

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

R.S., Appellant)
and)
DEPARTMENT OF THE AIR FORCE,)
LACKLAND AIR FORCE BASE, TX, Employer)

)
)

Docket No. 25-0658
Issued: September 11, 2025

Appearances: *Case Submitted on the Record*
Appellant, pro se
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 16, 2025 appellant filed a timely appeal from a May 19, 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 OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective May 19, 2025, as he no longer had disability or residuals causally related to his accepted August 23, 2018 employment injury.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the May 19, 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 August 27, 2018 appellant, then a 45-year-old maintenance mechanic, filed a traumatic injury claim (Form CA-1) alleging that on August 23, 2018 he fractured his left elbow when he fell five feet from scaffolding while in the performance of duty. He stopped work on August 23, 2018. OWCP accepted the claim for other displaced fracture of lower end of left humerus, initial encounter for closed fracture.

On August 24, 2018 appellant underwent OWCP-authorized open reduction and internal fixation of left distal humerus. On November 12, 2021 he underwent OWCP-authorized left elbow arthroscopy with debridement and contracture release and cubital tunnel release with in-situ ulnar nerve decompression. OWCP paid appellant on the supplemental rolls for wage-loss compensation commencing June 10, 2019, and on the periodic rolls for wage-loss compensation commencing September 15, 2019.

By decision dated December 16, 2022, OWCP expanded the acceptance of appellant's claim to include contracture, left elbow.

On July 21, 2023 appellant underwent OWCP-authorized left upper extremity hardware removal. On September 26, 2024 he underwent OWCP-authorized left-sided cubital tunnel and left-sided carpal tunnel releases.³

On January 21, 2025 OWCP received a Form EN-1032 dated January 7, 2025, wherein appellant indicated that he worked 20 hours per week from November 26, 2024 through January 3, 2025 as a janitor/clean sweeper at a private-sector employer.

In a January 9, 2025 report, Anusheela Pokhrel, a physical therapist, indicated that appellant was off work, and that he had undergone carpal tunnel and cubital tunnel releases on September 26, 2024. She diagnosed left elbow/wrist pain status post cubital and carpal tunnel release. Ms. Pokhrel observed that although appellant's range of motion had steadily shown continued progress, he had limited left upper extremity strength to perform essential work duties and carry loads. She noted that appellant's current physical demand level could not be determined. Appellant's work-related limitations included difficulty with gripping, squeezing, and carrying.

In a January 9, 2025 attending physician's report (Form CA-20), Dr. Adham Abdelfattah, an attending Board-certified orthopedic surgeon, noted a history of appellant's accepted employment injury. He provided appellant's physical examination findings. Dr. Abdelfattah noted appellant's left elbow pain and diagnosed the accepted condition of other displaced fracture lower end of left humerus. Dr. Abdelfattah checked a box indicating that appellant was not disabled from work.

³ The Board notes that, while OWCP authorized the September 26, 2024 left-sided carpal tunnel release, the record does not indicate that it expanded the acceptance of appellant's claim to include a left wrist condition.

In a letter dated February 7, 2025, OWCP requested that Dr. Abdelfattah further address whether appellant's accepted conditions had resolved, whether he was disabled from work, and whether appellant required a continued treatment plan.

In a work capacity evaluation (Form OWCP-5c) dated February 25, 2025, Dr. Abdelfattah advised that appellant could perform his usual job without restriction and that he had reached maximum medical improvement (MMI).

On April 14, 2025 OWCP proposed to terminate appellant's wage-loss compensation based on Dr. Abdelfattah's opinion that appellant no longer had disability causally related to his accepted August 23, 2018 employment injury. It noted that this decision did not propose to terminate appellant's medical benefits, which would remain open if treatment was still required for his accepted condition. OWCP afforded him 30 days to submit additional evidence or argument, in writing, if he disagreed with the proposed termination.

In an April 23, 2025 response, appellant disagreed with Dr. Abdelfattah's conclusions.

OWCP subsequently received additional medical evidence. Hospital records dated September 26, 2024 indicated that appellant underwent carpal tunnel and left cubital tunnel releases on that date.

In a May 7, 2025 progress note, Dr. Yan M. Li, a Board-certified neurosurgeon, recounted the history of appellant's accepted August 23, 2018 employment injury and also noted that appellant had been involved in a motor vehicle collision following which he developed lumbar symptoms. He reviewed appellant's medical treatment. Dr. Li noted appellant's persistent symptoms of pain in the neck, left arm, back, and left elbow, and recounted his statements that his left elbow pain had not improved much, that he still had numbness in his fingers and weakness in his elbow, and was unable to bend or straighten out his elbow. He discussed appellant's findings on physical examination. Dr. Li assessed other displaced fracture of lower end of left humerus, initial encounter for closed fracture; and contracture, left elbow. He also provided assessments of strain of neck muscle, initial encounter; strain of lumbar region, initial encounter; and carpal tunnel syndrome (CTS) of left wrist. Dr. Li opined that appellant's left upper extremities symptoms were causally related to the accepted employment injury. He concluded that given appellant's examination findings and ongoing symptoms, a left elbow magnetic resonance imaging (MRI) scan and electromyography (EMG) study were recommended to formulate a treatment plan, as well as physical therapy and a functional capacity evaluation (FCE).

