

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

<b>T.W., Appellant</b>	)	
	)	
	)	
<b>and</b>	)	<b>Docket No. 22-0790</b>
	)	<b>Issued: March 9, 2023</b>
<b>U.S. POSTAL SERVICE, RINCON POST OFFICE, Rincon, GA, Employer</b>	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On April 20, 2022 appellant filed a timely appeal from a March 23, 2022 merit decision of the Office of Workers’ Compensation Programs (OWCP). Pursuant to the Federal Employees’ Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that appellant submitted additional evidence to OWCP following the March 23, 2022 decision. However, the Board’s *Rules of Procedure* provides: “The Board’s review of a case is limited to the evidence in the caserecord 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.” 20C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on a appeal. *Id.*

## **ISSUE**

The issue is whether appellant has met her burden of proof to establish disability from work for the period commencing September 22, 2021, causally related to her accepted November 11, 2020 employment injury.

## **FACTUAL HISTORY**

On November 27, 2020 appellant, then a 41-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on November 11, 2020 she injured the flexor tendons in her right hand and sprained her right wrist when she set down a 70-pound box while in the performance of duty. She stopped work on November 11, 2020. By decision dated April 1, 2021, OWCP accepted appellant's claim for right radial styloid (de Quervain's) tenosynovitis and an unspecified injury of the right hand, wrist, and fingers. It paid her wage-loss compensation on the supplemental rolls commencing January 3, 2021.

Appellant returned to full-time, full-duty work on August 13, 2021.<sup>3</sup> She again stopped work on September 22, 2021.

On December 8, 2021 appellant filed claims for compensation (Form CA-7) for disability from work for the period September 22 through November 19, 2021.

In a development letter dated December 9, 2021, OWCP informed appellant of the deficiencies of her claim for compensation. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

Appellant also submitted a March 7, 2022 x-ray order by Dr. Bruce Kammerman, a family practitioner, March 8, 2022, x-ray reports of the right hand and wrist, a March 9, 2022 functional capacity examination referral by Dr. Kammerman, and March 22, 2022 physical therapy authorization request by Dr. Kammerman.

By decision dated March 23, 2022, OWCP denied appellant's claims for wage-loss compensation commencing September 22, 2021, finding that the medical evidence of record was insufficient to establish disability from work for the claimed period due to the accepted employment-related conditions.

## **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

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<sup>3</sup> Appellant participated in physical therapy and occupational treatments commencing August 19, 2021, including on September 23, 29, and 30, and October 5, 12, 14, 18, and 22, 2021.

compensation is claimed is causally related to the employment injury.<sup>4</sup> Whether a particular injury causes an 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.<sup>5</sup>

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. 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.<sup>6</sup>

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>7</sup> 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 claimed period of disability and the accepted employment injury.<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup>

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<sup>4</sup> See *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019); *D.W.*, Docket No. 18-0644 (issued November 15, 2018); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> 20 C.F.R. § 10.5(f); *B.O.*, *supra* note 4; *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

<sup>6</sup> *Id.*

<sup>7</sup> *J.M.*, Docket No. 19-0478 (issued August 9, 2019).

<sup>8</sup> *R.H.*, Docket No. 18-1382 (issued February 14, 2019).

<sup>9</sup> 20 C.F.R. § 10.501(a); *C.E.*, Docket No. 19-1617 (issued June 3, 2020); *M.M.*, Docket No. 18-0817 (issued May 17, 2019); see *T.A.*, Docket No. 18-0431 (issued November 7, 2018); see also *Amelia S. Jefferson*, 57 ECAB 183 (2005).

<sup>10</sup> *C.E.*, *id.*; *M.M.*, *id.*; see *V.B.*, Docket No. 18-1273 (issued March 4, 2019); *S.M.*, Docket No. 17-1557 (issued September 4, 2018); *William A. Archer*, 55 ECAB 674, 679 (2004); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work for the period commencing September 22, 2021, causally related to her accepted November 11, 2020 employment injury.

In support of her claim for compensation, appellant submitted an imaging order, referral form, and authorization request dated from March 7 through 22, 2022 by Dr. Kammerman. These documents did not contain a medical opinion that the accepted injury had disabled appellant from work during the claimed period of disability. 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 value on the issue of causal relationship.<sup>11</sup> Therefore, Dr. Kammerman's reports are of no probative value and, thus, are insufficient to establish appellant's disability claim.<sup>12</sup>

As appellant has not submitted rationalized medical evidence establishing disability for the claimed period causally related to the accepted November 11, 2020 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 commencing September 22, 2021, causally related to her accepted November 11, 2020 employment injury.<sup>13</sup>

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<sup>11</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *A.P.*, Docket No. 21-0300 (issued April 6, 2022); *L.B.*, *id.*; *D.K.*, *id.*

<sup>13</sup> Appellant participated in physical and occupational therapy treatments for the accepted conditions during the claimed period of disability on September 23, 29, and 30, and October 12, 14, 18, and 22, 2021. Upon return of the case record, OWCP should consider payment of up to four hours of compensation to appellant for attendance at these appointments. See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Compensation Claims*, Chapter 2.901.19c (February 2013); *A.P.*, *id.*; *J.E.*, Docket No. 19-1758 (issued March 16, 2021); *A.V.*, Docket No. 19-1575 (issued June 11, 2020). See also *K.A.*, Docket No. 19-0679 (issued April 6, 2020); *William A. Archer*, 55 ECAB 674 (2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 23, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 9, 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