

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

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<b>G.R., Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 25-0540</b>
	)	<b>Issued: June 26, 2025</b>
<b>U.S. POSTAL SERVICE, POST OFFICE, Birmingham, AL, 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:

PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On May 13, 2025 appellant, through counsel, filed a timely appeal from an April 15, 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.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish disability from work during the period July 8, 2022 through September 26, 2024, causally related to the accepted April 19, 2020 employment injury.

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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.*

## **FACTUAL HISTORY**

This case has previously been before the Board.<sup>3</sup> The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On April 21, 2020 appellant, then a 39-year-old assistant rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on April 19, 2020 she sprained her back while in the performance of duty.<sup>4</sup> Appellant stopped work on that date.<sup>5</sup>

By decision dated July 20, 2020, OWCP denied appellant's claim. It accepted that the April 19, 2020 incident occurred as alleged and that a lumbar condition had been diagnosed; however, it denied her claim finding that she had failed to establish causal relationship between the accepted employment incident and the diagnosed condition.

On July 24, 2020 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on October 5, 2020.

By decision dated November 24, 2020, OWCP's hearing representative modified the July 20, 2020 decision to find that the medical evidence of record did not include medical evidence containing a diagnosis in connection with the accepted April 19, 2020 employment incident. Thus, the hearing representative found that appellant did not establish an injury or condition under FECA.

On May 7, 2021 appellant requested reconsideration of her claim and submitted additional evidence. By decision dated June 22, 2021, OWCP denied modification of the November 24, 2020 decision.

Appellant, through counsel, appealed to the Board and, by decision dated March 17, 2022,<sup>6</sup> the Board reversed OWCP's June 22, 2021 decision in part, finding that appellant submitted medical evidence diagnosing medical conditions in connection with the accepted April 19, 2020 employment incident. The Board also set aside OWCP's June 22, 2021 decision in part, finding that the case was not in posture for decision regarding whether the diagnosed medical conditions were causally related to the accepted April 19, 2020 employment incident. The Board remanded the case for OWCP to issue a *de novo* decision on this matter.

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<sup>3</sup> Docket No. 21-1195 (issued March 17, 2022).

<sup>4</sup> OWCP assigned the present claim OWCP File No. xxxxxx088. Appellant has a previously-accepted traumatic injury claim related to a June 23, 2019 employment incident. OWCP assigned that claim OWCP File No. xxxxxx684 and accepted it for lumbar back strain. Appellant also has a traumatic injury claim under OWCP File No. xxxxxx425, wherein she alleged a back injury related to a September 18, 2020 employment incident. However, OWCP denied that claim. OWCP has administratively combined OWCP File Nos. xxxxxx088, xxxxxx425, and xxxxxx684, with the latter designated as the master file.

<sup>5</sup> Appellant retired from the employing establishment, effective May 19, 2023.

<sup>6</sup> *Supra* note 3.

On May 5, 2022 OWCP accepted appellant's claim for cervicalgia, spinal instabilities of the thoracolumbar region, intervertebral disc degeneration of the lumbar region, and lumbar radiculopathy.

On March 14, 2023 OWCP paid appellant wage-loss compensation on the supplemental rolls for disability from work during the periods April 19 through September 11, 2020, and November 8, 2020 through July 7, 2022.

On September 26, 2024 appellant filed a claim for compensation (Form CA-7) for disability from work during the period July 8, 2022 through September 26, 2024.<sup>7</sup>

Appellant subsequently submitted an August 19, 2024 note, wherein Dr. George G. Thomas, a Board-certified family medicine physician, assessed "difficulty in walking" and ordered a rolling walker for appellant, noting that it was medically necessary due to the condition of spondylosis.

In a September 4, 2024 report, Dr. Robert Agee, an osteopath and Board-certified family medicine physician, detailed the findings of his physical examination on that date, noting that appellant had tenderness to palpation of the L4-S1 lumbar paraspinal muscles, 3/5 strength in both lower extremities, and restricted range of motion (ROM) of the lumbar spine due to balance issues and discomfort. He diagnosed strain of muscle, fascia, and tendon of the lower back, intervertebral disc displacement of the lumbar region, and intervertebral disc disorders of the lumbosacral region. Dr. Agee reported that appellant sustained an injury to her lower lumbar region, which led to ongoing symptoms of muscle tightness, decreased ROM, and chronic lumbar discomfort. He advised that she suffered a stroke, resulting in neurological issues such as slurred speech and balance difficulties, and that she used a cane for assistance with mobility. Dr. Agee opined that the "combination of her lumbar injury and stroke-related neurological deficits" rendered her totally disabled and noted that, "[t]he rationale for this disability includes her limited mobility, impaired speech, and the need for ongoing therapeutic interventions to maintain her quality of life."

