United States Department of Labor
Employees' Compensation Appeals Board

S.S., Appellant	)	
and	)	**Docket No. 25-0576**
	)	**Issued: August 1, 2025**
U.S. POSTAL SERVICE, MONTGOMERY POST OFFICE, Montgomery, TX, Employer	)	

Appearances:
Alan J. Shapiro, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 23, 2025 appellant, through counsel, filed a timely appeal from an April 4, 2025 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 April 4, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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 from work, commencing December 14, 2024, causally related to her accepted October 29, 2024 employment injury.

FACTUAL HISTORY

On October 30, 2024 appellant, then a 35-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 29, 2024 she sustained injuries to her head, back, chest, right leg, and arms when she was struck by a truck on the driver side of her vehicle knocking her into a ditch while in the performance of duty. She stopped work on October 29, 2024. OWCP accepted the claim for concussion without loss of consciousness; sprain of ligaments of the cervical spine; sprain of unspecified site of the right knee; and sprain of ligaments of the lumbar spine.[4]

A January 6, 2025 duty status report (Form CA-17) from a nurse practitioner with an illegible signature provided work restrictions.

On January 15, 2025 appellant filed claims for compensation (Form CA-7) for disability from work during the period December 14, 2024 through January 11, 2025. She continued to file CA-7 forms for additional periods of disability thereafter.

In a development letter dated January 27, 2025, OWCP informed appellant of the deficiencies of her claim for wage-loss compensation for the period commencing December 14, 2024. It advised her of the type of medical evidence needed to establish her claim, and afforded her 30 days to respond.

In support of her claim, appellant submitted a January 26, 2025 magnetic resonance imaging (MRI) scan of the lumbar spine, which demonstrated an L4-L5 posterior right subarticular 1.8-millimeter protrusion-subligamentous disc herniation extending into the epidural fat and disc protrusion contributing to mild right neural foraminal stenosis. A January 26, 2025 MRI scan of the thoracic spine demonstrated no evidence of acute fractures, disc protrusions, herniations, or canal stenosis. A January 26, 2025 MRI scan of the right knee demonstrated anterior cruciate ligament (ACL) low-grade sprain without evidence of tear, medial tibial plateau mild patchy bone contusions of the anteromedial surface without evidence of fracture, patellar medial pole grade IV chondromalacia, mild suprapatellar joint effusion; small popliteal cyst, moderate anterior and medial knee soft tissue swelling. A January 26, 2025 MRI scan of the brain demonstrated no evidence of acute intracranial process.

In a February 12, 2025 report, Dr. Joshua Griffin, a Board-certified orthopedic surgeon, evaluated appellant for complaints to the right knee. He reviewed an x-ray of the right knee taken on the same date, and gave an impression of no fracture, normal alignment, no bony lesions, normal soft tissues, mild patellofemoral degenerative changes with sclerosis, and minimal osteophytosis

[4] OWCP assigned the present claim OWCP File No. xxxxxx536. Under a separate claim, assigned OWCP File No. xxxxxx324, OWCP accepted that on May 15, 2023 appellant sustained a strain of muscle, fascia, and tendon of the lower back, other intervertebral disc displacement, and lumbar radiculopathy, lumbar region. OWCP administratively combined OWCP File Nos. xxxxxx324 and xxxxxx536, with the latter serving as the master file.

present. Dr. Griffin noted that a right knee MRI scan demonstrated grade IV chondromalacia about the medial patellar facet, mild edema in the ACL consistent with low grade sprain, no tearing of the fibers, and bone contusions medially. He diagnosed chondromalacia of the right patella, acute pain of the right knee, and maltracking of the right patella and recommended activity modification to prevent a recurrence or aggravation of her symptoms.

In a February 14, 2025 Form CA-17, Dr. Michael Peck, a chiropractor, provided appellant work restrictions.

In a February 19, 2025 report, Dr. Peck reported evaluating appellant for injuries sustained in a motor vehicle accident on October 29, 2024. He noted that she was undergoing conservative treatment and required restrictions of no sitting more than two hours per day, no walking or climbing more than four hours per day in an eight-hour shift, no standing more than four hours per day in an eight-hour shift for no more than 10 minutes at a time, and no lifting over 10 pounds until fully recovered. Dr. Peck further instructed that she attend therapy three times a week until fully recovered.

