

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

<p>D.G., Appellant</p> <p>and</p> <p>U.S. POSTAL SERVICE, CITY OF INDUSTRY POST OFFICE, City of Industry, CA, Employer</p>)))))))
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**Docket No. 25-0703
Issued: August 28, 2025**

Appearances:
Appellant, pro se
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 filed a timely appeal from a May 6, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 11, 2024, as she no longer had disability or residuals causally related to her accepted February 4, 2023 employment injury; and (2) whether appellant has met her burden of proof to establish continuing disability and/or

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the May 6, 2025 decision, OWCP received additional evidence. 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.*

residuals, on or after September 11, 2024, causally related to her accepted February 4, 2023 employment injury.

FACTUAL HISTORY

On February 6, 2023 appellant, then a 48-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on February 4, 2023 she sustained left ankle and right-hand injuries when she stepped on an uneven surface, rolled her left ankle, and fell while in the performance of duty. She stopped work on the date of injury. On March 13, 2023 OWCP accepted the claim for left ankle sprain. It paid appellant wage-loss compensation on the supplemental rolls, effective March 22, 2023.

Appellant received medical treatment for her left ankle condition by Dr. Basimah Khulusi, a Board-certified physiatrist, and Dr. Chul Kim, Board-certified in internal medicine and podiatric surgery, including physical therapy and acupuncture. The physicians provided part-time work restrictions.

On August 17, 2023 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. Clive M. Segil, a Board-certified orthopedic surgeon, for a second opinion evaluation regarding the status of appellant's employment-related injuries.

In an October 12, 2023 report, Dr. Segil reviewed the history of injury and medical record and noted that appellant related intermittent discomfort in the sole and medial arch of the left foot but "very little symptoms in her left ankle," noting that "she does not have much pain now." He performed a physical examination and observed normal stance and gait, full range of motion (ROM) of the left ankle, tenderness over the dorsal aspect and sole of the left foot, and normal neurological findings. Dr. Segil diagnosed left ankle sprain. He opined that "the work-related condition has completely resolved, and this is based on my history and examination of the left ankle, which appears to be normal at this stage, having both good [ROM] and no evidence of any swelling or ligamentous instability." Dr. Segil indicated that appellant required no further treatment and could return to work in her preinjury position without restrictions.

In a medical report dated October 16, 2023, Dr. Khulusi noted that appellant complained of pain in the left arch after working. She performed a physical examination and observed normal gait, bilateral pronation with weightbearing, and intact heel-toe walk. Dr. Khulusi diagnosed left ankle sprain. In a duty status report (Form CA-17) of even date, she released appellant to return to work eight hours per day with restrictions of no lifting greater than 10 pounds on an intermittent basis, no standing more than two hours, no walking more than four hours, no walking on uneven surfaces, and no pushing greater than 100 pounds.

In November 16 and December 14, 2023 reports, Dr. Kim noted that appellant related that her ankle was "improving" and "resolved" but that she had continued discomfort in her left arch. He performed a physical examination and observed tenderness with ROM and palpation along the left foot plantar fascia insertion area, underlying effusion and bursitis, pedal derangement with a flexible flatfoot deformity, decreased medial arch upon stance, excessive pronation with ambulation, pain along the peroneal tendon, minimal tenderness in the sinus tarsi and lateral gutter, no gross instability, and no pain with forced anterior drawer, inversion, or eversion. Dr. Kim

diagnosed left foot and ankle sprain sequela, left foot peroneal tendinitis, and left foot plantar fasciitis.

On December 18, 2023 Dr. Khulusi indicated that appellant was working full time and related complaints of pain and cramping in the left foot. She diagnosed left ankle sprain and recommended an updated MRI scan of the left foot and ankle.

MRI scans of the left foot and ankle dated January 10, 2024 indicated that the prior ligament sprains were stable but that the subchondral cystic change and marrow edema at the fourth metatarsal base had worsened since the February 18, 2023 MRI scan.

On February 14 and April 30, 2024 Dr. Khulusi reviewed the January 10, 2024 MRI scans and released appellant to return to work four hours per day with restrictions.

