

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

J.J., Appellant

and

**U.S. POSTAL SERVICE, POLOSI POST
OFFICE, Polosi, MO, Employer**

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Docket No. 25-0340

Issued: March 20, 2025

Appearances:
Appellant, pro se
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 February 26, 2025 appellant filed a timely appeal from a February 7, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work commencing July 13, 2024, causally related to her accepted May 28, 2024 employment injury.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the issuance of the February 7, 2025 decision, OWCP received additional evidence. 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 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.*

FACTUAL HISTORY

On June 5, 2024 appellant, then a 48-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 28, 2024 she injured her right knee and right arm, and experienced pain in her neck, back, and ribs when she tripped over a huge piece of cardboard and fell onto her right knee, right arm, and back while in the performance of duty. She stopped work on the date of injury and returned to full-time, regular-duty work with no restrictions on May 29, 2024. On July 19, 2024 OWCP accepted the claim for right knee contusion and right lower leg muscle strain.

On July 26 and August 13, 2024 appellant filed claims for compensation (Form CA-7) for disability from work during the period July 13 through August 9, 2024.

OWCP received an undated report, reports dated July 12, 2024, and a progress note dated July 26, 2024 signed by Nicole Lane, a certified advanced practice registered nurse, who diagnosed lumbar radiculopathy, right knee effusion, pain in the right knee, myofascial muscle and lumbar facet joint, and lumbago. Ms. Lane indicated that appellant was to remain off work until a magnetic resonance imaging (MRI) scan and lumbar injection had been completed. She subsequently indicated that appellant was unable to work commencing July 12, 2024, and from July 26 through September 23, 2024.

In a July 12, 2024 report, Dr. Jeffrey Lee, an attending Board-certified physiatrist, recounted appellant's complaints of pain in the right knee and myofascial muscle. He also diagnosed lumbago. Dr. Lee advised that appellant was to remain off work until a lumbar spine MRI scan had been completed. In an undated medical evaluation of work status form of even date, he indicated that she was unable to work commencing July 12, 2024 and during the period July 26 through September 23, 2024. On July 26, 2024 Dr. Lee assessed pain in the right knee, lumbar facet joint and myofascial muscle. He indicated that appellant was to remain off work until she had completed a lumbar injection as scheduled.

OWCP received diagnostic studies dated July 19, 2024, including MRI scans of appellant's right knee and lumbar spine.

In an August 5, 2024 report, Dr. Syed Naseeruddin, an attending Board-certified internist, diagnosed right leg muscle strain and right knee contusion. In an accompanying work capacity evaluation (Form OWCP-5c) of even date, he indicated that appellant was unable to work until after a follow-up orthopedic evaluation.

In order forms dated August 13, 2024, Dr. Lee requested an injection in appellant's right knee to treat her assessment of knee pain, and an epidural steroid injection and an injection of anti-inflammatory medication in her lumbar spine (bilateral L3-S1) to treat her assessment of lumbar facet joint pain.

OWCP, in an August 20, 2024 development letter, informed appellant of the deficiencies of her claim for disability from work commencing July 13, 2024. It advised her of the type of medical evidence needed to establish her claim and afforded her 30 days to respond.

Appellant filed additional CA-7 forms claiming compensation for disability from work for the period August 10 through October 4, 2024.

In reports dated September 3 and 30, 2024, Dr. Naseeruddin noted a history of appellant's May 28, 2024 employment injury. He discussed his examination findings, which revealed an unstable gait, and reviewed diagnostic studies. Dr. Naseeruddin restated his prior diagnoses of the accepted conditions of right lower leg strain and right knee contusion. In the September 3, 2024 report, he requested that the acceptance of appellant's claim be expanded to include other intervertebral disc disorders, lumbar region; and strain of muscle, fascia, and tendon of lower back, initial encounter, resulting from her May 28, 2024 employment injury. Dr. Naseeruddin continued to advise that appellant remain off work. In accompanying OWCP-5c forms dated September 3 and 30, 2024, he found that appellant was unable to work until after a follow-up orthopedic evaluation.

In reports dated September 16 and 23, 2024, Ms. Lane reiterated her prior assessments of pain in the right knee, lumbar facet joint and myofascial muscle, and knee joint effusion. She initially indicated that appellant was to remain off work for six to eight weeks until physical therapy was completed. Subsequently, Ms. Lane indicated that appellant was to remain off work until November 19, 2024.

On October 16, 2024 OWCP referred appellant, along with the case record, an October 11, 2024 statement of accepted facts (SOAF), and a series of questions, to Dr. Michael H. Ralph, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine the nature and extent of any employment-related residuals and disability and whether her claim should be expanded to include lumbar conditions. The October 11, 2024 SOAF provided to Dr. Ralph listed appellant's accepted conditions as right knee contusion and right lower leg muscle strain.