In a September 25, 2024 attending physician's report (Form CA-20), Dr. Agee opined that appellant sustained the diagnoses of intervertebral disc degeneration, lumbar radiculopathy, cervicalgia, intervertebral disc displacement, and thoracolumbar spinal instabilities due to lifting a heavy box at work. He indicated that she was partially disabled from work and he listed March 5, 2021 as the date disability commenced.

In an October 8, 2024 development letter, OWCP notified appellant of the deficiencies of her disability claim and advised her of the type of evidence needed. It afforded her 30 days to submit the necessary evidence.

Appellant submitted an October 30, 2024 requested service document, wherein Dr. Agee listed the injury as "lifting overtime-repetitive work injury" and diagnosed disc displacement and thoracolumbar instability. She also submitted an unsigned June 1, 2020 continuity of care report

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<sup>7</sup> Appellant's Form CA-7 noted July 7, 2022 as the beginning date of the claimed period of disability. However, OWCP had already authorized payment of wage-loss compensation for disability on that date. Therefore, her disability claim was effectively for the period July 8, 2022 through September 26, 2024.

and an incomplete and unsigned November 17, 2024 report indicating that she was seen at a hospital on that date for neuropathy and low back pain.

By decision dated December 3, 2024, OWCP denied appellant's disability claim, finding that the medical evidence of record was insufficient to establish disability from work during the period July 8, 2022 through September 26, 2024, causally related to the accepted April 19, 2020 employment injury.

On December 12, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on March 5, 2025.

After the March 5, 2025 hearing, OWCP received additional evidence. The findings of July 28, 2022 electromyogram/nerve conduction velocity (EMG/NCV) testing of appellant's upper and lower extremities revealed no evidence of diffuse sensorimotor peripheral neuropathy in the upper or lower extremities; no evidence of lumbar or cervical radiculopathy; and no evidence of carpal tunnel syndrome, ulnar neuropathy or tardy ulnar palsy in the upper extremities.

In a March 19, 2023 report, Dr. Thomas reported physical examination findings, including normal gait and normal movement of all extremities. He diagnosed difficulty walking, disturbance in speech, degeneration of cervical intervertebral disc, and essential hypertension. Appellant also submitted an incomplete and unsigned March 23, 2023 report of a physical examination conducted on that date.

In a June 22, 2023 report, Dr. Timothy Holt, a Board-certified orthopedic surgeon, reported the findings of his physical examination, including positive Spurling's sign in the cervical spine and limited ROM motion of the upper extremities. He diagnosed cervical radiculopathy, sacrococcygeal disorders, history of transient ischemic attack and cerebral infarction without residual deficits, headache, anxiety disorder, depression, and essential hypertension.

In an August 1, 2025 report, Dr. Holt noted that, upon physical examination, appellant's ROM was limited but motor strength was 5/5 and straight leg raising was negative. He diagnosed arthrodesis status, history of transient ischemic attack and cerebral infarction without residual deficits, headache, anxiety disorder, depression, and essential hypertension.

Appellant submitted physical therapy reports by Mr. Gustafson dated September 5, 2022 through October 31, 2024.

By decision dated April 11, 2025, OWCP's hearing representative affirmed the December 3, 2024 decision.

On April 14, 2025 appellant, through counsel, requested reconsideration of the April 11, 2025 decision and submitted additional evidence.

In an April 4, 2025 addendum report, Dr. Thomas noted that appellant was seen on July 13, August 30, May 23, June 6, and December 27, 2023, and March 19 and August 19, 2024, and February 12, 2025. Dr. Thomas advised that, on these visits, she continued to have persistent back pain and difficulty walking. He indicated that appellant was referred for physical therapy and was also referred to a neurosurgeon for evaluation and treatment.

By decision dated April 15, 2025, OWCP denied modification of the April 11, 2025 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>8</sup>

Under FECA the term “disability” means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.<sup>9</sup> Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.<sup>10</sup> An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.<sup>11</sup> When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.<sup>12</sup>

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 the claimant, 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.<sup>13</sup>

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.<sup>14</sup>

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<sup>8</sup> *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>9</sup> 20 C.F.R. § 10.5(f).

<sup>10</sup> See *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

<sup>11</sup> See *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

<sup>12</sup> See *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

<sup>13</sup> *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

<sup>14</sup> *K.A.*, Docket No. 19-1564 (issued June 3, 2020); *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work during the period July 8, 2022 through September 26, 2024, causally related to the accepted April 19, 2020 employment injury.

