

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

P.F., Appellant)
and) **Docket No. 25-0570**
U.S. POSTAL SERVICE, MID-ISLAND) **Issued: July 3, 2025**
PROCESSING & DISTRIBUTION CENTER,)
Melville, NY, Employer)

Appearances:

Thomas S. Harkins, Esq., for the appellant¹
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 May 22, 2025 appellant, through counsel, filed a timely appeal from two December 4, 2024 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ 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.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that OWCP received additional evidence following the December 4, 2024 decisions. However, 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 at the time of its final decision 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.*

ISSUES

The issues are: (1) whether OWCP properly denied authorization for bilateral wrist endoscopic carpal tunnel release; and (2) whether OWCP properly denied appellant's December 26 and 27, 2023 requests for authorization of continued therapeutic exercises and manual therapy.

FACTUAL HISTORY

On July 16, 2019 appellant, then a 60-year-old tractor trailer operator, filed a traumatic injury claim (Form CA-1) alleging that on July 12, 2019 he sustained bruises and swelling to his head, eyes, back, neck, and arm, and received stitches in his head when he was physically assaulted by two individuals while in the performance of duty. He stopped work on July 12, 2019, and has not returned to work. OWCP initially accepted the claim for mild cognitive impairment; unspecified injury of face; and laceration without foreign body of scalp, initial encounter. It subsequently expanded the acceptance of the claim to include contusion of head; sprain of left rotator cuff capsule, initial encounter; anxiety disorder; impingement syndrome of left shoulder; bursitis of left shoulder; adhesive capsule of left shoulder, and cervical disc disorder. On November 16, 2020 appellant underwent OWCP-authorized left shoulder arthroscopy and rotator cuff repair.

Appellant requested and OWCP authorized numerous periods of physical therapy treatments, following September 18, 2019, which included therapeutic exercises and manual therapy. On November 16, 2023 OWCP authorized therapeutic exercises and manual therapy from November 20 to December 29, 2023.

In a November 20, 2023 report, Dr. Dimitrios Christoforou, an orthopedic hand and upper extremity surgery surgeon, noted that appellant presented with bilateral carpal tunnel syndrome (CTS), following a 2019 work injury. He discussed findings on physical examination and reviewed the results of an electromyogram/nerve conduction velocity (EMG/NCV) study. Dr. Christoforou diagnosed pain in right wrist, right hand, left wrist, and left hand; CTS, right and left upper limbs; and cervicalgia. He noted that the cause and natural history of CTS was unknown. Dr. Christoforou recommended that appellant undergo right and left endoscopic carpal tunnel releases based on his persistent symptoms and failure to achieve relief with nonsurgical treatment measures. He noted that he would first perform the left endoscopic carpal tunnel release.

By decision dated December 8, 2023, OWCP denied authorization for left-wrist endoscopic carpal tunnel release. It explained that the medical evidence of record was insufficient to establish that the proposed surgery was medically necessary for or causally related to appellant's accepted July 12, 2019 employment injury. OWCP noted that his claim had not been accepted for CTS.

On December 27, 2023 OWCP received a note dated December 26, 2023 wherein Richard Abraham, a physician assistant recommended physical therapy for appellant's diagnoses of right and left shoulder pain; sprain of left rotator cuff capsule, subsequent encounter; cervicalgia; sprain of right rotator cuff capsule, initial encounter; and bilateral CTS, two to three times per week for four to six weeks.

OWCP also received a physical therapy note dated December 27, 2023, signed by Brian Becker, a physical therapist. Mr. Becker listed appellant's diagnosis as sprain of right rotator cuff capsule, subsequent encounter, and recommended therapeutic exercises and manual therapy techniques for the right shoulder for 12 weeks to decrease pain.

By decision dated December 28, 2023, OWCP denied the request for physical therapy received on December 27, 2023 finding that the medical evidence of record did not support the necessity of physical therapy treatments as a result of appellant's accepted July 12, 2019 employment injury, as the request was from a physician assistant, and not a physician. It concluded that the request therefore did not contain a medical explanation for the necessity of physical therapy for the treatment of his accepted conditions.

OWCP authorized additional physical therapy treatments, which included therapeutic exercises and manual therapy, from January 15 through May 24, 2024, and from June 6 through July 18, 2024.

OWCP also received progress reports from Dr. Anthony Cappellino, a Board-certified orthopedic surgeon. In a report dated May 9, 2024, Dr. Cappellino diagnosed right and left shoulder pain; sprain of left rotator cuff capsule, subsequent encounter; cervicalgia; sprain of right rotator cuff capsule, initial encounter; and bilateral CTS. He requested authorization for right wrist carpal tunnel release. Dr. Cappellino opined that there was a causal relationship between appellant's accepted employment injury and his orthopedic symptoms.

By decision dated May 17, 2024, OWCP denied authorization for right wrist carpal tunnel release, finding that the medical evidence of record was insufficient to establish that the proposed surgery was medically necessary for or causally related to appellant's July 12, 2019 employment injury. It explained that his claim had not been accepted for right upper limb CTS.

