United States Department of Labor
Employees' Compensation Appeals Board

M.N., Appellant	)	
and	)	**Docket No. 25-0818**
	)	**Issued: November 25, 2025**
U.S. POSTAL SERVICE, POST OFFICE, New York, NY, Employer	)	

Appearances:
Appellant, pro se
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 August 26, 2025 appellant filed a timely appeal from an August 26, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees'

[1] Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's oral argument request, she asserted that oral argument should be granted because she wished to explain that she accepted an offered position prior to the decision at issue. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

ISSUE

The issue is whether OWCP met its burden of proof to terminate appellant's wage-loss compensation, effective August 26, 2025, based on her refusal of an offer of a temporary limited-duty assignment, pursuant to 20 C.F.R. § 10.500(a).

FACTUAL HISTORY

On August 29, 2024 appellant, then a 36-year-old window clerk, filed a traumatic injury claim (Form CA-1) alleging that on that date, she sustained bruised tendons in her left foot when a heavy parcel fell from a pallet and landed on her foot while in the performance of duty. She stopped work on August 29, 2024. OWCP accepted the claim for sprain of tarsometatarsal ligament of left foot, initial encounter. It paid appellant wage-loss compensation on the supplemental rolls commencing October 14, 2024.

OWCP received reports dated November 1, 2024 through March 12, 2025 by Dr. Jaime Uribe, a Board-certified orthopedic surgeon, wherein he related a history of injury and diagnosed sprain of ligament of tarsometatarsal joint, metatarsalgia of left foot, and ganglion cyst of left foot. Dr. Uribe held appellant off work.

On March 28, 2025 OWCP referred appellant, along with a statement of accepted facts (SOAF), the case record, and a series of questions, to Dr. Matthew Mendez-Zfass, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine the nature and extent of the accepted conditions and appellant's work capacity.

In a May 5, 2025 report of an April 30, 2025 examination, Dr. Mendez-Zfass noted his review of the medical record and SOAF. On examination of appellant's left foot and ankle, he observed a small dorsal ganglion cyst, tenderness to palpation, and full ranges of motion in all planes. Dr. Mendez-Zfass diagnosed left foot crush injury with ganglion cyst. He opined that appellant had active residuals of the accepted employment injury. Dr. Mendel-Zfass completed a work capacity evaluation (Form OWCP-5c) on April 30, 2025 and indicated that appellant was able to work eight hours a day with walking limited to six hours and lifting restricted to 40 pounds.

Thereafter, OWCP received additional reports by Dr. Uribe dated from April 23 through June 17, 2025 wherein he newly diagnosed neuropathy of left sural nerve, noted that he drained the ganglion cyst, and administered corticosteroid injections to the left ankle. Dr. Uribe held appellant off work.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the August 26, 2025 decision, OWCP received additional evidence. 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.*

On June 25, 2025 the employing establishment offered appellant a modified sales services/distribution associate position at the Village Station, New York, New York for 40 hours per week, with a yearly salary of $67,788.00 for the hours 8:45 a.m. through 5:15 p.m., with scheduled days off on Sunday and Monday. The assigned duties entailed up to six hours of retail window duties, up to six hours in the box section, and up to four hours scanning parcels. The position required up to six hours of standing, walking, bending, sitting, reaching above the shoulder, bending, stooping, repetitive wrist and elbow movements, and up to six hours pushing/pulling, and lifting up to 40 pounds. The job offer was available June 24, 2025. The employing establishment afforded appellant until July 2, 2025 to accept the position or to provide written medical evidence from her attending physician if she was unable to perform the modified duties.

In a July 2, 2025 work slip and duty status report (Form CA-17) of even date, Dr. Uribe returned appellant to sedentary duty for four hours a day commencing September 10, 2025. He restricted appellant to sitting for four hours a day with no other permitted activities.

On July 2, 2025 appellant refused the offered position as she was medically unable to perform the described duties.

In a July 16, 2025 job offer refusal worksheet, the employing establishment indicated that appellant had refused the offered position. In response to the question, "[i]s this a temporary job," the employing establishment responded "No."

By notice of proposed termination dated July 22, 2025, OWCP informed appellant that it determined that the June 25, 2025 temporary modified-duty job offer appropriately accommodated her current work restrictions, as provided by Dr. Mendez-Zfass on May 5, 2025. It advised appellant that, pursuant to 20 C.F.R. § 10.500(a), an employee who "declines a temporary light[-]duty assignment deemed appropriate by OWCP (or fails to report for work when scheduled) is not entitled to compensation for total wage loss for the duration of the assignment." The employing establishment afforded her 30 days to accept the assignment.

