United States Department of Labor
Employees' Compensation Appeals Board

B.B., Appellant	)	
and	)	**Docket No. 25-0661**
	)	**Issued: September 9, 2025**
U.S. POSTAL SERVICE, DETROIT POST OFFICE, Detroit, MI, 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 June 23, 2025 appellant filed a timely appeal from a May 9, 2025 merit and a May 14, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish disability from work commencing January 31, 2025, causally related to her accepted February 23, 2022

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the May 14, 2025 decision, appellant submitted additional evidence to OWCP and with her appeal to the Board. 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.*

employment injury; and (2) whether OWCP properly denied appellant's request for an oral hearing, pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

On February 26, 2022 appellant, then a 57-year-old tractor trailer operator, filed a traumatic injury claim (Form CA-1) alleging that on February 23, 2022 she sustained injuries to her neck and back when the vehicle she was a passenger in was struck by another vehicle when stopped at a traffic light while in the performance of duty. OWCP initially accepted the claim for strain of muscle, fascia and tendon at neck and strain of muscle, fascia and tendon of lower back. It paid appellant intermittent wage-loss compensation on the supplemental rolls. Appellant did not stop work.

On October 10, 2024 OWCP referred appellant, along with the medical record and a statement of accepted facts (SOAF), to Dr. Vinay Pampati, a Board-certified osteopathic orthopedic surgeon, for a second opinion examination.

In a December 27, 2024 report, Dr. Pampati reviewed the history of the February 23, 2022 employment injury, the SOAF and the medical records, which included diagnostic testing, and set forth his examination findings of November 5, 2024. He opined that appellant's cervical strain had resolved as she no longer had any neck pain and her cervical spine examination was normal with no tenderness to palpation, full range of motion with equal bilateral upper extremity strength and reflexes, and negative Spurling's and Hoffman's tests. Dr. Pampati indicated, however, that there were active residuals in the lumbar spine, noting decreased range of motion, tenderness to palpation and weakness. He diagnosed resolved cervical strain and back pain with multiple degenerative disc disease with moderate spinal canal stenosis and severe bilateral foraminal stenosis at L4-5. Dr. Pampati opined that appellant suffered a permanent aggravation of her degenerative disc disease of her lumbar spine as she continued to be symptomatic from her moderate spinal canal stenosis and severe bilateral foraminal stenosis at L4-5 and had failed conservative treatment. He indicated that she was a candidate for possible surgical intervention.

In a January 29, 2025 report, Dr. David H. Rustom, a Board-certified physiatrist, diagnosed lumbar spinal stenosis and lumbar radicular pain. He indicated that appellant's severe spinal stenosis affected her ability to perform her job, which required her to push, pull or lift, and recommended work restrictions from January 29 until February 28, 2025.

On February 10, 2025 OWCP expanded the claim to include permanent aggravation of degenerative disc disease at L4-5. It also found that the neck strain had resolved.

On February 19, 2025 appellant filed a claim for compensation (Form CA-7) for disability from work for the period January 31 through February 7, 2025. She also filed additional CA-7 forms for the period February 8 through 21, 2025.

OWCP received April 2, 2024 medical reports; an unsigned work-restriction note for the period January 29 through February 28, 2025; disability notes dated January 29 and February 28, 2025 from a physician assistant; a February 11, 2025 physical therapy report; photographs of

medication labels; and a February 28, 2025 referral for a magnetic resonance imaging (MRI) of the lumbar spine.

In a March 7, 2025 development letter, OWCP informed appellant of the deficiencies of her claim for disability from work for the period effective January 31, 2025 and continuing, noting that she had stopped work on January 31, 2025. It advised her of the type of additional evidence needed and afforded her 30 days to provide the necessary evidence.

OWCP received additional CA-7 forms for the period February 22 through March 7, 2025 and March 8 through 22, 2025; a disability parking placard application; copies of orders and therapy services; and a March 25, 2025 work letter from a certified physician assistant discussing her progress.

