

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

<p>M.G., Appellant</p> <p>and</p> <p>DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION, FEDERAL AIR MARSHAL SERVICE, Hanover, MD, Employer</p>)))))))	Docket No. 25-0427 Issued: July 22, 2025
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Appearances:

Daniel DeCiccio, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ISSUE

The issue is whether appellant has met his burden of proof to establish total disability from work commencing December 17, 2023, causally related to his accepted July 18, 2023 employment injury.

FACTUAL HISTORY

On August 21, 2023 appellant, then a 57-year-old general inspection, investigation, and compliance agent filed a traumatic injury claim (Form CA-1) alleging that on July 21, 2023 he injured his right foot and mid to lower back when he pulled a bag out of the overhead compartment on an airplane and collided with a passenger while in the performance of duty.⁴ His supervisor indicated on the claim form that the date of injury was July 18, 2023, not July 21, 2023, that appellant had not stopped work, and that no time lost had been claimed.

A report of work status (Form CA-3) indicated that on July 28, 2023 appellant accepted an employing establishment job offer and returned to full-time modified-duty work with restrictions. The job offer noted that the position was located at the Baltimore, Maryland field office, and required sitting, standing, answering telephones, light clerical work, and monitoring the reception area with restrictions including, no driving of a government vehicle and no firearms training allowed.

On December 5, 2023 OWCP accepted appellant's claim for sprain of the cervical spine; sprain of the lumbar spine; sprain of the right foot; and temporary aggravation of tarsal tunnel syndrome, right lower limb.

On January 2, 2024 appellant filed a claim for compensation (Form CA-7) for disability from work for the period December 30, 2023 through March 31, 2024. His supervisor also noted on the claim form that appellant had stopped work on December 17, 2023 and remained in a leave without pay status until December 30, 2023.

OWCP subsequently received treatment notes dated November 7, 2023 through January 2, 2024 from appellant's physical therapists and acupuncturist.

OWCP also received magnetic resonance imaging (MRI) scans of appellant's cervical spine and right foot, and an x-ray of his right foot dated December 20, 2023.

In a development letter dated January 9, 2024, OWCP informed appellant of the deficiencies of his claim disability from work commencing December 17, 2023. It advised him of the type of medical evidence needed to establish his claim and afforded him 30 days to submit the necessary evidence.

⁴ OWCP assigned the present claim OWCP File No. xxxxxxx590. Appellant has prior claims before OWCP. Under OWCP File No. xxxxxxx782, OWCP accepted that on July 7, 2013 appellant sustained a sprain of back, lumbar region. Under OWCP File No. xxxxxxx024, appellant filed a traumatic injury claim for a low back injury sustained on September 11, 2016. Under OWCP File No. xxxxxxx794, OWCP accepted that on December 17, 2019 appellant sustained a lumbar strain. Under OWCP File No. xxxxxxx267, it accepted that on February 23, 2022 he sustained cellulitis of the left lower limb. OWCP has administratively combined OWCP File Nos. xxxxxxx856, xxxxxxx782, xxxxxxx024, xxxxxxx794, and xxxxxxx267, with OWCP File No. xxxxxxx590 serving as the master file.

OWCP thereafter received additional treatment notes dated September 12, 2023 through January 24, 2024 from appellant's physical therapists and acupuncturist.

In a January 15, 2024 note, Dr. Joseph Thomas, an attending physician Board-certified in preventive and occupational medicine, noted the accepted conditions of cervical and lumbar spine strains, right foot sprain, and right tarsal tunnel syndrome. He diagnosed additional conditions of cervical and lumbar disc disorder, and cervical and lumbar radiculopathy. Dr. Thomas concluded that appellant had not reached maximum medical improvement (MMI) as he still required multiple medical interventions. In a separate note of even date, he referred appellant for acupuncture to treat his accepted conditions.

In a follow-up letter dated February 20, 2024, OWCP informed appellant that the evidence remained insufficient to establish his claim for disability from work commencing December 17, 2023. It again advised him of the type of medical evidence needed to establish his claim and afforded him 30 days 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.

On February 20, 2024 appellant informed OWCP that he had worked light duty since the July 2023 employment injury. He further explained that he did not know why he had stopped light-duty work on December 17, 2023.

OWCP thereafter received additional notes dated February 19 and March 25, 2024, wherein Dr. Thomas again noted the accepted conditions of cervical and lumbar spine strains, right foot sprain, and right tarsal tunnel syndrome. Dr. Thomas also repeated the additional diagnoses of cervical and lumbar disc disorder, and cervical and lumbar radiculopathy. He advised that appellant could perform sedentary work, and he related that the employing establishment had placed appellant on leave. In accompanying duty status reports (Form CA-17) of even dates, Dr. Thomas restated his diagnoses of the accepted conditions and found that appellant could work eight hours per day with restrictions.