No response was received within the time allotted regarding the June 25, 2025 job offer.

By decision dated August 26, 2025, OWCP terminated appellant's wage-loss compensation benefits, effective that date, pursuant to 20 C.F.R. § 10.500(a), as she failed to accept a temporary light-duty position offered to her on June 25, 2025. It explained that had she accepted the assignment, she would not have sustained any wage loss as the actual earnings in that assignment either met or exceeded the current wages of her date-of-injury position. OWCP advised appellant that she remained entitled to medical benefits.[4]

[4] On August 8, 2025 the employing establishment offered appellant a modified sales services/distribution associate position at the Village Station for 20 hours per week, with a yearly salary of $67,788.00 for the hours 5:00 a.m. through 9:00 a.m., with scheduled days off on Sunday and Monday. Appellant accepted the position on August 9, 2025. In an August 13, 2025 report of work status (Form CA-3), the employing establishment indicated that appellant had returned to modified duty for four hours a day on August 12, 2025.

LEGAL PRECEDENT

Under FECA, once OWCP has accepted a claim it has the burden of justifying termination or modification of compensation benefits.[5]

Section 10.500(a) of the Code of Federal Regulations provides:

> "(a) Benefits are available only while the effects of a work-related condition continue. Compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury. For example, an employee is not entitled to compensation for any wage-loss claimed on a Form CA-7 to the extent that evidence contemporaneous with the period claimed on a Form CA-7 establishes that an employee had medical work restrictions in place; that light duty within those work restrictions was available; and that the employee was previously notified in writing that such duty was available. Similarly, an employee receiving continuing periodic payments for disability was not prevented from earning the wages earned before the work-related injury if the evidence establishes that the employing establishment had offered, in accordance with OWCP procedures, a temporary light-duty assignment within the employee's work restrictions. (The penalty provision of 5 U.S.C. § 8106(c)(2) will not be imposed on such assignments under this paragraph.)"[6]

OWCP's procedures also provide that if the evidence establishes that injury-related residuals continue and result in work restrictions, that light duty within those work restrictions is available, and the employee was notified in writing that such light duty was available, then wage-loss benefits are not payable for the duration of light-duty availability, since such benefits are payable only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.[7] The claims examiner must provide a pretermination notice if the claimant is being removed from the periodic rolls.[8] When a temporary light-duty assignment either ends or is no longer available, the claimant is entitled to compensation and should be returned to the periodic rolls immediately as long as medical evidence supports any disabling residuals of the work-related condition.[9]

[5] *See S.V.,* Docket No. 17-1268 (issued March 23, 2018); *I.J.,* 59 ECAB 408 (2008).

[6] 20 C.F.R. § 10.500(a).

[7] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Job Offers and Return to Work*, Chapter 2.814.9c(1)(a) (June 2013).

[8] *Id.* at Chapter 2.814.9c(1)(b).

[9] *Id.* at Chapter 2.814.9c(1)(d).

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation, effective August 26, 2025.

The evidence of record contains a written job offer, dated June 25, 2025, for a modified sales services/distribution associate position, which appellant declined on July 2, 2025. However, in a July 16, 2025 job offer refusal worksheet, the employing establishment answered a question "No" to indicate that the offered position was not a temporary job.

Pursuant to 20 C.F.R. § 10.500(a), OWCP had the burden of proof to establish that appellant declined an offered employment position that was temporary in nature.[10] The modified job offered on June 25, 2025 was not a temporary position. The Board thus finds that OWCP has not met its burden of proof to terminate appellant's wage-loss compensation.[11]

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation, effective August 26, 2025.

[10] *See N.H.*, Docket No. 24-0659 (issued September 19, 2024); *M.B.*, Docket No. 24-0478 (issued June 5, 2024); *A.W.*, Docket No. 21-1287 (issued September 22, 2023); *C.W.*, Docket No. 18-1779 (issued May 6, 2019).

[11] *See L.C.*, Docket No. 25-0082 (issued December 26, 2024); *N.H.*, *id.*; *M.B.*, *id.*; *A.W.*, *id.*; *C.W.*, *id.*

ORDER

IT IS HEREBY ORDERED THAT the August 26, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: November 25, 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