

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

S.T., Appellant)
and)
U.S. POSTAL SERVICE, BAYCHESTER POST)
OFFICE, Bronx, NY, Employer)
Docket No. 25-0673
Issued: August 4, 2025

Appearances:

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

Case Submitted on the Record

DECISION AND ORDER

Before:

JURISDICTION

On July 7, 2025 appellant, through counsel, filed a timely appeal from a June 18, 2025 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.

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.*

ISSUE

The issue is whether OWCP properly denied authorization of appellant's April 1, 2022 left ankle arthroscopic surgical procedure.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On June 24, 2020 appellant, then a 30-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 18, 2020 she twisted her left ankle, when she missed a step while descending stairs in the performance of duty.⁴ She stopped work on June 18, 2020. By decision dated July 22, 2020, OWCP accepted the claim for left ankle talofibular ligament sprain.

An August 26, 2020 magnetic resonance imaging scan (MRI) of appellant's left ankle reported no significant changes from a December 20, 2018 MRI scan. Both scans revealed persistent left ankle Achilles tendinopathy; and persistent moderate tibiotalar and posterior subtalar joint effusions.

In reports dated September 10, 2020 and November 3, 2021, Dr. James McWilliam, a Board-certified orthopedic surgeon, noted that appellant was seen on September 4, 2020 following her left ankle MRI scan. He recommended ankle arthroscopy with debridement of presumed anterolateral impingement lesion and peroneal tendon diascopy with repair or debridement.

In a report dated February 17, 2022, Dr. Siddhartha Sharma, a podiatrist, noted appellant was seen for left ankle pain. He recounted that appellant had been in her usual health until sustaining a June 18, 2020 work-related trip and fall. Dr. Sharma diagnosed left ankle internal derangement, left ankle joint effusion, and left ankle rule out collateral ligament tears. He requested that another MRI scan be performed. The March 2, 2022 MRI scan of appellant's left ankle demonstrated prior syndesmotic and anterior talofibular ligament (ATFL) repairs, partial deltoid ligament tear, mild retrocalcaneal bursitis, Achilles tendinosis, and posterior calcaneal enthesophyte and joint effusion.

An April 1, 2022 operative report, related that Dr. Sharma performed left ankle arthroscopy with extensive debridement, repair of left ankle collateral ligaments *via* modified brostrom, left ankle tenolysis of Achilles tendon, and left ankle harvesting and grafting of autologous soft tissue to collateral ligaments.

³ Docket No. 24-0571 (issued June 14, 2024).

⁴ OWCP assigned the present claim OWCP File No. xxxxxx940. On March 12, 2020 appellant filed a traumatic injury claim (Form CA-1) alleging that she injured her left ankle on February 20, 2020 while delivering mail in the dark. OWCP assigned that claim OWCP File No. xxxxxx766, which was not formally adjudicated. On April 15, 2021, OWCP administratively combined OWCP File Nos. xxxxxx766 and xxxxxx940, with the latter designated as the master file.

On September 6, 2022 OWCP referred appellant, along with the medical record, a series of questions, and a statement of accepted facts (SOAF) to Dr. Jonathan Paul, a Board-certified orthopedic surgeon serving as OWCP's second opinion physician, to determine whether the acceptance of appellant's claim should be expanded to include additional conditions, whether she had a current disability or residuals due to her accepted employment condition, and whether the April 1, 2022 surgery was medically necessary to treat her accepted work-related injury.

In a report dated October 17, 2022, Dr. Paul reviewed the SOAF and medical record. He noted that appellant related that she had two work-related ankle injuries. Dr. Paul also noted that appellant had been involved in a motor vehicle collision on February 6, 2022, and had not worked since that time. Regarding her work-related injuries, he noted that the February 20, 2020 injury concerned her right ankle and the June 18, 2020 injury involved her left ankle. Dr. Paul reported his examination findings and opined that her accepted left ankle condition had resolved. He also related that the conditions diagnosed by her physician of traumatic left ankle arthropathy, bilateral ankle peroneal tendinitis, and left ankle anterolateral impingement were not found on examination. Dr. Paul related that he did find mild left ankle Achilles tendinitis on examination, which had improved following surgery. He opined that appellant's claim should not be expanded to include any of the additional conditions as they were preexisting and were unrelated to either the February 20, 2020 or June 18, 2020 employment injuries. With respect to authorization for the left ankle arthroscopy, Dr. Paul opined that the procedure should not be authorized because it was performed for nonwork-related preexisting conditions. He explained that the 2020 MRI scan of appellant's left ankle reported no significant change from her December 20, 2018 MRI scan.