By decision dated March 10, 2025, OWCP denied appellant's claim for disability for the period December 14, 2024 and continuing. It found that the medical evidence of record was insufficient to establish disability from work during the claimed period, causally related to her accepted October 29, 2024 employment injury.

In a March 11, 2025 Form CA-17 report, Dr. Louis Varela, Board-certified in emergency medicine, diagnosed motor vehicle accident, knee tear, cervical and lumbar sprain, anxiety, and post-traumatic stress disorder (PTSD). He noted restrictions for modified activity and restricted appellant from returning to work. In a work status note of even date, Dr. Varela restricted appellant from returning to work from March 11 through April 15, 2025.

On March 18, 2025 appellant requested reconsideration and asserted that her injuries caused her disability as a result of the October 29, 2024 motor vehicle accident. She submitted authorization request orders, referrals, and forms for treatments including physical therapy.

In a March 11, 2025 report, Dr. Varela reported that since her last visit, appellant's symptoms had not improved, noting continued pain in the right knee despite physical therapy and chiropractic visits. He noted complaints of daily headaches, panic attacks, right ear tinnitus, episodes of vertigo, irritability, restless sleep, sleeping four to five hours per night, and flashbacks. Dr. Varela diagnosed concussion without loss of consciousness, anxiety disorder, PTSD, sprain of ligaments of the cervical spine, sprain of unspecified site of the right knee, sprain of ligaments of the lumbar spine, and post-traumatic headache, not intractable.

In a March 18, 2025 addendum report, Dr. Varela reported that appellant was initially evaluated on November 19, 2024 following an October 29, 2024 motor vehicle accident when she was delivering mail driving her vehicle when a driver of a truck lost control and slammed into the left side of her vehicle. He noted that the impact was sudden and forceful, causing her vehicle to spin 360 degrees into a ditch. Dr. Varela reported that this caused a whiplash-type injury to her head, neck, back, and right knee, resulting in a right knee brace following her evaluation at the emergency department. He noted that appellant complained of daily headaches, muscle spasms in the back and neck, poor concentration, tinnitus in the right ear, dizziness, vertigo, lack of focus,

inability to multitask, panic attacks, flashbacks of the accident, and nightmares. Dr. Varela opined that this was a direct result of the October 29, 2024 employment-related injury and held appellant off work.

By decision dated April 4, 2025, OWCP denied modification of the March 10, 2025 decision.

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 compensation is claimed is causally related to the employment injury.[5]

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.[6] Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.[7] 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.[8] 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.[9]

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.[10]

For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work causally related to the accepted employment injury.[11] 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.

[5] *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[6] 20 C.F.R. § 10.5(f).

[7] *See L.W.*, Docket No. 17-1685 (issued October 9, 2018).

[8] *See K.H.*, Docket No. 19-1635 (issued March 5, 2020).

[9] *See D.R.,* Docket No. 18-0323 (issued October 2, 2018).

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

[11] *See B.D.*, Docket No. 18-0426 (issued July 17, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi,* 52 ECAB 291, 293 (2001).

To do so would essentially allow an employee to self-certify their disability and entitlement to compensation.[12]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work, commencing December 14, 2024, causally related to her accepted October 29, 2024 employment injury.

In a February 12, 2025 report, Dr. Griffin diagnosed chondromalacia of right patella, acute pain of right knee, and maltracking of right patella and recommended activity modification to prevent a recurrence or aggravation of her symptoms. While Dr. Griffin diagnosed additional right knee conditions, he failed to provide an opinion that appellant was totally disabled from work commencing December 14, 2024, causally related to her accepted October 29, 2024 employment injury. 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.[13] Consequently, this evidence is insufficient to establish appellant's disability claim.[14]

In medical and form reports dated February 14 through 19, 2025, Dr. Peck, a chiropractor, provided appellant modified-duty work restrictions as a result of the October 29, 2024 motor vehicle accident. These reports, however, are of no probative medical value because Dr. Peck is not a physician as he did not diagnose a spinal subluxation demonstrated by x-ray. The Board has held that a chiropractor may only qualify as a physician in the diagnosis and treatment of spinal subluxation, his or her opinion is not considered competent medical evidence in evaluation of other disorders, including those of the extremities, although these disorders may originate in the spine.[15] Thus, Dr. Peck's opinion is not considered competent medical evidence under FECA.