In a September 4, 2024 report, Dr. Agee diagnosed strain of muscle, fascia, and tendon of the lower back, intervertebral disc displacement of the lumbar region, and intervertebral disc disorders of the lumbosacral region. He reported that appellant sustained an injury to her lower lumbar region, which led to ongoing symptoms of muscle tightness, decreased ROM, and chronic lumbar discomfort. Dr. Agee advised that she suffered a stroke, resulting in neurological issues such as slurred speech and balance difficulties. He indicated that appellant presently used a cane for assistance with mobility. Dr. Agee opined that the “combination of her lumbar injury and stroke-related neurological deficits” rendered her totally disabled from work. He further noted that, “[t]he rationale for this disability includes her limited mobility, impaired speech, and the need for ongoing therapeutic interventions to maintain her quality of life.” In a September 25, 2024 Form CA-20, he opined that appellant sustained the diagnoses of intervertebral disc degeneration, lumbar radiculopathy, cervicalgia, intervertebral disc displacement, and thoracolumbar spinal instabilities due to lifting a heavy box at work. Dr. Agee indicated that she was partially disabled from work as of March 5, 2021. However, he did not provide rationale explaining how the accepted employment injury caused disability from work during the claimed period. The Board has held that reports that do not contain medical rationale explaining how the accepted employment injury caused or contributed to the claimed disability are of limited probative value regarding causal relationship.<sup>15</sup> Therefore, this evidence is insufficient to establish appellant’s disability claim.

Appellant also submitted a March 19, 2023 report, wherein Dr. Thomas assessed difficulty walking, disturbance in speech, degeneration of cervical intervertebral disc, and essential hypertension. In a June 22, 2023 report, Dr. Holt diagnosed cervical radiculopathy, sacrococcygeal disorders, history of transient ischemic attack and cerebral infarction without residual deficits, headache, anxiety disorder, depression, and essential hypertension. In an August 1, 2024 report, Dr. Thomas diagnosed arthrodesis status, history of transient ischemic attack and cerebral infarction without residual deficits, headache, anxiety disorder, depression, and essential hypertension. In an August 19, 2024 note, he assessed “difficulty in walking” and ordered a rolling walker for appellant, noting that it was medically necessary due to the condition of spondylosis. In an October 30, 2024 requested service document, Dr. Agee listed the injury as “lifting overtime-repetitive work injury” and diagnosed disc displacement and thoracolumbar instability. In an April 4, 2025 report, Dr. Thomas indicated that appellant was seen on intermittent occasions from July 13, 2023 to February 12, 2025. He advised that, on these visits, she continued to have persistent back pain and difficulty walking. Dr. Thomas indicated that appellant was referred for physical therapy and was also referred to a neurosurgeon for evaluation and treatment.<sup>16</sup> None of these reports, however, contain an opinion regarding disability from

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<sup>15</sup> See *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017). See also *L.G.*, Docket No. 19-0142 (issued August 8, 2019) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

<sup>16</sup> This report also contained clinical notations Dr. Thomas made on July 2, 2020, February 19, 2021, and March 22, 2022.

work during the period July 8, 2022 through September 26, 2024, causally related to the accepted April 19, 2020 employment injury. 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>17</sup> Therefore, this evidence is insufficient to establish appellant's disability claim.

OWCP also received the July 28, 2022 EMG/NCV testing of the upper and lower extremities. However, diagnostic studies, standing alone, lack probative value as they do not address whether an accepted employment condition caused the claimed disability.<sup>18</sup>

Also of record are an unsigned June 1, 2020 continuity of care report, an incomplete and unsigned March 23, 2023 report of a physical examination conducted on that date, and an incomplete and unsigned November 17, 2024 report indicating that she was seen at a hospital on that date. The Board has held that unsigned reports and reports that bear illegible signatures lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.<sup>19</sup> Thus, these reports are of no probative value and are insufficient to establish appellant's disability claim.

In reports dated September 5, 2022 through October 31, 2024, Mr. Gustafson, a physical therapist, noted that appellant received physical therapy treatment. However, certain healthcare providers such as physician assistants, nurses, and physical therapists are not considered physicians as defined under FECA.<sup>20</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>21</sup> Therefore, this evidence is insufficient to establish appellant's disability claim.

As the medical evidence of record is insufficient to establish causal relationship between the claimed period of disability and the accepted April 19, 2020 employment injury, the Board finds that appellant 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.

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<sup>17</sup> See *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).

<sup>18</sup> See *A.V.*, Docket No. 19-1575 (issued June 11, 2020).

<sup>19</sup> See *B.S.*, Docket No. 22-0918 (issued August 29, 2022); *S.D.*, Docket No. 21-0292 (issued June 29, 2021); *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

<sup>20</sup> 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); *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (physical therapists are not considered physicians under FECA).

<sup>21</sup> See *id.*

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish disability from work during the period July 8, 2022 through September 26, 2024, causally related to the accepted April 19, 2020 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 15, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 26, 2025  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board