OWCP determined that a conflict in the medical evidence existed between appellant's treating physician, Dr. Kim, and OWCP's second opinion examiner, Dr. Segil, regarding continuing residuals, additional conditions, and appellant's ability to perform her preinjury position. It referred her along with the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. Hose Kim, a Board-certified orthopedic surgeon, to serve as an impartial medical examiner (IME) to resolve the conflict.

In a May 21, 2024 report, Dr. Hose Kim, the IME, indicated that he reviewed the medical record, including MRI scans of the left foot and ankle dated February 18, 2023 and January 10, 2024. He noted appellant's subjective complaints of left ankle pain that traveled to the bottom and top of her left foot, shin, and knee with occasional swelling and weakness. Upon physical examination, Dr. Hose Kim observed normal gait, ability to stand on her heels and toes without difficulty, no swelling or erythema, pain with deep palpation of the ATFL and sinus tarsi areas, no ankle instability, normal ROM, strength, reflexes, and sensation, negative anterior drawer and inversion tests, and no tenderness of the foot or heel with negative Windlass' and Tinel's signs. He diagnosed left ankle sprain. Dr. Hose Kim opined that appellant had no residuals and was not in need of any further treatment for the accepted February 4, 2023 employment injury. He explained that there was no swelling, impingement, or instability in the left ankle and that her subjective complaints of pain were not substantiated by objective findings. Dr. Hose Kim also explained that, along with medical treatment, a sufficient amount of time had elapsed for soft tissue healing of the left ankle to occur.

OWCP subsequently received a June 3, 2024 progress note, wherein Dr. Khulusi indicated that appellant was working four hours per day, casing, and delivering mail. She performed a physical examination and observed an antalgic gait. Dr. Khulusi maintained appellant's part-time restrictions.

In a notice dated July 16, 2024, OWCP proposed to terminate appellant's wage-loss compensation and medical benefits because she no longer had disability or residuals causally related to her accepted February 4, 2023 employment injury. It found that the special weight of the medical evidence rested with Dr. Hose Kim, the IME, who found that she no longer had any disability or residuals causally related to her accepted employment injury. OWCP afforded appellant 30 days to submit additional evidence or argument, in writing, if she disagreed with the proposed termination.

In a July 29, 2024 narrative report, Dr. Khulusi asserted that Dr. Hose Kim's May 21, 2024 medical opinions were not well reasoned. She noted that January 10, 2024 MRI scans demonstrated ongoing sprains and worsening subchondral cystic change and marrow edema at the fourth metatarsal.

In a Form CA-17 dated August 5, 2024, Dr. Khulusi released appellant to return to work eight hours per day with restrictions.

By decision dated September 11, 2024, OWCP finalized the notice of proposed termination of appellant's wage-loss compensation and medical benefits, effective that date. It found that the special weight of medical evidence rested with Dr. Hose Kim, the IME, who indicated in his May 21, 2024 report that appellant no longer had disability or residuals due to her February 4, 2023 employment injury.

OWCP thereafter received a medical report by Dr. Khulusi dated August 5, 2024, who noted appellant's subjective complaints of pain behind the medial malleolar area and dorsal proximal aspect of the left foot and ankle. She performed a physical examination and observed no swelling around her left ankle joint or into the foot and supination of the left heel with weightbearing. Dr. Khulusi diagnosed left foot and ankle sprains and released appellant to return to work eight hours per day with restrictions.

On April 21, 2025 appellant requested reconsideration of OWCP's September 11, 2024 decision. In support thereof, she submitted an April 8, 2025 narrative medical report by Dr. Khulusi, who again noted the January 10, 2024 MRI scan findings and diagnosed a permanent aggravation of the left ankle and chronic ankle sprain. She opined that appellant continued to "require restrictions on the job to be able to work [eight] hours per day."

By decision dated May 6, 2025, OWCP denied modification of its September 11, 2024 decision.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of benefits.³ It may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.⁴ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁵

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.⁶ To terminate authorization for medical treatment, OWCP

³ *A.D.*, Docket No. 18-0497 (issued July 25, 2018); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁴ *A.G.*, Docket No. 18-0749 (issued November 7, 2018); *see also I.J.*, 59 ECAB 408 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

⁵ *R.R.*, Docket No. 19-0173 (issued May 2, 2019); *T.P.*, 58 ECAB 524 (2007); *Del K. Rykert*, 40 ECAB 284 (1988).

