

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

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**J.G., Appellant**

**and**

**DEPARTMENT OF HOMELAND SECURITY,  
TRANSPORTATION SAFETY  
ADMINISTRATION, HARTSFIELD-JACKSON  
INTERNATIONAL AIRPORT, Atlanta, GA,  
Employer**

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**Docket No. 25-0686  
Issued: August 27, 2025**

*Appearances:*  
*Paul Felser, Esq., for the appellant<sup>1</sup>*  
*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 July 11, 2025 appellant, through counsel, filed a timely appeal from a January 15, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUE**

The issue is whether appellant has met her burden of proof to establish disability from work, commencing February 14, 2023, causally related to the accepted December 27, 2022 employment injury.

## **FACTUAL HISTORY**

On January 6, 2023 appellant, then a 57-year-old compliance inspection and support agent, filed a traumatic injury claim (Form CA-1) alleging that on December 27, 2022 she experienced muscle strains to the left shoulder and hip and left wrist when she slipped on ice and fell backward onto her left side while in the performance of duty. She stopped work on December 27, 2022. OWCP accepted the claim for left shoulder and hip strains.

On December 27, 2022 Dr. Jasmin Tanaja, a physician Board-certified in emergency medicine, diagnosed left shoulder and hip strains. She opined that these conditions could require two to six weeks to fully heal. In a separate note dated December 28, 2022, Dr. Tanaja related that appellant fell on December 27, 2022 landing on her left shoulder and hip with no head injury or loss of consciousness. She advised that there was no dizziness, seizures, syncope, weakness, light-headedness, numbness, or headaches. Dr. Tanaja reported that appellant had a steady gait and moved all extremities well. She determined that no focal deficits were present on neurological examination with intact coordination and gait, and normal speech with no neurological deficits. Dr. Tanaja diagnosed a fall from ground level resulting in a left shoulder strain, left hip strain, and left wrist pain.

Shonkethia L. Mitchell, a family nurse practitioner, released appellant to return to work on January 5, 2023.

In notes dated January 11, 2023, Dr. Shearin N. Higgs, a Board-certified internist, described the fall at work on December 27, 2022 and related that on physical examination appellant became dizzy when he manipulated her neck. He suggested that she could have sustained a concussion despite not hitting her head directly and had developed post-concussive syndrome. Dr. Higgs diagnosed neck pain, dizziness, and acute shoulder pain. He released appellant to return to full-duty work on February 1, 2023. On January 18, 2023 Dr. Higgs released appellant to return to full-duty work on February 9, 2023.

On January 24, 2023 Sidney Martin, a physical therapist, provided treatment.

Dr. Ramesh Kumar, a Board-certified neurologist, admitted appellant to the hospital on February 8, 2023. He found that she had difficulty ambulating, dysarthria, and left upper extremity weakness. Appellant related that her symptoms had begun suddenly and had progressed since she fell and hit her head on December 27, 2022. Dr. Kumar's physical examination revealed ataxia after head trauma with subacute complaints of stuttering speech and gait disturbance with no focal weakness. He reviewed a magnetic resonance imaging (MRI) scan of her brain as having no acute findings. Dr. Kumar discharged appellant from the hospital on February 10, 2023. In a note of even date, he recommended speech therapy for ataxia and dysarthria.

Dr. Higgs examined appellant on February 8, 2023 and related her history of injury. He reported that appellant had developed additional symptoms including tremulousness, significant dysarthric speech, and an ataxic gait. Dr. Higgs opined that these symptoms appeared to be either a thiamine deficiency or central nervous system origin, recommended a neurologic evaluation, and advised that this was an extreme change from her baseline. In a separate note of even date, he found that she was totally disabled through March 8, 2023.

In a February 9, 2023 report, Dr. Pruthu Patel, a Board-certified neurologist, examined appellant due to stuttering speech and gait disturbance. He reviewed a computerized tomography (CT) scan of her head which demonstrated no acute findings. Dr. Patel related that there was an abrupt change in appellant's neurologic status following a fall in December 2022. He noted that she had denied loss of consciousness or head trauma at that time. Dr. Patel found no clear dysarthria. He performed a physical examination which demonstrated that appellant was unsafe to walk, that her pupils were too small for fundoscopic examination, that there was normal muscle tone, that her speech was stuttering but not aphasic.

On February 10, 2023 Dr. Maura Lappin, an osteopath and employing establishment physician, reviewed the medical records and found insufficient evidence to establish appellant's current clinical status or diagnoses. She noted that the accepted conditions of muscle strains or bursitis or tendinitis would gradually improve with time. Dr. Lappin related that there was a significant worsening of appellant's conditions approximately one month after the accepted employment incident which was suggestive of possible alternative diagnoses.

