

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

the claim for post-traumatic stress disorder and recurrent depressive disorder. It paid her wage-loss compensation on the supplemental rolls commencing November 9, 2018 and on the periodic rolls commencing March 31, 2019.

By decision dated June 15, 2020, OWCP terminated appellant's entitlement to wage-loss and schedule award compensation benefits, effective that date, because she refused to work after suitable work had been provided, pursuant to 5 U.S.C. § 8106(c)(2).

On May 17, 2024, appellant filed a notice of recurrence (Form CA-2a), claiming disability from work commencing that same date due to a worsening of her accepted employment-related conditions. Appellant's supervisor indicated on the claim form that on May 17, 2024 appellant reported that she was seeking medical treatment for a "run in" with a respondent a month or two prior.

OWCP subsequently received a May 30, 2024 work status report, wherein Dr. Hardeep Kaur Singh, an osteopathic physician specializing in psychiatry, advised that appellant had been placed on modified activity at work and home from May 31 through June 13, 2024. Dr. Singh explained that the restrictions were required as appellant was functioning at 50 percent of her normal concentration and energy.

In a work status report dated July 3, 2024, Dr. Victoria Lim Lee, an osteopath specializing in family medicine, held appellant off work from July 3 through 4, 2024.

In a July 7, 2024 work status report, Dr. Juan Francisco Tellez, an osteopathic physician specializing in psychiatry, held appellant off work from July 8 through August 9, 2024 because of uncontrolled symptoms.

On July 10, 2024 appellant filed a claim for compensation (Form CA-7) for disability from work during the period May 16 through July 10, 2024.

By decision dated July 15, 2024, OWCP denied appellant's recurrence claim, finding that appellant's claim was open for medical treatment only and that she was not eligible for wage-loss compensation or schedule award benefits, as her entitlement to such benefits was terminated on June 15, 2020, pursuant to 5 U.S.C. § 8106(c)(2).

### **LEGAL PRECEDENT**

Section 8106(c)(2) of FECA provides that a partially disabled employee who refuses or neglects to work after suitable work is offered to, procured by, or secured for the employee is not entitled to compensation.<sup>2</sup> OWCP's regulations provide that after termination of compensation under section 8106(c) of FECA, a claimant has no further entitlement to compensation under sections 8105, 8106, and 8107 of FECA.<sup>3</sup> However, the claimant remains entitled to medical benefits as provided by 5 U.S.C. § 8103.<sup>4</sup> Section 8106(c) of FECA serves as a penalty provision,

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<sup>2</sup> 5 U.S.C. § 8106(c)(2); *see also* *Geraldine Foster*, 54 ECAB 435 (2003).

<sup>3</sup> 20 C.F.R. § 10.517.

<sup>4</sup> *Id.*

which bars an employee's future entitlement to compensation for the same injury based on a refusal to accept a suitable offer of employment.<sup>5</sup>

OWCP's procedures provide, in pertinent part, that, if the claimant does not accept a suitable work offer, the claims examiner should prepare a formal decision which provides full findings of fact as to why the claimant's reasons for refusing the job are deemed unacceptable, and terminate compensation under section 8106(c)(2) of FECA as of the end of the roll period. Such a decision should not be modified even if the claimant's medical condition later deteriorates, and he or she claims a recurrence of disability or a schedule award.<sup>6</sup>

### ANALYSIS

The Board finds that OWCP properly denied appellant's claim for a recurrence of disability commencing May 17, 2024 after her entitlement to wage-loss compensation and schedule award benefits had been terminated for refusal of suitable work, pursuant to 5 U.S.C. § 8106(c)(2).

By decision dated June 15, 2020, OWCP terminated appellant's wage-loss compensation and schedule award benefits, effective that date, because she had refused an offer of suitable work under 5 U.S.C. § 8106(c)(2). On May 17, 2024, appellant filed a notice of recurrence (Form CA-2a), claiming disability from work commencing that same date due to a worsening of her accepted employment-related conditions.

The Board finds that OWCP properly determined that the June 15, 2020 decision terminating appellant's compensation for refusing suitable work precluded any subsequent wage-loss compensation as a result of the September 12, 2018 employment injury.<sup>7</sup> As noted above, section 8106(c) of FECA provides that an employee who refuses suitable work is not entitled to further wage-loss compensation or schedule award benefits.<sup>8</sup> Because OWCP terminated appellant's entitlement to wage-loss compensation and schedule award benefits due to her refusal of suitable work, effective June 15, 2020, she is barred from future entitlement to wage-loss compensation as a result of her September 12, 2018 employment injury.<sup>9</sup> The Board, therefore, finds that OWCP properly denied her recurrence claim.

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<sup>5</sup> *D.J.*, Docket No. 24-0640 (issued August 19, 2024); *E.W.*, Docket No. 19-1711 (issued July 29, 2020); *Joan F. Burke*, 54 ECAB 406 (2003); *Robert Dickerson*, 46 ECAB 1002 (1995).

<sup>6</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Job Offers and Return to Work*, Chapter 2.814.6 (June 2013).

<sup>7</sup> See *E.S.*, Docket No. 20-0706 (issued September 9, 2021 (appellant was not entitled to wage-loss compensation after OWCP had terminated his wage-loss compensation and schedule award benefits for refusal of suitable work); *A.L.*, Docket No. 17-1975 (issued August 21, 2018) (appellant was not entitled to wage-loss compensation after OWCP had terminated her wage-loss and schedule award compensation benefits for refusal of suitable work); see also *A.N.*, Docket No. 16-0230 (issued April 4, 2016) (OWCP properly denied a claimant's recurrence of disability claim on the basis that he or she was not entitled to compensation due to his prior refusal of suitable work).

<sup>8</sup> *Supra* notes 3 and 4.

<sup>9</sup> *T.B.*, Docket No. 17-1761 (issued June 6, 2018); *E.M.*, Docket No. 09-0039 (issued March 3, 2009).

**CONCLUSION**

The Board finds that OWCP properly denied appellant's claim for a recurrence of disability commencing May 17, 2024 after her entitlement to wage-loss compensation and schedule award benefits had been terminated for refusal of suitable work, pursuant to 5 U.S.C. § 8106(c)(2).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 15, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 18, 2025  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board