⁶ *L.W.*, Docket No. 18-1372 (issued February 27, 2019); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

must establish that the employee no longer has residuals of an employment-related condition, which require further medical treatment.⁷

Section 8123(a) of FECA provides that, if there is a disagreement between the physician making the examination for the United States and the physician of an employee, the Secretary shall appoint a third physician (known as a referee physician or IME) who shall make an examination.⁸ For a conflict to arise the opposing physicians' viewpoints must be of "virtually equal weight and rationale."⁹ When OWCP has referred the case to an IME for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.¹⁰

ANALYSIS -- ISSUE 1

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 11, 2024, as she no longer had disability or residuals causally related to her accepted February 4, 2023 employment injury.

OWCP determined that there was a conflict in the medical opinion evidence between Dr. Kim, appellant's treating physician, and Dr. Segil, an OWCP second opinion examiner, regarding the status of appellant's February 4, 2023 employment injury as to diagnosis, need for medical treatment, and disability causally related to the February 4, 2023 employment injury. It properly referred appellant, pursuant to 5 U.S.C. § 8123(a), to Dr. Hose Kim for an impartial medical examination and an opinion to resolve the conflict.

In a May 21, 2024 report, Dr. Hose Kim, the IME, indicated that he reviewed appellant's records, including MRI scans of the left foot and ankle dated February 18, 2023 and January 10, 2024. He noted her subjective complaints of left ankle and foot pain that traveled to the bottom and top of her left foot, shin, and knee and occasional swelling and weakness. Upon physical examination, Dr. Hose Kim observed normal gait; ability to stand on her heels and toes without difficulty; no swelling or erythema; pain with deep palpation of the ATFL and sinus tarsi areas; no ankle instability; normal ROM, strength, reflexes, and sensation; negative anterior drawer and inversion tests; and no tenderness of the foot or heels with negative Windlass' and Tinel's signs. He diagnosed left ankle sprain and concluded that appellant was no longer disabled and no longer needed further treatment for the accepted employment conditions. Dr. Hose Kim explained that there was no swelling, impingement, or instability in the ankle and that her subjective complaints of pain were not substantiated by objective findings. He also opined that there was no evidence of plantar fasciitis of the left foot on examination. Dr. Hose Kim related that, along with

⁷ *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *A.P.*, Docket No. 08-1822 (issued August 5, 2009).

⁸ 5 U.S.C. § 8123(a); *see R.S.*, Docket No. 10-1704 (issued May 13, 2011); *S.T.*, Docket No. 08-1675 (issued May 4, 2009).

⁹ *H.B.*, Docket No. 19-0926 (issued September 10, 2020); *C.H.*, Docket No. 18-1065 (issued November 29, 2018); *Darlene R. Kennedy*, 57 ECAB 414, 416 (2006); *James P. Roberts*, 31 ECAB 1010 (1980).

¹⁰ *S.S.*, Docket No. 19-0766 (issued December 13, 2019); *W.M.*, Docket No. 18-0957 (issued October 15, 2018); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts, id.*

medical treatment, a sufficient amount of time had elapsed for soft tissue healing of the left ankle to occur.

The factors that comprise the evaluation of medical opinion evidence include the opportunity for and thoroughness of physical examination, the accuracy, or completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹¹ The Board finds that Dr. Hose Kim's opinion constitutes the special weight of the medical opinion evidence and establish that appellant no longer had employment-related disability or residuals causally related to the accepted February 4, 2023 employment injury. He based his opinion on a proper factual and medical history and physical examination findings. Dr. Hose Kim noted that appellant's physical examination revealed that the accepted employment-related conditions had resolved and that appellant could return to her preinjury position without restrictions. Accordingly, the Board finds that OWCP properly relied on his opinion in terminating appellant's wage-loss compensation and medical benefits.¹²

The remaining evidence submitted prior to OWCP's termination of appellant's wage-loss compensation and medical benefits is insufficient to overcome the special weight accorded to Dr. Hose Kim as the IME.

