United States Department of Labor
Employees' Compensation Appeals Board

K.S., Appellant	)	
and	)	**Docket No. 25-0855**
	)	**Issued: December 3, 2025**
U.S. POSTAL SERVICE, CULLODEN POST OFFICE, Culloden, WV, Employer	)	

Appearances:
Appellant, pro se
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 September 8, 2025 appellant filed a timely appeal from an August 15, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether OWCP met its burden of proof to reduce appellant's wage-loss compensation, effective August 15, 2025, because she refused an offer of a temporary light-duty assignment, pursuant to 20 C.F.R. § 10.500(a).

FACTUAL HISTORY

On May 31, 2024 appellant, then a 57-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 12, 2023 she fractured her right foot when she stubbed it

[1] 5 U.S.C. § 8101 *et seq*.

on the curb while in the performance of duty. She stopped work on May 14, 2024. By decision dated October 21, 2024, OWCP accepted her claim for right foot stress fracture. It paid her wage-loss compensation on the supplemental rolls, effective May 14, 2024, and on the periodic rolls, effective December 1, 2024.

In a report dated November 13, 2024, Dr. Kirt Miller, a podiatrist, provided appellant's physical examination findings and diagnosed status post metatarsal fractures 2 and 3 with degenerative changes of the second metatarsophalangeal (MTP) joint.

On November 27, 2024 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Hicks Manson, a Board-certified orthopedic surgeon, for a second opinion examination to determine the nature and extent of her injury-related residuals and disability.

In a work capacity evaluation (Form OWCP-5c) dated December 4, 2024, Dr. Miller opined that appellant was disabled from work, noting that right foot surgery was needed. He explained that appellant would be off work for three months following surgery.

In a report dated December 27, 2024, Dr. Manson noted his review of the SOAF and the medical record with regard to the March 25, 2024 employment injury. He recounted appellant's history of injury, reviewed diagnostic tests, provided examination findings, and diagnosed right foot stress fracture. On physical examination, Dr. Manson reported an antalgic gait in a still sole shoe orthotic, tenderness on palpation of the right 2nd toe MTP joint, no tenderness on palpation of the right 1st MTP, normal ankle flexor and extensor strength, normal dermatomal sensation, negative piano key test, negative heel squeeze, and no Mulder click. He opined that appellant continued to have residuals of her accepted condition and was disabled from performing her job as a rural carrier. Dr. Manson advised that appellant was capable of working with restrictions. He explained that appellant had a guarded prognosis without further intervention and recommended some form of osteotomy or arthroplasty. Operative intervention would give her the best chance of recovering to the point that she could return to work. In an attached work capacity evaluation form (Form OWCP-5c), Dr. Manson advised that appellant was capable of performing sedentary work with restrictions of up to 10 minutes of walking, up to 30 minutes of standing and squatting, up to two hours of operating a motor vehicle at work, and no climbing. He noted that appellant had not reached maximum medical improvement at that time and recommended a right foot orthotic.

In a Form OWCP-5c dated February 13, 2025, Dr. Miller opined that appellant was disabled from work as right foot surgery was needed. He noted that appellant was being scheduled for surgery and would remain off work following her surgery.

On February 21, 2025 the employing establishment provided appellant with an offer of modified assignment (limited duty) as a modified regular rural carrier with a scheduled tour of 2.5 hours. The duties were identified as performing lock changes as needed and up to two hours of carrying and delivering. The physical requirements were identified as up to 2 hours of operating a motor vehicle, standing up to 30 minutes, walking up to 10 minutes, and lifting, pushing, pulling up to 10 pounds as needed. Appellant refused the modified job offer on February 25, 2025 explaining that her podiatrist placed her off work pending approval for foot joint replacement surgery.

On April 17, 2025 OWCP received a February 25, 2025 report from Dr. Miller diagnosing second and third MTP joint degenerative changes, which he attributed to appellant's injury. Dr. Miller found appellant required surgical intervention due to the degenerative changes. As a result of her pain and requiring surgical intervention, he explained that appellant would be using a walking boot if she returned to work. The walking boot would restrict her from any driving or standing for an extended time. Dr. Miller concluded that appellant would be off work until after her surgery was completed.

In a notice dated June 6, 2025, OWCP proposed to reduce appellant's wage-loss compensation. It advised her that it had reviewed the work restrictions provided by Dr. Manson and determined that the temporary light-duty job offer was within her restrictions. OWCP informed appellant of the provisions of 20 C.F.R. § 10.500(a) and advised her that her entitlement to wage-loss compensation would be reduced indefinitely since the light-duty job had no projected end date. It also noted that surgery had not been scheduled, nor had an authorization been requested. Thus, OWCP informed her that she was not considered totally disabled and was expected to return to work.