Appellant continued to file CA-7 forms, claiming compensation through March 26, 2024.

By decision dated March 27, 2024, OWCP denied appellant's claim for wage-loss compensation, finding that the medical evidence of record was insufficient to establish total disability from work commencing December 17, 2023, causally related to his accepted July 18, 2023 employment injury.

On April 15, 2024 Dr. Thomas requested expansion of the acceptance of appellant's claim to include cervical and lumbar disc disorder. In a note and accompanying Form CA-17 dated April 15, 2024, he reiterated that appellant was unable to perform his regular work, but found that he could work eight hours per day with restrictions.

In a Form CA-3, the employing establishment indicated that appellant returned to full-time modified-duty work with restrictions on May 9, 2024.

In an affidavit dated May 9, 2024, appellant related that he had not worked since July 22, 2023 in any capacity. He alleged that the limited-duty assignments he was offered were unsigned and undated, and he never signed a limited-duty offer.

On May 17, 2024 appellant, through counsel, requested reconsideration of the March 27, 2024 disability decision. He also requested expansion of the acceptance of the claim to include cervical disc disorder, unspecified cervical region; cervical radiculopathy; lumbar intervertebral disc disorder; and lumbar radiculopathy. In support thereof, counsel submitted additional medical evidence from Dr. Thomas. In a May 14, 2024 narrative medical statement, Dr. Thomas opined that appellant's diagnoses of cervical disc disorder, unspecified, unspecified cervical region; radiculopathy, cervical region; other intervertebral disc disorder, lumbar region; and radiculopathy, lumbar region, were directly caused by his accepted July 18, 2023 employment injury. He further opined that appellant was temporarily totally disabled from work during the period July 22, 2023 through February 18, 2024 as he was on a complete no-work status. Dr. Thomas further noted that appellant was prohibited from carrying a firearm since he was on muscle relaxers and narcotic medication for pain relief.

In a November 13, 2023 Form CA-17, Dr. Thomas advised that appellant was off work until his follow-up evaluation in four months. In CA-17 forms dated February 19 and March 25, 2024, he continued to opine that appellant was unable to perform his regular work, but appellant could work eight hours per day with restrictions.

OWCP subsequently received a May 27, 2024 attending physician's report (Form CA-20), wherein Dr. Thomas reiterated that appellant sustained the additional conditions of cervical and lumbar disc disorder and cervical and lumbar radiculopathy causally related to his July 18, 2023 employment injury. Additionally, Dr. Thomas found that appellant was partially disabled from work commencing February 19, 2024.

In a March 25, 2024 note, Dr. Thomas continued to opine that appellant could perform limited-duty work with restrictions.

By decision dated July 10, 2024, OWCP denied modification of the March 27, 2024 decision.

Following further development, by decision dated September 5, 2024, OWCP expanded the acceptance of appellant's claim to include cervical and lumbar disc disorder.

On March 5, 2025 appellant, through counsel, requested reconsideration of the July 10, 2024 disability decision. In support thereof, he submitted a February 25, 2025 narrative supplemental medical statement, wherein Dr. Thomas opined that based on appellant's accepted cervical and lumbar spinal disc conditions, he was temporarily totally disabled from work during the period December 18, 2023 through March 26, 2024. Dr. Thomas again noted that appellant's disability during the claimed period was due to being prohibited from carrying a firearm since he was on muscle relaxers and narcotic medication for pain relief. He concluded that he continued to require medical care and treatment for his accepted conditions.

OWCP subsequently received additional medical evidence, including a March 10, 2025 Form CA-17, wherein Dr. Thomas released appellant to return to full-duty work with no restrictions.

By decision dated March 13, 2025, OWCP denied modification of the July 10, 2024 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁵ has the burden of proof to establish the essential elements of his or her claim,⁶ including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁷ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.⁸ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.⁹

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.¹⁰

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 appellant, 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.¹¹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish total disability from work commencing December 17, 2023, causally related to his accepted July 18, 2023 employment injury.

In his November 13, 2023 Form CA-17, Dr. Thomas diagnosed the accepted cervical and lumbar spine and right lower limb conditions, and placed appellant off work until his follow-up evaluation in four months. Dr. Thomas' report addressed a portion of the claimed period of disability; however, he did not provide an opinion regarding causal relationship. Likewise, in his January 15, 2024 report, Dr. Thomas related that appellant had not reached MMI, but did not

⁵ *Supra* note 2.

