

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

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| <b>D.C., Appellant</b>   | ) |                                |
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| <b>and</b>   | ) | <b>Docket No. 25-0695</b>      |
|  | ) | <b>Issued: August 12, 2025</b> |
| <b>U.S. POSTAL SERVICE, HARRISBURG POST<br/>OFFICE, Harrisburg, PA, Employer</b> | ) |                                |
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*Appearances:*

*Alan J. Shapiro, 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

PATRICIA H. FITZGERALD, Deputy Chief Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On July 15, 2025 appellant, through counsel, filed a timely appeal from a May 22, 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 his burden of proof to establish a medical condition causally related to the accepted February 15, 2025 employment incident.

## **FACTUAL HISTORY**

On February 17, 2025 appellant, then a 47-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on February 15, 2025 he sustained a right shoulder injury when he slipped and fell on icy steps while in the performance of duty. He did not stop work.

In a February 21, 2025 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the requested evidence.

In response, appellant submitted a February 25, 2025 report wherein Dr. Stephanie Marie Grilli, an osteopath Board-certified in orthopedic surgery, noted that appellant slipped on ice while at work on February 15, 2025 and tried to catch himself with his right arm, which eventually went over his head, resulting in pain and decreased range of motion. Dr. Grilli reported that her review of musculoskeletal systems was positive for shoulder pain and noted that appellant sought treatment at emergency room for evaluation, but the x-rays obtained were negative for fracture. She reviewed the February 18, 2025 x-rays of the right humerus, elbow, and shoulder, which revealed no fracture or dislocation, and mild acromioclavicular joint arthritic changes on the right shoulder. Dr. Grilli diagnosed rotator cuff dysfunction. She opined that appellant may have a traumatic rotator cuff injury based on his significant pain and weakness. Dr. Grilli noted that treatment options were discussed and a magnetic resonance imaging (MRI) scan of the right joint upper extremity would be ordered for further evaluation.

In a follow-up letter dated March 21, 2025, OWCP advised appellant that it conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the February 21, 2025 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

Following the development letter, appellant submitted additional evidence in support of his claim.

In a February 28, 2025 work status report, Dr. Grilli diagnosed right shoulder rotation cuff dysfunction, and advised that appellant had modified-duty work restrictions for the right upper extremity.

In an April 1, 2025 work status report, Dr. Grilli diagnosed right shoulder bursal partial tearing and provided modified restrictions for the use of the right upper extremity. She referred appellant to physical therapy for four to six weeks.

In an April 8, 2025 attending physician's report (Form CA-20), Dr. Grilli diagnosed right rotator cuff tendinitis after slipping and falling on ice on February 15, 2025. She opined that the

condition was caused by the activity described stating that lifting, pushing, and pulling can and would aggravate an injury. Dr. Grilli checked a box indicating that appellant was not disabled from work.

In an April 21, 2025 Form CA-20 report, Dr. Grilli reported that appellant was partially disabled from work and restricted use of the right arm until the next evaluation. She diagnosed right rotator cuff tendinitis, partial tearing, and bursal fraying.

By decision dated April 23, 2025, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish a medical condition causally related to the accepted February 15, 2025 employment incident. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

Appellant continued to submit additional evidence in support of his claim.

In an April 29, 2025 report, Dr. Grilli diagnosed right shoulder bursitis with partial tearing and provided modified right upper extremity restrictions. She further noted that an arthroscopy had been scheduled for appellant's right shoulder bursitis and partial cuff tearing.

In an April 30, 2025 Form CA-20, Dr. Grilli reported that appellant slipped on ice during work and while trying to catch himself with his right arm, which ended up over his head, and now requiring surgery. She further reported that repetitive movements can worsen the condition. Dr. Grilli diagnosed right rotator cuff tear, bursal fraying, and tendinitis. She advised that appellant was totally disabled from work, noting that he was undergoing right arm surgery on May 5, 2025.

Appellant also submitted physical therapy reports dated April 22 through 24, 2025 in support of his claim.