In a February 20, 2023 note, Dr. Higgs reported that appellant had significant neurologic difficulties including gait abnormality, uncoordinated speech or aphasia, and balance issues. He found that she was totally disabled and recommended examination by a neurologist. In a treatment note of even date, Dr. Higgs again listed her neurological symptoms of a broad-based gait and use of a walker, clear low-frequency tremor, ataxic gait, and dysarthric speech. He related that appellant had no such symptomatology prior to her accepted employment incident. Dr. Higgs opined that it was unclear that her symptoms were secondary to her fall, but that she was disabled from work until she was evaluated by a neurologist.

On February 17, 2023 appellant filed a claim for compensation (Form CA-7) for disability from work on February 11, 2023. Commencing March 3, 2023 she filed additional Forms CA-7 for disability from work beginning February 14, 2023.

In a March 8, 2023 memorandum of telephone call (Form CA-110), appellant notified OWCP that she wished to expand the acceptance of her claim to include the additional condition of concussion as causally related to the accepted December 27, 2022 employment injury.

In a development letter dated March 14, 2023, OWCP informed appellant of the deficiencies of her disability claim. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

OWCP subsequently received a February 9, 2023 report from Dr. Guimy Alexis, a Board-certified internist, diagnosing ataxia after head trauma. He reviewed the head CT scan and noted there was no acute intracranial hemorrhage, mass effect, acute loss of gray-white

differentiation, or evidence of hyperdense vessel indicating a mass or acute infarct. On February 22, 2023 appellant began a rehabilitation program with Lisa Myla, a physical therapist.

Annalise Estrada, a physician assistant, examined appellant on March 15, 2023 and noted appellant could return to work after a reevaluation on April 13, 2023. On March 28, 2023 Dr. Higgs related that she was under his care for a neurologic disorder that occurred subsequent to a fall. He reported that the timetable for a diagnosis was unclear, but that appellant would likely be totally disabled for three months.

On May 4, 2023 Dr. Lappin reviewed the medical records and opined that appellant's claim should not be expanded to include additional conditions.

By decision dated May 31, 2023, OWCP denied appellant's disability claim, finding that the medical evidence of record was insufficient to establish disability from work for the period commencing February 14, 2023 causally related to the accepted December 27, 2022 employment injury.

On June 28, 2023 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review, which was changed to a review of the written record.

OWCP subsequently received April 13 and May 24, 2023 reports from Dr. Kenneth J. Lazarus, a Board-certified neurologist. Dr. Lazarus reported appellant's history of injury on December 27, 2022 and her recollection that she did not hit her head. Appellant further related that when she awoke on January 5, 2023 she was unable to move and was in excruciating pain. She sought treatment in the local emergency room but continued to experience pain and developed dizziness. On or about the middle of January 2023, appellant developed slurred speech and gait disturbance. She currently experienced constant dizziness, continued to struggle to speak and the slurred speech had become a stutter. Appellant related that if her stress was increased her speech worsened. She denied anxiety issues prior to December 27, 2022, but experienced significant anxiety and stress after her fall. Appellant also continued to report gait disturbances due to numbness and weakness in her lower extremities. Dr. Lazarus observed that she exhibited involuntary movements in her upper extremities, chest, head, and mouth. He diagnosed left leg weakness, functional neurological symptom disorder with mixed symptoms, speech impediment, gait disturbance, anxiety and depression, weakness of the left arm, neck pain with recent trauma, and involuntary movements.

In a June 27, 2023 report, Dr. Higgs diagnosed an involuntary movement disorder with no clear therapy or treatment. He determined that appellant was totally and permanently disabled from work.

In an August 28, 2023 report, Dr. Higgs performed a physical examination and diagnosed movement disorder, benign essential hypertension, and new onset diabetes mellitus. He related that appellant had undergone a full neurologic examination and testing. Dr. Higgs found that it was unclear whether appellant hit her head during the accepted employment fall on December 27, 2022. He recounted that the neurologist indicated that her symptoms were most likely functional and related to her stressors. Dr. Higgs determined that appellant remained disabled.

By decision dated January 12, 2024, OWCP's hearing representative affirmed the May 31, 2023 decision.

OWCP subsequently received December 23, 2023 and August 2, 2024 reports from Ntash Hodge, a licensed practical counselor. Appellant also provided a January 8, 2024 report from Ariella Kaplan, a speech-language pathologist.

On February 26, 2024 the employing establishment proposed to remove appellant from her federal employment as she was no longer medically qualified for her federal job duties. It finalized the proposed removal on April 25, 2024. The Office of Personnel Management (OPM) approved her application for disability retirement on September 17, 2024.

On June 27, 2024 Desiree Riley, a nurse practitioner, examined appellant and provided electrodiagnostic studies. On July 17, 2024 Dr. John Musser, a Board-certified physiatrist, provided a lumbar epidural steroid injection for lumbar radiculopathy and spondylosis.

OWCP received an employing establishment publication entitled Medical & Psychological Guidelines for Transportation Security Officers.

