

<sup>3</sup> The Board notes that, following the October 24, 2024 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 her burden of proof to establish disability work, commencing July 19, 2024, causally related to her accepted December 5, 2023 employment injury.

## **FACTUAL HISTORY**

On January 3, 2024, appellant, then a 55-year-old city letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 5, 2023 she injured her ankle when she rolled her ankle causing her to fall while in the performance of duty. She stopped work on December 5, 2023 and returned to work on December 6, 2023. OWCP accepted the claim for a sprain of the anterior talofibular ligament of the right ankle and a sprain of the calcaneofibular ligament of the right ankle.

Appellant stopped work on January 24, 2024. OWCP paid her wage-loss compensation on the supplemental rolls from February 2 through March 28, 2024. Appellant returned to her regular employment on March 29, 2024.

In a progress report dated July 26, 2024, Dr. Sean Lyons, a podiatrist, evaluated appellant for complaints of increased pain in her right lateral ankle particularly at work. He noted that she had not been able to obtain an ankle brace or receive authorization for physical therapy. On examination, Dr. Lyons observed stability of the ankle with strength of 4 and pain with motion. He diagnosed a right ankle sprain and indicated that x-rays revealed normal findings. Dr. Lyons advised that appellant's inability to obtain authorization for an ankle brace and physical therapy had "directly led to recurrence of her anterior talofibular ligament pain and significant weakness in the right ankle." He again prescribed physical therapy and an ankle brace. Dr. Lyons found that appellant would need to return to wearing a controlled ankle motion (CAM) boot "for immobilization at this time and remain out of work. I fear at this point that [her] lateral ankle pain has become a recurrence issue which can lead to lateral ankle instability." He advised that surgery may be necessary if appellant's pain failed to improve. In a duty status report (Form CA-17) of even date, Dr. Lyons opined that she was unable to work. He further submitted a disability certificate dated July 30, 2024 finding that appellant was back in a boot and unable to work pending reevaluation.

On August 5, 2024, appellant filed a claim for compensation (Form CA-7) for disability from work for the period July 18 through August 3, 2024.

In a development letter dated August 9, 2024, OWCP advised appellant of the deficiencies in her claim for disability compensation and requested that she submit a reasoned opinion from a physician supporting that she was unable to work during the claimed period due to the accepted employment injury. It afforded her 30 days to submit the requested information.

On August 9, 2024, OWCP approved appellant's request for an ankle boot.

In an August 16, 2024 Form CA-17, Dr. Lyons diagnosed a recurrent right anterior talofibular ligament and calcaneofibular ligament lateral ankle sprain and advised that appellant unable to work. He advised that appellant had severe pain and an antalgic gait and should remain off work and in a boot. Dr. Lyons attributed her condition to her inability to receive a brace and appropriate rehabilitation. He referred appellant for physical therapy.

In a statement dated August 27, 2024, appellant's representative asserted that she was currently in an ankle boot and thus not allowed on the work floor. He recommended that OWCP obtain confirmation of the work floor restrictions from the employing establishment.

In a September 4, 2024 progress report, Dr. Lyons noted that appellant's right ankle pain had improved after wearing the stabilizer brace. He diagnosed right ankle sprain and advised that she could return to work "with the game day ankle stabilizer brace on."

On September 6, 2024, OWCP requested that the employing establishment review and comment on the August 27, 2024 letter from appellant's union representative. In a September 10, 2024 response, the employing establishment advised that it had not received medical evidence supporting disability or that appellant was required to wear a boot. It questioned whether she had sustained a recurrence of disability or experienced a nonemployment-related incident.

The record contains physical therapy notes dated September and October 2024.

In a CA-17 form report dated October 9, 2024, Dr. Lyons released appellant to return to work with restrictions of lifting up to 20 pounds continuously and 50 pounds intermittently.

Appellant returned to her regular employment without restrictions on September 4, 2024.