On May 6, 2025 appellant requested reconsideration. In support thereof, appellant submitted February 18, 2025 x-ray scans of the right elbow, right humerus, and right shoulder, none of which revealed acute abnormalities.

By decision dated May 22, 2025, OWCP denied modification of the April 23, 2025 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,<sup>4</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

employment injury.<sup>5</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient medical evidence to establish that the employment incident caused an injury.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.<sup>9</sup>

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted February 15, 2025 employment incident.

In the February 25, 2025 report, Dr. Grilli diagnosed right rotator cuff tear, bursal fraying, and tendinitis and opined that appellant's conditions were a result of his work-related injury. Dr. Grilli noted that appellant slipped on ice while at work on February 15, 2025 and tried to catch himself with the right arm, which eventually went over his head, resulting in pain and decreased range of motion. She reported that her review of musculoskeletal systems was positive for joint pain and noted that appellant sought treatment at an emergency room for evaluation but the x-rays obtained were negative for fracture. Dr. Grilli opined that appellant may have a traumatic rotator cuff injury based on his significant pain and weakness. In her April 8, 2025 report, she opined that the condition was caused by the activity described stating that lifting, pushing, and pulling can and would aggravate an injury, and also noted that repetitive movements can worsen the condition. While Dr. Grilli provided an opinion as to the cause of appellant's diagnosed conditions, she did not support her opinion with medical rationale explaining how the accepted February 15, 2025

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<sup>5</sup> *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>7</sup> *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Caralone*, 41 ECAB 354 (1989).

<sup>8</sup> *S.M.*, Docket No. 22-0075 (issued May 6, 2022); *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

employment incident caused his conditions.<sup>10</sup> Without explaining how, physiologically, the specific effects of raising his right arm over his head to catch himself from falling caused, contributed to, or aggravated the diagnosed conditions, the opinion in these reports are of limited probative value and insufficient to establish the claim.<sup>11</sup>

In reports dated February 28 and April 1, 2025, Dr. Grilli related appellant's history of injury and diagnosed right rotator cuff tendinitis, partial tearing, and bursal fraying. However, Dr. Grilli did not offer an opinion regarding the cause of appellant's diagnosed conditions. 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>12</sup> Thus, these reports are insufficient to establish appellant's claim.

Appellant submitted physical therapy reports in support of his claim. However, certain health care providers such as nurses, physician assistants, and physical therapists are not considered physicians under FECA and, therefore, are not competent to provide a medical opinion.<sup>13</sup>

Appellant also submitted diagnostic test results, including February 18, 2025 x-rays of the right elbow, right humerus, and right shoulder. The Board has held, however, that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused or aggravated any of the diagnosed conditions.<sup>14</sup> This evidence is insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted February 15, 2025 employment incident, the Board finds that appellant has not met his burden of proof.

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<sup>10</sup> *S.M.*, Docket No. 24-0542 (issued July 11, 2024); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

<sup>11</sup> See *A.G.*, Docket No. 24-0647 (issued July 31, 2024); *T.F.*, Docket No. 20-0260 (issued June 12, 2020); *D.J.*, Docket No. 18-0694 (issued March 16, 2020); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *K.O.*, Docket No. 18-1422 (issued March 19, 2019).

<sup>12</sup> See *F.J.*, Docket No. 25-0094 (issued February 19, 2025); *A.D.*, Docket No. 24-0411 (issued June 20, 2024); *T.H.*, Docket No. 21-1429 (issued November 2, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>13</sup> Section 8102(2) of FECA provides as follows: 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. § 8102(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 *A.L.*, Docket No. 25-0492 (issued May 27, 2025) (physical therapists are not considered physicians under FECA and, therefore, are not competent to provide a medical opinion).

<sup>14</sup> *F.D.*, Docket No. 19-0932 (issued October 3, 2019).

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 his burden of proof to establish a medical condition causally related to the accepted February 15, 2025 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 22, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 12, 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