 12, 2014. The record reflects that OWCP has paid intermittent wage-loss compensation for the periods August 16, 2017 through March 19, 2018.

OWCP received reports from medical providers regarding appellant's disability status during the relevant periods. Several reports were submitted by Dr. Martens. In a March 5, 2020 report, Dr. Martens opined that appellant was totally disabled from work during the period March 20 through May 1, 2018 due to his accepted conditions of radiculopathy, lumbar region, and lumbar disc disorder with myelopathy, lumbar region. While he noted appellant's inability to

[10] *See* 20 C.F.R. § 10.5(f); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

[11] *Id.* at § 10.5(f); *see e.g.*, *G.T.*, 18-1369 (issued March 13, 2019); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

[12] *G.T., id.*; *Merle J. Marceau*, 53 ECAB 197 (2001).

[13] *See S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

[14] *C.B.*, Docket No. 18-0633 (issued November 16, 2018); *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[15] *See S.G.*, Docket No. 18-1076 (issued April 11, 2019); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, *supra* note 9.

work during the claimed period, he did not provide medical reasoning to support his opinion on disability. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how appellant's claimed disability is causally related to the accepted injury.[16] In his June 21, 2019 letter, Dr. Martens also opined that appellant was totally disabled from work causally related to the accepted employment-related conditions. However, he did not address the relevant period of claimed disability or explain how or why appellant was unable to perform his regular work due to the effects of his accepted conditions.[17] For these reasons, the Board finds that these reports from Dr. Martens are insufficient to establish appellant's disability claim.

While Dr. Martens' remaining reports indicated that appellant could return to limited-duty work with restrictions, this evidence does not provide an opinion concerning appellant's disability for the periods November 12, 2014 through August 15, 2017 and March 20 through May 1, 2018. Therefore, Dr. Martens' reports are of no probative value and insufficient to establish the disability claim.[18]

Similarly, Dr. Lerma's July 5, 2017 letter is insufficient to establish appellant's disability claim. In a July 5, 2017 letter, Dr. Lerma opined that appellant's diagnosed myofascial syndrome and any other underlying structural issues were "likely" caused by his letter carrier duties because there were no other causes given his presentation and history. The Board notes that appellant's claim has not been accepted for myofascial syndrome and Dr. Lerma's opinion on causal relationship is speculative. The Board has held that speculative and equivocal medical opinions regarding causal relationship have no probative value.[19] Moreover, Dr. Lerma did not otherwise provide an opinion addressing whether appellant had disability on the claimed dates causally related to an accepted condition.[20] For these reasons, Dr. Lerma's letter is of no probative value, and thus insufficient to establish appellant's disability claim.

The reports and progress notes of Drs. Onan and Josey, addressed appellant's lumbar conditions, but failed to provide an opinion as to whether his disability on the claimed dates was causally related to the accepted conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative

[16] *See L.K.*, Docket No. 21-1155 (issued March 23, 2022); *T.S.*, Docket No. 20-1229 (issued August 6, 2021); *S.K.*, Docket No. 19-0272 (issued July 21, 2020); *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

[17] *Id*.

[18] *S.S.*, Docket No. 21-0763 (issued November 12, 2021); *M.V.*, Docket No. 20-0872 (issued January 27, 2020); *P.R.*, Docket No. 20-0596 (issued October 6, 2020); *M.L.*, Docket No. 18-1058 (issued November 21, 2019); *D.J.*, Docket No. 18-0200 (issued August 12, 2019).

[19] *See M.B.*, Docket No. 18-1455 (issued March 11, 2019); *H.W.*, Docket No. 13-1185 (issued September 6, 2013).

[20] *Supra* note 16.

value on the issue of causal relationship.[21] Therefore, these reports are insufficient to establish appellant's claim.

Appellant submitted lumbar MRI scan reports from Dr. Goldblatt, Dr. Patel, and an EMG/NCV study from Dr. Packard. The Board has held, however, that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injuries resulted in appellant's period of disability on specific dates.[22] These reports, therefore, are insufficient to establish appellant's claim.

The reports dated December 15, 2014 from Dr. Taylor, and April 13 through August 17, 2016 from Dr. Gibson, are of no probative value as they are both chiropractors and did not diagnose spinal subluxation as demonstrated by x-ray evidence to exist.[23]

Additionally, the reports from Mr. Dang, a physical therapist, Ms. Davis, a family nurse practitioner, Ms. Lindsey, a registered nurse, and Ms. Shaw, a certified physician assistant, are of no probative value. The Board has long held that healthcare providers such as physician assistants, nurses, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.[24] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[25] Therefore, this evidence is also insufficient to establish appellant's disability claim.

For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work during the claimed period as a result of the accepted employment injury.[26] Because appellant has not submitted rationalized medical opinion evidence

[21] *See L.K., supra* note 16; *A.D.*, Docket No. 21-0143 (issued November 15, 2021); *T.S., supra* note 16; *J.M.*, Docket No. 19-1169 (issued February 7, 2020); *A.L.*, Docket No. 19-0285 (issued September 24, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[22] *See L.K. and T.S., supra* note 16; *D.M.*, Docket No. 20-0548 (issued November 25, 2020); *O.C.*, Docket No. 20-0514 (issued October 8, 2020); *R.J.*, Docket No. 19-0179 (issued May 26, 2020).

[23] Section 8101(2) of FECA provides as follows: (2) physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. The term physician includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulations by the secretary. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t); *see also R.N.*, Docket No. 19-1685 (issued February 26, 2021); *S.D.*, Docket No. 19-1245 (issued January 3, 2020); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

[24] 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *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). *See also L.L.*, Docket No. 21-1194 (issued March 18, 2022) (physician assistants); *A.L.*, Docket No. 21-0151 (issued January 21, 2022) (physical therapists); *H.T.*, Docket No. 21-0313 (issued July 9, 2021) (nurse practitioners); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (registered nurses).

[25] *Id.*

[26] *Supra* note 9.

sufficient to establish employment-related disability during the claimed periods due to his accepted conditions, the Board finds that he has not met his burden of proof to establish his claim.

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 his burden of proof to establish his remaining claim for intermittent disability from work for the periods November 12, 2014 through August 15, 2017 and March 20 through May 1, 2018, causally related to his accepted employment injuries.

ORDER

IT IS HEREBY ORDERED THAT the July 15, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 13, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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