⁶ See *L.S.*, Docket No. 18-0264 (issued January 28, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019).

⁷ See *S.F.*, Docket No. 20-0347 (issued March 31, 2023); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ *T.W.*, Docket No. 19-1286 (issued January 13, 2020).

⁹ *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291-92 (2001).

¹⁰ *D.G.*, Docket No. 18-0825 (issued December 10, 2018); *L.J.*, Docket No. 17-1342 (issued April 13, 2018); *Terry R. Hedman*, 38 ECAB 222 (1986).

¹¹ See *B.P.*, Docket No. 23-0909 (issued December 27, 2023); *D.W.*, Docket No. 20-1363 (issued September 14, 2021); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

address appellant's disability status. The Board has held that medical evidence that does not offer an opinion addressing whether the claimed disability is causally related to the accepted employment-related conditions is of no probative value.¹² Therefore, this evidence is insufficient to establish appellant's disability claim.

Dr. Thomas, in his CA-17 forms and notes dated February 19, March 25, and April 15, 2024, reiterated his diagnoses and opined that while appellant was unable to perform his regular work, he could perform sedentary work, eight hours per day with restrictions. In his May 27, 2024 Form CA-20, he found that appellant was partially disabled from work commencing February 19, 2024. However, Dr. Thomas did not provide an opinion on causal relationship. As explained above, medical evidence that does not offer an opinion addressing whether the claimed disability is causally related to the accepted employment-related conditions is of no probative value.¹³ Therefore, these reports are insufficient to establish appellant's disability claim.

In narrative reports dated May 14, 2024 and February 25, 2025, Dr. Thomas opined that appellant was temporarily totally disabled from work for the period July 22, 2023 through March 26, 2024. He noted that appellant was on muscle relaxers and narcotic medication for pain relief and was prohibited from carrying a firearm at that time. Dr. Thomas diagnosed the accepted conditions of sprain of the cervical and lumbar spines and right foot, right tarsal tunnel syndrome of the right lower limb, cervical and lumbar disc disorder, and cervical and lumbar radiculopathy. Although he provided an opinion that appellant was totally disabled from work during the claimed period, he did not provide sufficient rationale to explain how his accepted conditions resulted in the claimed disability. The modified work appellant was assigned was located in a field office, was sedentary in nature, and did not indicate that carrying a firearm was necessary. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain sufficient medical rationale explaining causal relationship between the claimed disability and the accepted employment injury.¹⁴ Therefore, Dr. Thomas' narrative reports are insufficient to establish appellant's disability claim.

Appellant also submitted reports from physical therapists and an acupuncturist. However, certain healthcare providers such as physician assistants, nurses, and physical therapists are not considered physicians as defined under FECA.¹⁵ Consequently, their medical findings and/or

¹² See *A.J.*, Docket No. 25-0250 (issued May 27, 2025); *N.W.*, Docket No. 25-0270 (issued April 7, 2025); *M.T.*, Docket No. 24-0465 (issued September 27, 2024); *A.O.*, Docket No. 24-0382 (issued May 16, 2024); *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *Id.*

¹⁴ See *J.R.*, Docket No. 23-0215 (issued July 28, 2023); *H.A.*, Docket No. 20-1555 (issued December 22, 2022); *S.K.*, Docket No. 19-0272 (issued July 21, 2020); *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹⁵ 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); *G.R.*, Docket No. 25-0540 (issued June 26, 2025) (physical therapists are not considered physicians under FECA); *G.P.*, Docket No. 24-0763 (issued October 11, 2024) (acupuncturists are not considered physicians under FECA).

opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹⁶ Therefore, this evidence is insufficient to establish appellant's disability claim.

The remainder of the evidence of record consisted of diagnostic study reports. However, diagnostic studies, standing alone, lack probative value on causal relationship as they do not address whether employment factors caused the diagnosed condition or any period of disability.¹⁷

As the medical evidence of record is insufficient to establish that appellant was totally disabled during the claimed period of disability, the Board finds that he has not met his 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 his burden of proof to establish total disability from work commencing December 17, 2023, causally related to his accepted July 18, 2023 employment injury.

¹⁶ See *id.*

¹⁷ *A.J.*, *supra* note 12; *T.Y.*, Docket No. 25-0255 (issued April 2, 2025); *B.O.*, Docket No. 25-0049 (issued January 10, 2025); *A.D.*, Docket No. 24-0770 (issued October 22, 2024); *T.L.*, Docket No. 22-0881 (issued July 17, 2024); *C.S.*, Docket No. 19-1279 (issued December 30, 2019).

ORDER

IT IS HEREBY ORDERED THAT the March 13, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 22, 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