On February 18, 2025 Dr. Rustom provided a lumbar transforaminal epidural steroid injection.

In a March 19, 2025 note, Dr. Rustom noted that appellant was off work from January 28 through February 28, 2025. He indicated that her symptoms had progressed, she had severe pain, and he was investigating other issues that could be contributing to her symptoms. Dr. Rustom opined that appellant would require a sedentary position from January 28 through May 28, 2025. In March 19, 2025 patient discharge instructions, Dr. Rustom diagnosed cervical spondylosis and lumbar spine stenosis. He requested that appellant follow up on April 23, 2025.

In a March 25, 2025 work letter, Dr. Anil Sethi, a Board-certified orthopedic surgeon, noted that appellant had been seen in the spine clinic since June 16, 2023 and was diagnosed with grade 1 spondylolisthesis L4-5 that reduced on extension and lumbar disc protrusions at L4-5 and L5-S1. He noted that she had provided a history of a work-related accident a year prior. Dr. Sethi explained that lumbar disc protrusion commonly occurs following an injury to the lower back and was aggravated by lifting and pushing heavy objects at work. He recommended a new lumbar MRI scan.

In an April 1, 2025 note, a physical therapist indicated that appellant attended physical therapy on March 31and April 1, 2025 for low back pain.

By decision dated April 8, 2025, OWCP denied appellant's claim for compensation for disability from work commencing January 31, 2025. It found that the medical evidence of record was insufficient to establish that she was disabled from work during the claimed period due to her accepted February 23, 2022 employment injury. OWCP authorized payment for 8 hours on January 29, 2025 and 8 hours on February 18, 2025 for epidural injections and 4 hours for each date of March 31 and April 1, 2025 for physical therapy.

On May 7, 2025 appellant requested reconsideration.

OWCP received appellant's May 7, 2025 statement and photographs, e-mails regarding the third-party aspect of appellant's claim; physical therapy reports for the period March 1 through 31, 2025; and hospital orders from March 29, 2025. Also received were an illegible work note and medical reports from Dr. Sethi dated April 16 and 30, 2014.

In a March 19, 2025 report, Dr. Rustom indicated that appellant was having severe pain, her symptoms had progressed, and he was investigating other issues that could be contributing to her symptoms. In pertinent part, he stated that the work restrictions for the period January 27 through May 25, 2025 were primarily for a sedentary level position, but if they could not be accommodated, then she should be kept out of work.

In a March 25, 2025 report, Dr. Sethi diagnosed radiculopathy, site unspecified, and spinal stenosis, lumbar region with neurogenic claudication. He noted that appellant was scheduled for a lumbar MRI scan on March 29, 2025 and advised to continue with physical therapy. Dr. Sethi indicated that she had received a prescription for home traction unit, a disability parking placard was completed for three months; and an off-work note for six weeks until May 7, 2025. He also noted that appellant was provided with an updated work note which detailed her lower back condition and the various treatments she pursued in an attempt to relieve pain.

A March 29, 2025 MRI scan of lumbar spine demonstrated shallow disc protrusion at L5-S1 with desiccated and slightly retracted in the interval and mild areas of canal narrowing; moderate right foraminal narrowing contacting the L5 nerve root within the right L5-S1 foramen; and joint fluid and mild widening of the articular space L4-5 facet on the left unchanged.

An unsigned out-of-work letter dated May 6, 2025 was also provided.

In an April 26, 2024 addendum, Dr. Sethi noted his examination findings of April 16, 2024 and diagnosed spinal stenosis of lumbar region without neurogenic claudication. He also provided work restrictions for the lumbar spine. Dr. Sethi indicated that appellant was off work from March 8 to April 8, 2024 for treatments to her low back, which included injections. In an April 30, 2024 note, he diagnosed other intervertebral disc displacement, lumbar region.

By decision dated May 9, 2025, OWCP denied modification of the April 8, 2025 decision.