On January 10, 2025 appellant, through counsel, requested reconsideration. In support of this request, appellant provided a January 5, 2024 MRI scan of her brain which was read as negative with no evidence of acute intracranial disease or intracranial ischemia/stroke.

By decision dated January 15, 2025, OWCP denied modification.

### **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.<sup>3</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.<sup>4</sup> Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.<sup>5</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>6</sup> When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such

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<sup>3</sup> *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).

<sup>4</sup> 20 C.F.R. § 10.5(f).

<sup>5</sup> *See L.W.*, Docket No. 17-1685 (issued October 9, 2018).

<sup>6</sup> *See K.H.*, Docket No. 19-1635 (issued March 5, 2020).

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>7</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>8</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>9</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work commencing February 14, 2023, causally related to the accepted December 27, 2022 employment injury.

In a series of reports dated January 11 through August 23, 2023, Dr. Higgs described the December 27, 2022 employment injury and listed a variety of conditions while ultimately diagnosing involuntary movement disorder which resulted in total disability from work. He determined that it was unclear whether appellant had struck her head during the December 27, 2022 fall or whether her neurological symptoms were due to her fall.

Dr. Kumar initially examined appellant on February 8, 2023 noting that she believed that her neurological symptoms began after she fell and struck her head on December 27, 2022. He diagnosed ataxia after head trauma.

Dr. Patel reported on February 9, 2023 that there was an abrupt change in appellant's neurological status following a fall in December 2022, but that she denied a loss of consciousness or head trauma. In his February 9, 2023 report, Dr. Alexis diagnosed ataxia following head trauma.

Dr. Lazarus completed reports on April 13 and May 24, 2023 which included a description of the December 27, 2022 fall and the lack of head injury. He diagnosed functional neurological symptom disorder with mixed symptoms.

None of these reports, however, contain an opinion regarding disability from work during the period commencing February 14, 2023, causally related to the accepted December 27, 2022

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<sup>7</sup> See *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

<sup>8</sup> *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

<sup>9</sup> *K.A.*, Docket No. 19-1564 (issued June 3, 2020); *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

employment injuries of left shoulder and left hip strains. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given period of disability has an employment-related cause.<sup>10</sup> Appellant also has not submitted medical evidence sufficient to establish that the additional unaccepted conditions were a consequence of the December 27, 2022 employment injury. Therefore, these reports are insufficient to establish that appellant was disabled from work during the claimed period due to her accepted employment injury.<sup>11</sup>

OWCP also received MRI and CT scans. However, diagnostic studies, standing alone, lack probative value as they do not address whether an accepted employment condition caused the claimed disability.<sup>12</sup>

The record contains reports from a nurse practitioner, a family nurse practitioner, physical therapists, a physician assistant, a licensed practical counselor, and a speech-language pathologist. However, these providers are not considered physicians as defined under FECA.<sup>13</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>14</sup> Therefore, this evidence is insufficient to establish appellant's disability claim.

Appellant provided a publication. The Board has long held that excerpts from publications have little probative value in resolving medical questions unless a physician establishes the applicability of the general medical principle discussed in the article to the specific factual situation in the case.<sup>15</sup>

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<sup>10</sup> See *S.S.*, Docket No. 21-0763 (issued November 12, 2021); *A.G.*, Docket No. 21-0756 (issued October 18, 2021); *T.S.*, Docket No. 20-1229 (issued August 6, 2021).

<sup>11</sup> *Id.*

<sup>12</sup> See *A.V.*, Docket No. 19-1575 (issued June 11, 2020).

<sup>13</sup> Section 8101(2) provides that physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by 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(1) (May 2023); *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); *H.S.*, Docket No. 20-0939 (issued February 12, 2021) (physician assistants are not considered physicians as defined under FECA); *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (physical therapists are not considered physicians under FECA); *P.Y.*, Docket No. 16-1324 (issued July 24, 2017) (a speech pathologist is not considered a physician under FECA); *Frederick C. Smith*, 48 ECAB 132 (1996) (social workers and mental health counselors are not physicians as defined by FECA).

<sup>14</sup> See *id.*

<sup>15</sup> *A.C.*, Docket No. 24-0603 (issued July 12, 2024); *W.K.*, Docket No. 23-0379 (issued October 26, 2023); *S.B.*, Docket No. 21-0683 (issued December 16, 2021); *T.S.*, Docket No. 18-1518 (issued April 17, 2019); *W.C. (R.C.)*, Docket No. 18-0531 (issued November 1, 2018); *K.U.*, Docket No. 15-1771 (issued August 26, 2016); *Roger D. Payne*, 55 ECAB 535 (2004).

As the medical evidence of record is insufficient to establish causal relationship between the claimed period of disability and the accepted December 27, 2022 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 during the period commencing February 14, 2023 causally related to the accepted December 27, 2022 employment injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** January 15, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 27, 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