OWCP also received an October 22, 2024 report and an undated report, wherein Ms. Lane reiterated her prior assessments and also diagnosed the accepted conditions of right knee contusion and right lower leg strain. She initially noted that appellant was to remain off work for four weeks commencing October 22, 2024 while continuing physical therapy.

On October 22 and November 5, 2024 appellant filed additional CA-7 forms claiming compensation for disability from work for the period October 5 through November 1, 2024.

In a report dated November 4, 2024, Dr. Naseeruddin reiterated appellant's diagnoses. He advised that appellant was to remain off work pending orthopedic recommendations. In an accompanying Form OWCP-5c of even date, Dr. Naseeruddin reiterated his opinion regarding appellant's work capacity.

Ms. Lane, in a November 19, 2024 progress note, restated her prior assessments and noted that appellant was to remain off work until completion of a lumbar injection.

In a report also dated November 19, 2024, Jihan W. Clay, a certified physician assistant, related assessments of pain in the right knee and lumbar facet joint, and lumbago. He provided appellant with a work status extension until her next follow-up evaluation in one month.

In a November 13, 2024 report, Dr. Ralph recounted appellant's history of injury and medical treatment, discussed his findings on physical examination, and reviewed diagnostic studies. He opined that her accepted right knee contusion had resolved without any significant residuals as documented on an MRI scan and his physical examination. Dr. Ralph noted that

appellant had some minor complaints regarding her knee and may have had a small amount of subjective numbness where she hit the anterior aspect of the knee, but she had no significant residuals and had been working with relatively few restrictions up until the time she was seen by a nurse practitioner. He further noted that MRI scan findings of the right knee and lumbar spine did not show any abnormalities that impaired her physical function. Dr. Ralph related that appellant never had any clinical evidence of a right lower leg muscle strain and no complaints regarding this condition. He found that the accepted condition of right knee contusion had resolved without any significant objective findings that would preclude gainful employment. Dr. Ralph further found that appellant's diagnoses of lower back strain and intervertebral disc disorder were not established, noting that she never had evidence of complaints concerning her lower back until almost six weeks after the alleged injury. He also reviewed Dr. Naseeruddin's note indicating that the acceptance of appellant's claim should be expanded to include back problems due to her abnormal walk, and however, maintained that his note had no basis in medical fact. Dr. Ralph opined that appellant could perform her previous job as a rural carrier without restrictions, and there was no need for further medical treatment. In an accompanying Form OWCP-5c dated November 22, 2024, he reiterated his opinion regarding appellant's work capacity.

On November 20 and December 4 and 18, 2024 appellant filed CA-7 forms claiming compensation for disability from work for the period November 2 through December 13, 2024.

OWCP received a narrative report and a Form OWCP-5c dated December 2, 2024, wherein Dr. Naseeruddin reiterated his prior assessments and opinion that appellant was disabled from work.

By decision dated December 19, 2024, OWCP denied appellant's claims for disability from work commencing July 13, 2024, causally related to her accepted May 28, 2024 employment injury. It accorded the weight of the medical evidence to Dr. Ralph, the second opinion physician.

OWCP subsequently received a December 20, 2024 report by William Johnson, a physician assistant, who assessed pain and swelling of the right ankle, and contusion of the right foot.

On January 2, 2025 appellant continued to file CA-7 forms claiming compensation for disability from work for the period December 14, 2024 through January 10, 2025.

In medical evaluation of work status forms dated November 19 and December 20, 2024, and a report dated December 20, 2024, Mr. Clay diagnosed right knee effusion and lumbar radiculopathy. He indicated that appellant was unable to work as of November 19, 2024 and from December 20, 2024 through January 24, 2025.

On January 27, 2025 appellant requested reconsideration of the December 19, 2024 decision. In support thereof, she submitted a January 20, 2025 report from Dr. Naseeruddin who continued to provide assessments of the accepted conditions of right lower leg strain and right knee contusion. Dr. Naseeruddin advised that appellant could return to work with restrictions. In an accompanying Form OWCP-5c dated January 20, 2025, he found that appellant could not

perform her usual job, but she could work eight hours per day with restrictions that would apply for 30 days.

In a report dated January 24, 2024, Mr. Clay restated his prior assessments of lumbago, pain in the lumbar facet joint and right knee, and knee joint effusion. In a medical evaluation work status form of even date, he listed appellant's work restrictions.

On January 24, 2025 appellant filed a Form CA-7, claiming disability from work for the period January 11 through 24, 2025.