By decision dated May 19, 2025, OWCP finalized the termination of appellant's wage-loss compensation and medical benefits, effective that date. It found that the weight of the medical evidence rested with his own physician, Dr. Abdelfattah, who opined in his January 9 and February 25, 2025 reports that appellant no longer had residuals or disability causally related to his accepted August 23, 2018 employment injury.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify modification or termination of an employee's benefits.⁴ After it has determined that an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased, or that it is no longer related to the employment.⁵ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁶

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁷ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.⁸

The Board has held that wage-loss compensation benefits constitute a property interest protected by the due process clause.⁹ OWCP procedures provide that notice is required prior to termination in all cases where wage-loss compensation benefits are being paid on the periodic rolls.¹⁰ With regard to the termination of medical benefits, OWCP's procedures provide that notice is required only if medical benefits are terminated based upon the opinion of a second opinion or referee examiner, as opposed to the treating physician.¹¹

ANALYSIS

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective May 19, 2025, as he no longer had disability or residuals causally related to his accepted August 23, 2018 employment injury.

In a Form CA-20 dated January 9, 2025 and Form OWCP-5c dated February 25, 2025, Dr. Abdelfattah, appellant's treating physician, opined that appellant was no longer disabled

⁴ *C.F.*, Docket No. 21-0003 (issued January 21, 2022); *J.T.*, Docket No. 19-1723 (issued August 24, 2020); *S.P.*, Docket No. 19-0196 (issued June 24, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁵ *S.P.*, Docket No. 22-0393 (issued August 26, 2022); *A.T.*, Docket No. 20-0334 (issued October 8, 2020); *E.B.*, Docket No. 18-1060 (issued November 1, 2018).

⁶ *S.P.*, *id.*; *C.R.*, Docket No. 19-1132 (issued October 1, 2020); *G.H.*, Docket No. 18-0414 (issued November 14, 2018).

⁷ *S.P.*, *id.*; *E.J.*, Docket No. 20-0013 (issued November 19, 2020); *L.W.*, Docket No. 18-1372 (issued February 27, 2019).

⁸ *C.F.*, *supra* note 4; *M.E.*, Docket No. 20-0877 (issued August 17, 2021); *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *R.P.*, Docket No. 18-0900 (issued February 5, 2019).

⁹ See *C.A.*, Docket No. 18-0470 (issued March 7, 2019); *Felix Voyles*, 46 ECAB 895 (1995).

¹⁰ See Federal(FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.4b (February 2013).

¹¹ *Id.*

from work and released him to his usual job with no restrictions. In the January 9, 2025 Form CA-20, he noted a history of appellant's accepted August 23, 2018 employment injury and diagnosed the accepted condition of other displaced fracture lower end of left humerus. In the February 25, 2025 Form OWCP-5c, Dr. Abdelfattah advised that appellant had reached MMI. The Board has held that to terminate benefits, OWCP may properly rely on medical evidence from appellant's treating physician which establishes that appellant is no longer disabled.¹² The Board finds that Dr. Abdelfattah's report was based on a proper factual background, included detailed findings on physical examination, and offered a clear opinion that appellant's employment-related residuals and disability had resolved. Dr. Dr. Abdelfattah's report was well reasoned and is entitled the weight of the medical evidence.¹³

OWCP subsequently received a May 7, 2025 progress note, wherein Dr. Li found that appellant continued to suffer from residuals of his accepted conditions of other displaced fracture of lower end of left humerus, initial encounter for closed fracture; and contracture, left elbow, and also diagnosed strain of neck muscle, initial encounter; strain of lumbar region, initial encounter; and CTS of left wrist, which required further medical treatment. Dr. Li did not, however, provide rationale for his conclusory opinion. The Board has held that 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.¹⁴

OWCP also received a January 9, 2025 report from Ms. Pokhrel, a physical therapist. However, certain health care providers such as nurses, physician assistants, and physical therapists are not considered physicians under FECA and, therefore, are not competent to provide a medical opinion.¹⁵

As Dr. Abdelfattah's opinion regarding appellants' disability status constitutes the weight of the medical opinion evidence, the Board finds that OWCP met its burden of proof.

¹² *J.F.*, Docket No. 17-1716 (issued March 1, 2018); *B.S.*, Docket No. 17-1386 (issued December 13, 2017); *G.G.*, Docket No. 17-0537 (issued July 20, 2017).

¹³ See *D.B.*, Docket No. 17-1335 (issued January 5, 2018).

¹⁴ See *C.B., widow of S.B.*, Docket No. 19-1629 (issued April 7, 2020); *V.T.*, Docket No. 18-0881 (issued November 19, 2018); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

¹⁵ 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); *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); see also *A.L.*, Docket No. 25-0492 (issued May 27, 2025) (physical therapists are not considered physicians as defined under FECA).

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective May 19, 2025, as he no longer had disability or residuals causally related to his accepted August 23, 2018 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the May 19, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 11, 2025
Washington, DC

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

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

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