By decision dated January 19, 2023, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. In a separate decision of even date, it denied her request for expansion of the acceptance of her claim to include osteochondritis dissecans of lateral right ankle talus, left ankle traumatic arthropathy, bilateral ankle peroneal tendinitis, left ankle Achilles tendinitis, and left ankle anterolateral impingement. OWCP also denied appellant's requested surgical procedure as it was not necessary for treatment of her accepted left ankle condition.

On January 24, 2023 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review regarding both January 19, 2023 decisions. A hearing was held on July 14, 2023.

By decision dated September 27, 2023, OWCP's hearing representative affirmed the termination of wage-loss compensation and medical benefits, and the denial of expansion of her claim to include additional ankle conditions. The hearing representative remanded the case to address whether the April 1, 2022 surgery was necessary and causally related to the accepted employment injury.

On October 11, 2023 OWCP requested that Dr. Paul provide an addendum addressing whether appellant's left ankle surgery was necessary and causally related to her February 20 and June 18, 2020 work injuries.

In an addendum dated November 7, 2023, Dr. Paul explained that appellant's August 26, 2020 MRI scan of the left ankle showed no significant changes from her December 2018 MRI

scan. He opined that the April 1, 2022 surgery was not causally related or necessary for her February 20 and June 18, 2020 work injuries. In support of this conclusion, Dr. Paul explained that both December 2018 and August 26, 2020 MRI scans showed the same findings. While appellant denied that the December 2018 MRI scan was of the left ankle, she was mistaken. The December 2018 MRI scan was performed for complaints of recurrent ankle instability, appellant therefore did have a history of left ankle instability.

By decision dated December 4, 2023, OWCP denied authorization for appellant's left ankle arthroscopic surgery. It explained that the evidence did not support that the requested surgery was medically necessary to address the effects of her work-related condition.

On December 12, 2023 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review. A telephonic hearing was held on March 7, 2024.

By decision dated April 9, 2024, OWCP's hearing representative affirmed the December 4, 2023 decision. She found that OWCP properly denied authorization of appellant's left ankle surgical procedure, which was performed on April 1, 2022.

On May 7, 2024 appellant, through counsel, filed a timely appeal from the April 9, 2024 merit decision. By decision dated June 14, 2024, the Board affirmed the April 9, 2024 decision.⁵ The Board found that Dr. Paul provided a well-rationalized opinion that appellant's left ankle arthroscopic surgery was not medically warranted for the accepted condition. The Board also found that neither Dr. McWilliam nor Dr. Sharma provided a well-rationalized opinion that the arthroscopic surgery procedure was medically necessary for treatment of appellant's accepted left ankle condition.

On June 4, 2025 appellant, through counsel, requested reconsideration. Accompanying her request was a May 30, 2025 report by Dr. Sharma. In the May 30, 2025 report, Dr. Sharma disagreed with the denial of the surgical authorization. He explained that the March 2, 2022 MRI scan of appellant's left ankle confirmed the signs of chronic post-traumatic ankle instability. Dr. Sharma recounted that appellant had persistent symptoms for nearly two years following the injury and that asymptomatic or preexisting pathology did not preclude traumatic aggravation. He explained that according to orthopedic medical literature a traumatic event can convert asymptomatic conditions into symptomatic and disabling conditions. Dr. Sharma related that the April 1, 2022 surgery was medically necessary to treat an objectively diagnosed work-related condition, chronic lateral ankle instability stemming from a compensable injury. He concluded that the denial of authorization for surgery was inconsistent with accepted orthopedic principles and risked long term deterioration.

By decision dated June 18, 2025, OWCP denied modification.

⁵ *Supra* note 3.

LEGAL PRECEDENT

Section 8103(a) of FECA⁶ provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed by or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.⁷ In interpreting this section of FECA, the Board has recognized that OWCP has broad discretion in determining whether a particular type of treatment is likely to cure or give relief.⁸ The only limitation on OWCP's authority is that of reasonableness.⁹

While OWCP is obligated to pay for treatment of employment-related conditions, appellant has the burden of proof to establish that the expenditures were incurred for treatment of the effects of an employment-related injury or condition.¹⁰ Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.¹¹ In order for a surgical procedure to be authorized, appellant must establish that the procedure was for a condition causally related to the employment injury and that the procedure was medically warranted.¹² Both of these criteria must be met in order for OWCP to authorize payment.¹³

Abuse of discretion is shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.¹⁴

⁶ 5 U.S.C. § 8103(a)

⁷ *Id.*; see *C.L.*, Docket No. 24-0249 (issued April 15, 2024); *J.K.*, Docket No. 20-1313 (issued May 17, 2021); *Thomas W. Stevens*, 50 ECAB 288 (1999).