By decision dated October 24, 2024, OWCP denied appellant's claim for compensation for disability from work, commencing July 19, 2024 causally related to her accepted December 5, 2023 employment injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> 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.<sup>5</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>6</sup> Whether a particular injury causes an employee to become disabled from work, and the duration of that disability are medical issues, which must be proven by a preponderance of the reliable, probative, and substantial medical evidence.<sup>7</sup>

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> *A.R.*, Docket No. 20-0583 (issued May 21, 2021); *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *E.B.*, Docket No. 22-1384 (issued January 24, 2024); *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *William A. Archer*, 55 ECAB 674 (2004); *Kathryn Haggerty*, *id.*

<sup>7</sup> 20 C.F.R. § 10.5(f); *L.M.*, Docket No. 21-0063 (issued November 8, 2021); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

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.<sup>8</sup> Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.<sup>9</sup> 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>10</sup> When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.<sup>11</sup>

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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 disability and the accepted employment injury.<sup>12</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>13</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work, commencing July 19, 2024, causally related to her accepted December 5, 2023 employment injury.

Following her December 5, 2023 employment injury, appellant stopped work on January 24, 2024 and resumed her regular employment on March 29, 2024. She stopped work again on July 18, 2024, more than 90 days later, and filed a claim for compensation for disability from work beginning July 19, 2024.

On July 26, 2024, Dr. Lyons discussed appellant's complaints of increased pain in her right lateral ankle especially while working. On examination of the ankle, he observed good stability, pain with motion, and strength of four. Dr. Lyons opined that appellant's failure to obtain authorization for an ankle brace and physical therapy had resulted in a recurrence of right ankle anterior talofibular ligament pain and weakness. He advised that she should again wear a CAM

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<sup>8</sup> 20 C.F.R. § 10.5(f); *see J.M.*, Docket No. 18-0763 (issued April 29, 2020); *Bobbie F. Cowart*, 55 ECAB 746 (2004).

<sup>9</sup> *D.W.*, Docket No. 20-1363 (issued September 14, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

<sup>10</sup> *See M.W.*, Docket No. 20-0722 (issued April 26, 2021); *D.G.*, Docket No. 18-0597 (issued October 3, 2018).

<sup>11</sup> *See D.R.*, Docket No. 18-0323 (issued October 2, 2018).

<sup>12</sup> *D.S.*, Docket No. 23-0414 (issued December 4, 2023); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

<sup>13</sup> *A.G.*, Docket No. 21-0756 (issued October 18, 2021); *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

boot and remain off work. On August 16, 2024, Dr. Lyons provided the same diagnoses and attributed appellant's condition to not receiving a brace and appropriate rehabilitation. On September 4, 2024, he released her to resume her regular work. In his reports, however, Dr. Lyons did not provide a well-rationalized opinion which explained how the disability commencing July 18, 2024 was physiologically caused by the accepted employment injury.<sup>14</sup> Medical evidence that provides a conclusion, but does not offer a rationalized medical explanation regarding the cause of an employee's condition, is of limited probative value.<sup>15</sup> Therefore, these reports are insufficient to establish that appellant was disabled during the claimed period due to her accepted employment injury.

In CA-17 forms dated July through August 2024, Dr. Lyons found appellant disabled from work. However, in these reports he failed to address the cause of her disability. The Board has held that medical evidence that does not address whether the claimed disability is causally related to the accepted employment injury is of no probative value.<sup>16</sup> Therefore, this evidence is insufficient to establish appellant's disability claim.

As the medical evidence of record is insufficient to establish disability from work, commencing July 19, 2024, causally related to the accepted December 5, 2023 employment injury, the Board finds that appellant 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, commencing July 19, 2024, causally related to her accepted December 5, 2023 employment injury.

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<sup>14</sup> See *M.B.*, Docket No. 25-0009 (issued December 18, 2024); *T.L.*, Docket No. 23-0073 (issued January 9, 2023); *V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

<sup>15</sup> See *S.S.*, Docket No. 24-0814 (issued September 27, 2024); *C.T.*, Docket No. 22-0013 (issued November 22, 2022); *R.B.*, Docket No. 22-0173 (issued July 26, 2022).

<sup>16</sup> See *A.B.*, Docket No. 25-0205 (issued January 28, 2025); *A.W.*, Docket No. 24-0382 (issued May 16, 2024); *M.K.*, Docket No. 22-0298 (issued August 10, 2022).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 24, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 21, 2025  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board