

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

<p>C.S., Appellant) and) DEPARTMENT OF VETERANS AFFAIRS, VA) LONG BEACH HEALTHCARE SYSTEM,) Long Beach, CA, Employer) _____)</p>	<p style="text-align:center">Docket No. 25-0705 Issued: September 4, 2025</p>
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On July 18, 2025 appellant filed a timely appeal from an April 30, 2025 merit decision and June 30, 2025 nonmerit 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.

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish a recurrence of disability commencing July 12, 2024 causally related to her accepted December 18, 2020 employment injury; and (2) whether OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On January 8, 2021 appellant, then a 49-year-old practical nurse, filed an occupational disease claim (Form CA-2) alleging that she developed an illness that included symptoms of sharp,

¹ 5 U.S.C. § 8101 *et seq.*

radiating back and head pain, stomach pain, congestion, coughing, and bilateral ear fullness and pain due to factors of her federal employment. She noted that she first became aware of her condition and its relationship to her federal employment on December 18, 2020. Appellant stopped work on December 18, 2020 and returned to full-duty work on January 7, 2021. OWCP accepted the claim for COVID-19.

On August 15, 2024 Dr. Niketa Parikh, an osteopath, recounted appellant's symptoms of pain in the low back, legs, feet, and arms which began in 2020 after she contracted COVID-19. On physical examination, she found diminished sensory perception to light touch and pinprick on the dorsum of the feet, bilaterally, and diminished proprioception in the bilateral extensor hallucis longus muscles. Dr. Parikh reported that appellant had difficulty rising from a seated position, that she had poor balance, a forward-flexed position and guarded gait with short-step length. She reviewed diagnostic studies and diagnosed small fiber neuropathy (SFN), chronic low back pain, and lumbar radiculopathy.

In a notice of recurrence (Form CA-2a) dated September 23, 2024, appellant asserted that on February 17, 2021 she sustained a recurrence of her medical condition and on July 12, 2024 she sustained a recurrence of total disability causally related to her accepted employment injury. She noted that she returned to full-duty work while experiencing shortness of breath, exacerbation of asthma, dizziness, lower back pain, extreme headaches, earaches, sinus infections, extreme fatigue, bilateral foot pain and numbness, lower extremity weakness, and an unsteady gait following her diagnosis of COVID-19.

On May 8, 2024 Ashley Castelhano, a physician assistant, provided a work excuse note.

On July 4, 2024 Dr. Nikita Mittal, an internist, described a shuffling-type gait with difficulty extending to a full upright position and bilateral hip pain which appellant believed developed after she contracted COVID-19 in December 2020. She noted her diffuse symptoms, pain, and dysesthesias, but found that there was a low suspicion of systemic inflammatory autoimmune rheumatological condition as the proximate cause or key contributor to her main complaints.

In a July 12, 2024 note, Dr. Natalia Vasiuk, a Board-certified family practitioner, indicated that appellant had multiple unnamed medical conditions and found that she was totally disabled from work commencing July 15, 2024.

On July 21 and September 21, 2021 Dr. Abounasr diagnosed uncomplicated severe persistent asthma. On November 11, 2023 Folley Igbinosun, a nurse practitioner, examined appellant.

On August 8, 2024 appellant underwent an electromyogram and nerve conduction velocity (EMG/NCV) study due to paresthesias of the arms and legs. These studies demonstrated mild right median neuropathy/carpal tunnel syndrome.

In an August 13, 2024 note, Dr. Vasiuk found that appellant was partially disabled from work beginning August 19, 2024 and provided work restrictions.

On September 5, 2024 Dr. Jenelle Raynowska, a Board-certified neurologist, recounted appellant's history of contracting COVID-19 in December 2020 and related that after that diagnosis she developed needle-like sharp pain in her feet while walking, pain in her back radiating

to her left leg and foot, severe chest pain, persistent bruising, vertigo, and ear pain. She diagnosed abnormal gait, allergic rhinitis, asthma, ataxia, chronic low back pain, lower extremity weakness, and numbness and tingling of the upper and lower extremities. Dr. Raynowska reviewed her diagnostic studies and diagnosed mild right carpal tunnel syndrome. She related that appellant experienced lower extremity weakness, pain, and numbness following her COVID-19 infection in December 2020. Dr. Raynowska referenced increased reflexes, positive Hoffman's test and clonus in the left ankle, with weakness in the lower extremities, and inconsistent strength examination. She opined that SFN from COVID-19 was a possibility, but that SFN would only explain pain and sensory symptoms not weakness.