Appellant submitted additional reports by Dr. Khulusi, including a June 3, 2024 progress report in which she released appellant to part-time work with restrictions. In a July 29, 2024 narrative report, she noted that January 10, 2024 MRI scans demonstrated ongoing sprains and worsening subchondral cystic change and marrow edema at the fourth metatarsal. In an August 5, 2024 CA-17 Form, Dr. Khulusi released appellant to return to full-time work with restrictions. These reports, however, are of limited probative value as they fail to provide sufficient medical rationale explaining how and/or why appellant had continuing disability or residuals as of September 11, 2024 causally related to the accepted February 4, 2023 employment injury.¹³ Accordingly, the June 3, 2024 progress note, July 29, 2024 narrative report, and August 5, 2024 Form CA-17 by Dr. Khulusi are insufficient to overcome the special weight of the medical evidence accorded to Dr. Hose Kim,¹⁴ or to create a conflict in medical opinion with Dr. Hose Kim.¹⁵

As the medical evidence of record establishes that appellant no longer had disability or residuals, effective September 11, 2024, causally related to the accepted February 4, 2023 employment injury, the Board finds that OWCP met its burden of proof.

¹¹ See *P.J.*, Docket No. 22-0905 (issued November 15, 2022); *K.R.*, Docket No. 22-0019 (issued July 11, 2022); *Nicolette R. Kelstrom*, 54 ECAB 570 (2003); *Anna M. Delaney*, 53 ECAB 384 (2002).

¹² See *D.G.*, Docket No. 19-1259 (issued January 29, 2020); see also *D.T.*, Docket No. 10-2258 (issued August 1, 2011); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

¹³ 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).

¹⁴ See *L.K.*, Docket No. 20-0443 (issued August 8, 2023).

¹⁵ See *A.B.*, Docket No. 25-0504 (issued June 20, 2025); *S.G.*, Docket No. 23-0652 (issued October 11, 2023).

LEGAL PRECEDENT -- ISSUE 2

Once OWCP terminates a claimant's wage-loss compensation and medical benefits, the burden shifts to appellant to establish continuing disability and/or residuals on or after that date, causally related to the accepted injury.¹⁶ To establish causal relationship, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such causal relationship.¹⁷

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met her burden of proof to establish continuing disability and/or residuals after September 11, 2024, causally related to her accepted February 4, 2023 employment injury.

Appellant submitted an August 5, 2024 medical report by Dr. Khulusi, who performed a physical examination and observed no swelling around the left ankle joint or into the foot. She diagnosed left foot and ankle sprains and released her to return to work eight hours per day with restrictions. In an April 8, 2025 narrative report, Dr. Khulusi reiterated that appellant continued to have residuals and require restrictions due to the February 4, 2023 employment injury. However, in the August 5, 2024 and April 8, 2025 reports, she did not explain with sufficient medical rationale how and/or why appellant had continuing residuals and disability causally related to the accepted February 4, 2023 employment injury.¹⁸ Accordingly, these reports are of limited probative value.¹⁹

As the medical evidence of record is insufficient to establish continuing disability and/or residuals, on or after September 11, 2024, causally related to appellant's accepted February 4, 2023 employment injury, the Board finds that she 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 OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 11, 2024, as she no longer had disability or residuals causally related to her accepted February 4, 2023 employment injury. The Board further finds that appellant has not met her burden of proof to establish continuing disability and/or

¹⁶ *I.S.*, Docket No. 25-0093 (issued March 14, 2025); *S.G.*, Docket No. 23-0652 (issued October 11, 2023); *V.W.*, Docket No. 20-0693 (issued June 2, 2021); *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.M.*, Docket No. 18-0673 (issued January 25, 2019); *J.R.*, Docket No. 17-1352 (issued August 13, 2018); *Manuel Gill*, 52 ECAB 282 (2001).

¹⁷ *Id.*

¹⁸ 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).

¹⁹ *L.L.*, Docket No. 24-0887 (issued November 21, 2024).

residuals, on or after September 11, 2024, causally related to her accepted February 4, 2023 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the May 6, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 28, 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