By decision dated February 7, 2025, OWCP denied modification of its December 19, 2024 decision. It continued to accord the weight of the medical evidence to Dr. Ralph, the second opinion physician.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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.⁴ Under FECA, the term disability means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.⁵ 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.⁶

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 the reliable, probative, and substantial medical evidence.⁷ The medical evidence required to establish causal relationship between a claimed period of disability and an accepted 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.⁸

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

³ *Supra* note 1.

⁴ *See C.B.*, Docket No. 20-0629 (issued May 26, 2021); *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).

⁵ 20 C.F.R. § 10.5(f); *J.S.*, Docket No. 19-1035 (issued January 24, 2020).

⁶ *T.W.*, Docket No. 19-1286 (issued January 13, 2020).

⁷ *A.S.*, Docket No. 20-0406 (issued August 18, 2021); *Amelia S. Jefferson*, 57 ECAB 183 (2005).

⁸ *T.L.*, Docket No. 20-0978 (issued August 2, 2021); *V.A.*, Docket No. 19-1123 (issued October 29, 2019).

claimed. To do so, would essentially allow an employee to self-certify his or her disability and entitlement to compensation.⁹

ANALYSIS

The Board finds that this case is not in posture for decision.

On October 16, 2024 OWCP referred appellant to Dr. Ralph for a second opinion evaluation to determine appellant's work capacity and whether appellant's claim should be expanded to include additional diagnoses. The October 11, 2024 SOAF provided to Dr. Ralph listed appellant's accepted conditions as right knee contusion and right lower leg muscle strain. In a report dated November 13, 2024, Dr. Ralph opined that the accepted condition of right knee contusion had resolved without any significant residuals based on MRI scan results and his physical examination findings. He noted that while appellant had some minor knee complaints and possibly a small amount of subjective numbness where she hit the anterior aspect of the knee, she had no significant residuals or physical impairment. Dr. Ralph further noted that she never had any clinical evidence of a right lower leg muscle strain and no complaints regarding this condition.

It is well established that a physician's opinion must be based on a complete and accurate factual and medical background. When OWCP has accepted an employment condition as occurring in the performance of duty, the physician must base his opinion on these accepted conditions.¹⁰ Further, OWCP's procedures dictate that, when an OWCP medical adviser, second opinion specialist, or referee physician renders a medical opinion based on a SOAF, which is incomplete or inaccurate or does not use the SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated altogether.¹¹

In the present case, OWCP erred in according the weight of the medical evidence to Dr. Ralph's November 13, 2024 report, as he did not base his opinion on the October 11, 2024 SOAF, which noted appellant's right lower leg muscle strain as an accepted condition.

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence

⁹ See *C.T.*, Docket No. 20-0786 (issued August 20, 2021); *M.J.*, Docket No. 19-1287 (issued January 13, 2020); *C.S.*, Docket No. 17-1686 (issued February 5, 2019); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

¹⁰ *K.S.*, Docket No. 22-1011 (issued January 5, 2023); *D.T.*, Docket No. 21-1168 (issued April 6, 2022); *G.B.*, Docket No. 20-0750 (issued October 27, 2020); *T.P.*, 58 ECAB 524 (2007).

¹¹ *J.Z.*, Docket No. 22-0829 (issued December 9, 2022); *M.H.*, Docket No. 21-1014 (issued July 8, 2022); *N.W.*, Docket No. 16-1890 (issued June 5, 2017); *Gary R. Sieber*, 46 ECAB 215, 225 (1994).

to see that justice is done.¹² Once it undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.¹³

The case shall therefore be remanded for further development of the medical evidence. On remand, OWCP shall refer appellant, along with the case record and SOAF, to a new second opinion physician for an opinion specifically addressing whether appellant was disabled from work commencing July 13, 2024 causally related to the accepted May 28, 2024 employment injury.¹⁴ Following this and other such further development as deemed necessary, it shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the February 7, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: March 20, 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

¹² See *M.S.*, Docket No. 23-1125 (issued June 10, 2024); *E.B.*, Docket No. 22-1384 (issued January 24, 2024); *J.R.*, Docket No. 19-1321 (issued February 7, 2020); *S.S.*, Docket No. 18-0397 (issued January 15, 2019).

¹³ *Id.*; see also *R.M.*, Docket No. 16-0147 (issued June 17, 2016).

¹⁴ See *M.S. and E.B.*, *supra* note 12; *S.G.*, Docket No. 22-0014 (issued November 3, 2022); *G.T.*, Docket No. 21-0170 (issued September 29, 2021); *P.S.*, Docket No. 17-0802 (issued August 18, 2017).