By decision dated August 15, 2025, OWCP advised that it would reduce appellant's wage-loss compensation, effective that date, in accordance with 20 C.F.R. § 10.500(a). It noted that she had not accepted the February 25, 2025 temporary modified position, which was within the work restrictions provided by Dr. Manson. Therefore, she would be paid compensation based on the difference between the pay of the temporary light-duty assignment and the current pay of the position she held on the date of injury.

LEGAL PRECEDENT

Under FECA, once OWCP has accepted a claim it has the burden of justifying termination or modification of compensation benefits.[2]

OWCP regulations at 20 C.F.R. § 10.500(a) provides in relevant part:

> "(a) Benefits are available only while the effects of a work-related condition continue. Compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury. For example, an employee is not entitled to compensation for any wage-loss claimed on a Form CA-7 to the extent that evidence contemporaneous with the period claimed on a Form CA-7 establishes that an employee had medical work restrictions in place; that light duty within those work restrictions was available; and that the employee was previously notified in writing that such duty was available. Similarly, an employee receiving continuing periodic payments for disability was not prevented from earning the wages earned before the work-related injury if the evidence establishes that the employing establishment had offered, in accordance with OWCP procedures, a temporary light-duty assignment within the employee's work

[2] *See G.D.*, Docket No. 25-0578 (issued July 7, 2025); *S.V.*, Docket No. 17-1268 (issued March 23, 2018); *I.J.*, 59 ECAB 408 (2008).

restrictions. (The penalty provision of 5 U.S.C. § 8106(c)(2) will not be imposed on such assignments under this paragraph.)"[3]

When it is determined that an employee is no longer totally disabled from work and is on the periodic rolls, OWCP's procedures provide that the claims examiner should evaluate whether the evidence of record establishes that light-duty work was available within his or her restrictions. The claims examiner should provide a pretermination or prereduction notice if appellant is being removed from the periodic rolls.[4] When the light-duty assignment either ends or is no longer available, the claimant should be returned to the periodic rolls if medical evidence supports continued disability.[5]

OWCP's procedures further advise: "If there still would have been wage loss if the claimant had accepted the light-duty assignment, the claimant remains entitled to compensation benefits based upon the temporary actual earnings WEC [wage-earning capacity] calculation (just as if he/she had accepted the light-duty assignment)."[6]

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to reduce appellant's wage-loss compensation, effective August 15, 2025, because she refused an offer of suitable work, pursuant to 20 C.F.R. § 10.500(a).

The Board is unable to determine from the current record whether its reduction of her benefits is proper under 20 C.F.R. § 10.500(a) since it cannot be established whether she had been offered a temporary or a permanent employment position. OWCP's procedures require that when an employing establishment provides an alternate employment position to a partially disabled employee who cannot perform his or her date-of-injury position, it must be determined whether the offered position is permanent or temporary in nature. If the employment offered to an employee on the periodic rolls is temporary and the employee does not accept the position, section 20 C.F.R. § 10.500(a) applies. However, if the offered employment is permanent in nature and the employee does not accept the position the penalty provisions under 5 U.S.C. § 8106(c) apply.[7]

The evidence of record contains a February 21, 2025 written job offer for a position of "modified city carrier" beginning February 28, 2025. The job offer noted the duties and physical requirements of the modified assignment. OWCP subsequently issued a proposed reduction of wage-loss compensation on June 6, 2025. It noted that appellant had been provided with a "temporary light[-]duty assignment as a modified city carrier" on February 21, 2025. The Board

[3] 20 C.F.R. § 10.500(a).

[4] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Job Offers and Return to Work*, Chapter 2.814.9(c)(1) (June 2013).

[5] *Id.*

[6] *Id*. at Chapter 2.814.9(c)(8).

[7] *Id*. at Chapter 2.814.4.

finds, however, that at the time of the offer, there is no documentation of record supporting that the offered assignment was temporary in nature.[8] The February 21, 2025 job offer did not indicate whether the position was temporary, and the employing establishment did not provide a cover letter advising appellant or OWCP of whether the modified city carrier position was temporary or permanent.

As it cannot be established that appellant's job offer was a temporary position, OWCP has not met its burden of proof to reduce wage-loss compensation pursuant to 20 C.F.R. § 10.500(a).[9]

CONCLUSION

The Board finds that OWCP did not meet its burden of proof to reduce appellant's wage-loss compensation, effective August 15, 2025 pursuant to 20 C.F.R. § 10.500(a).

ORDER

IT IS HEREBY ORDERED THAT the August 15, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: December 3, 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

[8] *See C.C.,* Docket No. 19-0241 (issued August 12, 2019) (the Board reversed the termination of a claimant's wage-loss compensation benefits under 20 C.F.R. § 10.500 because it was unclear from the record whether the assignment offered to the claimant on the periodic rolls was temporary in nature).

[9] *M.B.,* Docket No. 24-0478 (issued June 5, 2024); *R.S.,* Docket No. 20-1004 (issued March 15, 2021); *see C.W.,* Docket No. 18-1779 (issued May 6, 2019).