On May 9, 2005 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated May 14, 2025, OWCP denied appellant's hearing request, pursuant to 5 U.S.C. § 8124(b). It found that she was not entitled to a hearing as a matter of right as she had previously requested reconsideration. OWCP further denied appellant's request as the issues in this case could equally well be addressed by requesting a new reconsideration and submitting additional evidence to OWCP.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA[3] 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] Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.[6] 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.[7] 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.[8]

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.[9] 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.[10]

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

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[3] *Supra* note 2.

[4] *See A.W.,* Docket No. 24-0382 (issued May 16, 2024); *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); *A.W. id.*; *J.S.,* Docket No. 19-1035 (issued January 24, 2020).

[6] *See G.R.,* Docket No. 25-0540 (issued June 26, 2025); *L.W.,* Docket No. 17-1685 (issued October 9, 2018).

[7] *See K.H.,* Docket No. 19-1635 (issued March 5, 2020).

[8] *See D.R.,* Docket No. 18-0323 (issued October 2, 2018).

[9] *A.W., supra* note 5; *T.W.,* Docket No. 19-1286 (issued January 13, 2020).

[10] *See G.R., supra* note 8; *S.J.,* Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh,* 56 ECAB 677 (2005).

claimed. To do so, would essentially allow an employee to self-certify his or her disability and entitlement to compensation.[11]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish disability from work commencing January 31, 2025, causally related to her accepted February 23, 2022 employment injury.

In a January 29, 2025 report, Dr. Rustom diagnosed lumbar spinal stenosis and lumbar radicular pain. He recommended work restrictions from January 29 until February 28, 2025, as appellant's severe spinal stenosis affected her ability to perform her job which required her to push, pull or lift. In a March 19, 2025 report and note, Dr. Rustom reported that appellant's symptoms had progressed and she had severe pain. He opined that she required a sedentary position from January 28 through May 28, 2025. While Dr. Rustom noted appellant was off work from January 28 through February 28, 2025, he failed to provide an opinion regarding disability from work for the period January 31, 2025 and continuing, causally related to the accepted February 23, 2022 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.[12] Therefore, this evidence is insufficient to establish appellant's disability claim.

Appellant also submitted out of work letters and reports from Dr. Sethi. In a March 25, 2025 work letter, he noted diagnoses of grade 1 spondylolisthesis L4-5 that reduced on extension and lumbar disc protrusions at L4- 5 and L5-S1. In a March 25, 2025 report, Dr. Sethi diagnosed radiculopathy, site unspecified, and spinal stenosis, lumbar region with neurogenic claudication. In relevant part, he noted that appellant had received an off-work note for six weeks, until May 7, 2025. He also noted that she was provided with an updated work note which detailed the condition of her lower back and the various treatments she pursued in an attempt to relieve the pain. None of these reports, however, contain an opinion regarding disability from work during the claimed period of disability, causally related to the accepted February 23, 2022 employment injury. As noted, 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.[13] Therefore, this evidence is insufficient to establish appellant's disability claim.

[11] *See C.T.,* Docket No. 20-0786 (issued August 20, 2021); *M.J.,* Docket No. 19-1287 (issued January 13, 2020); *William A. Archer,* 55 ECAB 674 (2004); *Fereidoon Kharabi,* 52 ECAB 291-92 (2001).

[12] *See G.R.,* Docket No. 25-0540 (issued June 26, 2025); *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).

[13] *Id.*

While appellant also submitted reports from Dr. Sethi dated April 16 through 30, 2024 these reports predate the claimed period of disability and do not address the relevant claimed time period. As such, they are insufficient to establish appellant's claim for compensation.[14]

The record also contains an unsigned May 6, 2025 out of work letter. 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.[15] Thus, this work letter is of no probative value and is insufficient to establish appellant's disability claim.