⁸ *C.L.*, *id.*; *R.C.*, Docket No. 18-0612 (issued October 19, 2018); *W.T.*, Docket No. 08-812 (issued April 3, 2009).

⁹ *C.L.*, *id.*; *D.C.*, Docket No. 18-0080 (issued May 22, 2018); *Mira R. Adams*, 48 ECAB 504 (1997).

¹⁰ *C.L.*, *id.*; *R.M.*, Docket No. 19-1319 (issued December 10, 2019); *J.T.*, Docket No. 18-0503 (issued October 16, 2018); *Debra S. King*, 44 ECAB 203, 209 (1992); *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981).

¹¹ *C.L.*, *id.*; *K.W.*, Docket No. 18-1523 (issued May 22, 2019); *C.L.*, Docket No. 17-0230 (issued April 24, 2018); *M.B.*, 58 ECAB 588 (2007); *Bertha L. Arnold*, 38 ECAB 282 (1986).

¹² *C.L.*, *id.*; *T.A.*, Docket No. 19-1030 (issued November 22, 2019); *Zane H. Cassell*, *supra* note 10; *John E. Benton*, 15 ECAB 48, 49 (1963).

¹³ *C.L.*, *id.*; *J.L.*, Docket No. 18-0990 (issued March 5, 2019); *R.C.*, 58 ECAB 238 (2006); *Cathy B. Millin*, 51 ECAB 331, 333 (2000).

¹⁴ *C.L.*, *id.*; *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *E.L.*, Docket No. 17-1445 (issued December 18, 2018); *L.W.*, 59 ECAB 471 (2008); *P.P.*, 58 ECAB 673 (2007); *Daniel J. Perea*, 42 ECAB 214, 221 (1990).

ANALYSIS

The Board finds that OWCP properly denied authorization of appellant's April 1, 2022 left ankle arthroscopic surgical procedure.

Preliminarily, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's April 9, 2024 decision because the Board considered that evidence in its June 14, 2024 decision. Findings made in prior Board decisions are *res judicata* absent any further review by OWCP under section 8128 of FECA.¹⁵

In support of her request for reconsideration, appellant submitted a May 30, 2025 report from Dr. Sharma. He opined that appellant's left ankle arthroscopic surgery was medically necessary to treat her accepted June 18, 2020 employment injury. In support of this opinion, he explained that the June 18, 2020 employment injury caused left ankle ligament disruption and progressive instability. Dr. Sharma recounted that appellant had a functional impairment and symptoms for two years following the injury which was clearly consistent with chronic ligament insufficiency. However, OWCP has not accepted the condition of chronic ligament insufficiency as causally related to the accepted June 18, 2020 employment injury. While he also indicated that appellant's asymptomatic or preexisting pathology did not preclude traumatic aggravation, he did not acknowledge that appellant's December 20, 2018 MRI scan of the left ankle reflected the same findings as her August 26, 2020 left ankle MRI scan, or that the record contained evidence from her March 2, 2022 MRI scan that appellant had previously undergone a left ankle surgical procedure. His opinion regarding aggravation of appellant's preexisting condition, therefore, was not based on an accurate and complete medical history and was insufficiently rationalized. The Board has held that an opinion on a given medical question is of limited probative value if it is not based on a complete and accurate factual and medical history. The Board finds that this report is of limited probative value with respect to appellant's request for authorization for left ankle arthroscopic surgery, because it contains an opinion which is conclusory in nature and lacking in adequate medical rationale.¹⁶

The only limitation on OWCP's authority in approving or disapproving service under FECA is one of reasonableness.¹⁷ As Dr. Shama's May 30, 2025 report failed to explain how the left ankle arthroscopic surgery was medically necessary and causally related to the accepted employment condition, the Board finds that OWCP acted reasonably in denying appellant's request for left ankle arthroscopic surgery.

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.

¹⁵ *J.D.*, Docket No. 21-0425 (issued January 24, 2022); *M.D.*, Docket No. 19-0510 (issued August 6, 2019); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

¹⁶ *D.R.*, Docket No. 21-1056 (issued April 13, 2023); *J.O.*, Docket No. 19-0326 (issued July 16, 2019).

¹⁷ *H.E.*, Docket No. 23-0629 (issued April 14, 2024); *D.C.*, 58 ECAB 629 (2007); *Mira R. Adams*, *supra* note 9.

CONCLUSION

The Board finds that OWCP properly denied authorization of appellant's left ankle arthroscopic surgical procedure, performed on April 1, 2022.

ORDER

IT IS HEREBY ORDERED THAT the June 18, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 4, 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