In reports and forms dated March 11, 2025, Dr. Varela provided diagnoses of concussion without loss of consciousness, anxiety disorder, PTSD, sprain of ligaments of the cervical spine, sprain of unspecified site of the right knee, sprain of ligaments of the lumbar spine, and post-traumatic headache, not intractable. He restricted appellant from work for the period March 11 through April 15, 2025. In a March 18, 2025 addendum report, Dr. Varela opined that appellant's conditions were a direct result of the October 29, 2024 employment-related injury. However, he

[12] *Id.*

[13] *See F.S.,* Docket No. 23-0112 (issued April 26, 2023); *L.B.,* Docket No. 18-0533 (issued August 27, 2018); *D.K.,* Docket No. 17-1549 (issued July 6, 2018).

[14] *C.W.*, Docket No. 24-0394 (issued June 5, 2024); *E.F.*, Docket No. 20-1680 (issued November 20, 2021).

[15] Section 8101(2) provides that under FECA the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by the applicable state law. 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(3) (May 2023). Chiropractors are considered physicians under FECA 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. *See P.T.,* Docket No. 21-0110 (issued December 8, 2021); *R.N.,* Docket No. 19-1685 (issued February 26, 2020); *Merton J. Sills,* 39 ECAB 572, 575 (1988).

did not explain with medical rationale how appellant had continuing disability causally related to the accepted employment injury.[16] Accordingly, this report is of limited probative value and is insufficient to establish the disability claim.[17] Furthermore, while Dr. Varela opined that appellant was temporarily totally disabled from work from March 11 through April 15, 2025, he did not offer a rationalized medical explanation to support his opinion. The Board has held that medical evidence that provides a conclusion, but does not offer a rationalized medical explanation regarding the cause of an employee's condition or disability is of limited probative value on the issue of causal relationship.[18] Thus, this evidence is insufficient to establish appellant's claim.

OWCP also received January 26, 2025 MRI scans of the thoracic spine, lumbar spine, right knee and brain. However, the Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship.[19] Thus, this evidence is insufficient to establish appellant's disability claim.

Appellant also submitted a report from a nurse practitioner. The Board has held that treatment notes signed by nurse practitioners are not considered medical evidence as these providers are not physicians under FECA,[20] and are not competent to render a medical opinion under FECA.[21] Thus, this evidence is not sufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish disability from work, commencing December 14, 2024, causally related to her accepted October 29, 2024 employment injury, the Board finds that appellant has not met her burden of proof.[22]

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.

[16] *See E.H.*, Docket No. 23-0503 (issued July 20, 2023); *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *J.F.*, Docket No. 17-1716 (issued March 1, 2018).

[17] *L.L.*, Docket No. 24-0887 (issued November 21, 2024).

[18] *Id*.

[19] *C.H.*, Docket No. 25-0010 (issued December 5, 2004); *K.B.,* Docket No. 22-0842 (issued April 25, 2023); *T.K.,* Docket No. 18-1239 (issued May 29, 2019).

[20] *Supra* note 15. *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 R.B.*, Docket No. 25-0361 (issued April 23, 2025) (nurse practitioners are not considered physicians under FECA and, therefore, are not competent to provide a medical opinion); *B.D.,* Docket No. 22-0503 (issued September 27, 2022 (nurse practitioners are not considered physicians as defined under FECA and their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (a nurse practitioner is not considered a physician as defined under FECA).

[21] *Id.*; *N.Y.,* Docket No. 25-0310 (issued March 20, 2025).

[22] *J.M.*, Docket No. 21-1261 (issued September 11, 2023).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish disability from work, commencing December 14, 2024, causally related to her accepted October 29, 2024 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the April 4, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 1, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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