By decision dated May 29, 2024, OWCP expanded the acceptance of appellant's claim to include cervical disc disease based on reports dated February 20, March 13, and April 25, 2024 from Dr. Leon Sultan, a Board-certified orthopedic surgeon, and OWCP's second opinion physician.

OWCP subsequently received additional medical evidence from Dr. Cappellino. In his report dated June 20, 2024, he continued to recommend bilateral CTS release. In the October 15, 2024 report, Dr. Cappellino related that appellant had received a cervical epidural and appellant would be monitored to see if his CTS symptoms improved following the epidural.

On July 19, 2024 OWCP authorized therapeutic exercises and manual therapy for the period July 23 through September 3, 2024.

In an August 16, 2024 report, Mr. Abraham noted appellant's complaint of worsening bilateral CTS which appellant believed may have been related to his cervical spine injury.

On August 30, 2024 OWCP authorized therapeutic exercise and manual therapy from September 5 through October 17, 2024. On October 18, 2024 it authorized therapeutic exercises and manual therapy from October 21 through December 2, 2024. On December 2, 2024 OWCP authorized therapeutic exercises and manual therapy from December 4 through January 15, 2025.

On December 1, 2024 appellant, through counsel, requested reconsideration of the December 8 and 28, 2023 decisions.

By decision dated December 4, 2024, OWCP denied modification of the December 8, 2023 and May 17, 2024 decisions which denied authorization for bilateral wrist endoscopic carpal tunnel release.

In a separate decision also dated December 4, 2024, OWCP denied modification of the December 28, 2023 decision, denying the December 26 and 27, 2023 requests for authorization of physical therapy.

LEGAL PRECEDENT -- ISSUES 1 AND 2

Section 8103(a) of FECA⁴ provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed by or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.⁵ In interpreting this section of FECA, the Board has recognized that OWCP has broad discretion in determining whether a particular type of treatment is likely to cure or give relief.⁶ The only limitation on OWCP's authority is that of reasonableness.⁷

While OWCP is obligated to pay for treatment of employment-related conditions, appellant has the burden of proof to establish that the expenditures were incurred for treatment of the effects of an employment-related injury or condition.⁸ Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.⁹ In order for a surgical procedure to be authorized, appellant must establish that the procedure was for a condition causally related to the employment injury and that the procedure was medically warranted.¹⁰ Both of these criteria must be met in order for OWCP to authorize payment.¹¹

⁴ 5 U.S.C. § 8103(a).

⁵ *Id.*; see *S.T.*, Docket No. 24-0571 (issued June 14, 2024); *C.L.*, Docket No. 24-0249 (issued April 15, 2024); *J.K.*, Docket No. 20-1313 (issued May 17, 2021); *Thomas W. Stevens*, 50 ECAB 288 (1999).

⁶ *S.T.*, *id.*; *C.L.*, *id.*; *R.C.*, Docket No. 18-0612 (issued October 19, 2018); *W.T.*, Docket No. 08-812 (issued April 3, 2009).

⁷ *S.T.*, *id.*; *C.L.*, *id.*; *D.C.*, Docket No. 18-0080 (issued May 22, 2018); *Mira R. Adams*, 48 ECAB 504 (1997).

⁸ *G.C.*, Docket No. 25-0104 (issued March 4, 2025); *J.M.*, Docket No. 20-0565 (issued November 5, 2020); *S.T.*, *id.*; *C.L.*, *id.*; *R.M.*, Docket No. 19-1319 (issued December 10, 2019); *J.T.*, Docket No. 18-0503 (issued October 16, 2018); *Debra S. King*, 44 ECAB 203, 209 (1992); *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981).

⁹ *S.T.*, *id.*; *C.L.*, *id.*; *K.W.*, Docket No. 18-1523 (issued May 22, 2019); *C.L.*, Docket No. 17-0230 (issued April 24, 2018); *M.B.*, 58 ECAB 588 (2007); *Bertha L. Arnold*, 38 ECAB 282 (1986).

¹⁰ *S.T.*, *id.*; *C.L.*, *id.*; *T.A.*, Docket No 19-1030 (issued November 22, 2019); *Zane H. Cassell*, *supra* note 8; *John E. Benton*, 15 ECAB 48, 49 (1963).

¹¹ *S.T.*, *id.*; *C.L.*, *id.*; *J.L.*, Docket No. 18-0990 (issued March 5, 2019); *R.C.*, 58 ECAB 238 (2006); *Cathy B. Millin*, 51 ECAB 331, 333 (2000).

Abuse of discretion is shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.¹²

ANALYSIS -- ISSUES 1 AND 2

The Board finds that OWCP did not abuse its discretion by denying authorization for bilateral wrist endoscopic carpal tunnel release.