Appellant also provided a March 29, 2025 MRI scan report of the lumbar spine. However, diagnostic studies, standing alone, lack probative value as they do not address whether an accepted employment condition caused the claimed disability.[16]

OWCP also received multiple reports from physical therapists, and physician assistants. However, certain health care providers such as physician assistants, nurses, and physical therapists are not considered physicians as defined under FECA.[17] Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.[18] 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 February 23, 2022 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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[14] *See D.J.,* Docket No. 24-0175 (issued May 2, 2024); *R.B.,* Docket No. 23-0395 (issued October 2, 2023); *P.R.,* Docket No. 20-0596 (issued October 6, 2020); *M.L.,* Docket No. 18-1058 (issued November 21, 2019); *A.P.,* Docket No. 19-0446 (issued July 10, 2019); *D.J.,* Docket No. 18-0200 (issued August 12, 2019).

[15] *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).

[16] *See A.V.,* Docket No. 19-1575 (issued June 11, 2020).

[17] 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); *T.S.*, Docket No. 19-0056 (issued July 1, 2019) (physician assistants are not considered physicians under FECA). *See also G.R.,* Docket No. 25-0540 (issued June 26, 2025) (physical therapists are not considered physicians as defined under FECA).

[18] *Id.*

LEGAL PRECEDENT -- ISSUE 2

A claimant dissatisfied with an OWCP decision shall be afforded an opportunity for either an oral hearing or a review of the written record.[19] Section 8124(b) of FECA, concerning a claimant's entitlement to a hearing, states: "Before review under section 8128(a) of this title, a claimant for compensation not satisfied with a decision of the Secretary ... is entitled, on request made within 30 days after the date of issuance of the decision, to a hearing on his or her claim before a representative of the Secretary."[20] OWCP's regulations further explain that the claimant must have not previously submitted a reconsideration request (whether or not it was granted) on the same decision.[21] Although a claimant who has previously sought reconsideration is not, as a matter of right, entitled to a hearing or review of the written record, the Branch of Hearings and Review may exercise its discretion to either grant or deny a hearing following reconsideration.[22]

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied appellant's request for an oral hearing, pursuant to 5 U.S.C. § 8124(b).

On May 7, 2025 appellant requested reconsideration of OWCP's April 8, 2025 decision. By decision dated May 9, 2025, OWCP denied modification of its April 8, 2025 decision. Also on May 9, 2025, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. As she had previously requested reconsideration, she was not entitled to an oral hearing as a matter of right under 5 U.S.C. § 8124(b)(1).[23] OWCP properly exercised its discretion and determined that the issue in the case could be equally well addressed through a request for reconsideration and the submission of new evidence.[24] Therefore, the Board finds that OWCP, in its May 14, 2025 decision, properly denied appellant's May 9, 2025 request for an oral hearing.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish disability from work commencing January 31, 2025, causally related to her accepted February 23, 2022

[19] 5 U.S.C. § 8124(b)(1); 20 C.F.R. § 10.615.

[20] *Id.* at § 8124(b)(1).

[21] *Id.*

[22] *See C.V.,* Docket No. 23-0782 (issued June 17, 2025); *H.T.,* Docket No. 20-1318 (issued April 27, 2021); *E.S.,* Docket No. 19-1144 (issued August 3, 2020); *J.C.,* Docket No. 19-1293 (issued December 16, 2019); *T.M.,* Docket No. 18-1418 (issued February 7, 2019); *M.W.,* Docket No. 16-1560 (issued May 8, 2017); *D.E.,* 59 ECAB 438 (2008); *Hubert Jones, Jr.,* 57 ECAB 467 (2006).

[23] 20 C.F.R. § 10.616(a); *C.V., id.*; *S.L.,* Docket No. 24-0312 (issued May 14, 2024); *R.B.,* Docket No. 22-0755 (issued October 28, 2022); *J.H.,* Docket No. 17-1796 (issued February 6, 2018).

[24] *Id.*

employment injury. The Board further finds that OWCP properly denied her request for an oral hearing, pursuant to 5 U.S.C. § 8124(b).

ORDER

IT IS HEREBY ORDERED THAT the May 9 and 14, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 9, 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