Regarding appellant's request for bilateral wrist surgery, Dr. Christoforou, in a November 20, 2023 report, diagnosed bilateral CTS. He recommended left endoscopic carpal tunnel release, noting that nonsurgical treatment measures had failed. However, Dr. Christoforou failed to explain why the recommended surgical procedure was medically necessary for the treatment of appellant's accepted conditions, which at that time included, *inter alia*, sprain of left rotator cuff capsule and impingement syndrome, bursitis, and adhesive capsule of left shoulder.¹³ As the condition for which surgery was requested was not employment related, the procedure was not medically warranted.¹⁴ Dr. Christoforou's report is, therefore, insufficient to establish that the requested surgical procedure was medically necessary and causally related to the accepted July 12, 2019 employment injury.¹⁵

In a report dated May 9, 2024, Dr. Cappellino diagnosed bilateral CTS and requested authorization for right wrist carpal tunnel release. He opined in general terms that there was a causal relationship between appellant's accepted employment injury and his orthopedic symptoms. In his report dated June 20, 2024, Dr. Cappellino recommended bilateral CTS release. In the October 15, 2024 report, he related that appellant had received a cervical epidural and appellant would be monitored to see if his CTS symptoms improved following the epidural. Although, in his May 9, 2024 report, Dr. Cappellino generally supported causal relationship between appellant's bilateral CTS condition and the July 12, 2019 employment injury, he did not provide sufficient medical rationale explaining how the accepted employment injury caused or contributed to appellant's diagnosed medical condition. The Board has held that a mere conclusion without the necessary rationale could result in the diagnosed condition is insufficient to meet a claimant's burden of proof.¹⁶ By his October 15, 2024 report, Dr. Cappellino

¹² *S.T., id.; C.L., id.; D.S.,* Docket No. 18-0353 (issued February 18, 2020); *E.L.,* Docket No. 17-1445 (issued December 18, 2018); *L.W.,* 59 ECAB 471 (2008); *P.P.,* 58 ECAB 673 (2007); *Daniel J. Perea,* 42 ECAB 214 (1990).

¹³ *E.L.,* Docket No. 24-0898 (issued November 8, 2024); *S.T.,* Docket No. 24-0571 (issued June 14, 2024); *C.L.,* Docket No. 24-0249 (issued April 15, 2024); *K.W.,* *supra* note 9; *C.L.,* Docket No. 17-0230 (issued April 24, 2018); *M.B.,* *supra* note 9; *Bertha L. Arnold,* *supra* note 9.

¹⁴ *E.L., id.; R.C.,* Docket No. 21-1018 (issued September 1, 2023); *R.P.,* Docket No. 22-1349 (issued June 12, 2023); *J.B.,* Docket No. 21-0854 (issued May 18, 2023); *D.L.,* Docket No. 22-0161 (issued March 10, 2023); *D.S.,* Docket No. 19-1698 (issued June 18, 2020).

¹⁵ See *E.L., id.; J.B., id.; M.M.,* Docket No. 19-0563 (issued August 1, 2019); *T.A.,* *supra* note 10; *N.G.,* Docket No. 18-1340 (issued March 6, 2019); *Cathy B. Millin,* *supra* note 11.

¹⁶ See *A.P.,* Docket No. 19-0224 (issued July 11, 2019).

questioned whether appellant's CTS symptoms may improve following his cervical epidural, he did not provide further rationale supporting bilateral wrist surgery.

In an August 16, 2024 report, Mr. Abraham, a physician assistant, related appellant's complaint of worsening bilateral CTS which appellant believed may have been related to his cervical spine injury. However, certain health care providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians under FECA and, therefore, are not competent to provide a medical opinion.¹⁷

The Board also finds that OWCP properly denied appellant's December 26 and 27, 2023 requests for therapeutic exercises and manual physical therapy.

On December 27, 2023 OWCP received a December 26, 2023 report from a physician assistant, and a December 27, 2023 report signed by a physical therapist, requesting authorization for physical therapy treatment. However, as they are not physicians, these reports do not constitute medical evidence under FECA¹⁸ and are of no probative value on the medical issue of this case. Consequently, these reports will not suffice for purposes of establishing entitlement to FECA benefits.

The only limitation on OWCP's authority to authorize medical treatment is one of reasonableness.¹⁹ As none of the medical evidence of record explained how the proposed bilateral wrist surgery and requested continued physical therapy were medically necessary and causally related to an accepted condition under this claim, the Board finds that OWCP acted reasonably in denying appellant's requests for authorization.²⁰

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 properly denied authorization for bilateral wrist endoscopic carpal tunnel release, therapeutic exercises, and manual therapy.

¹⁷ 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); J.M., Docket No. 20-0396 (issued April 9, 2021) (physician assistants are not considered physicians as defined under FECA); P.G., Docket No. 10-1052 (issued December 22, 2010) (physician assistants and physical therapists are not considered physicians under FECA). *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).

¹⁸ *Id.*

¹⁹ *Supra* note 8.

²⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the December 4, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 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