On September 6, 2024 Dr. Matthew Meunier, a Board-certified orthopedic surgeon, evaluated appellant's right hand and noted that she had ataxia of an unknown origin following COVID-19. He diagnosed mild carpal tunnel syndrome and provided a corticosteroid injection.

In a September 19, 2024 report, Dr. Demosthenes Papamatheakis, a Board-certified pulmonologist, examined appellant due to her asthma. He related that she developed asthma at 26 years old, and that she was also experiencing back pains, neuropathy, and had previously been diagnosed with COVID-19.

In a recurrence claim development letter dated October 4, 2024, OWCP provided a definition of recurrence of disability and informed appellant of the deficiencies of her claim. It notified her of the additional evidence required and provided a questionnaire for her completion. In a development letter of even date, OWCP also requested additional information from the employing establishment. It afforded appellant and the employing establishment 30 days to submit the requested evidence.

On October 10, 2024 Dr. Raynowska related that she was treating appellant for weakness of the legs, pain, and numbness that started after her COVID-19 infection. She opined that the most likely cause of her leg weakness was functional neurologic disorder. Dr. Raynowska further noted that numbness and pain were likely related to SFN and that a scheduled skin biopsy could confirm this diagnosis. She related appellant's symptom of severe fatigue following the COVID-19 infection and indicated that long COVID-19 was a possible cause. On November 2, 2024 Dr. Raynowska diagnosed functional neurologic disorder, SFN, and long COVID-19 syndrome.

Appellant completed the development questionnaire on October 21, 2024. She asserted that following her diagnosis of COVID-19 she experienced continuous fatigue, sinus infections, headaches, lower back pain, bilateral foot tingling, pins and needles, and numbness. Appellant returned to work on January 7, 2021 and experienced shortness of breath, fatigue, unsteady gait, and lower back pain. She attributed her ongoing symptoms to her COVID-19 diagnosis.

By decision dated December 6, 2024, OWCP denied appellant's recurrence claim, finding that she had not established disability from work, commencing July 12, 2024, causally related to a spontaneous change or worsening of the accepted work-related COVID-19 without intervening cause.

In a December 22, 2024 report, Dr. Dustin Hatefi, a Board-certified neurosurgeon, related appellant's symptoms of chronic gait instability, left body weakness, left leg pain, and right wrist pain and numbness. He noted her history of COVID-19 infection in December 2020 and her report of a diagnosis of long COVID-19. Dr. Hatefi performed a physical examination and diagnosed

chronic long COVID-19 post infection in 2020. He indicated that appellant had developed left leg weakness, gait difficulty, and lower extremity numbness. Dr. Hatefi opined that cervical diagnostic studies did not provide a neurological basis for her gait changes or weakness, but that lumbar degenerative changes could explain some of her back pain but not her whole left leg weakness.

On January 6, 2025 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

In a March 5, 2025 note, Dr. Daniel L. Wu, a podiatrist, diagnosed bilateral foot numbness and foot drop, COVID-19, and chronic bilateral low back pain with bilateral sciatica. He opined that the "likely" cause of these conditions was a combination of low back L4-S1 pathology and degenerative disease, and sequelae of COVID-19 disease.

By decision dated April 30, 2025, OWCP's hearing representative affirmed the December 6, 2024 OWCP decision.

OWCP subsequently received additional medical evidence. In a March 21, 2025 report, Dr. Emily Engel, an osteopath, related that appellant was having difficulty walking and found that her somatosensory evoked response was abnormal, suggestive of a central nervous system process causing the abnormalities.

On April 28, 2025 appellant underwent an additional EMG/NCV study which demonstrated motor conduction abnormal findings in the bilateral tibial nerves and abnormal F-wave study for the left fibular and left tibial nerves as the response was considered absent. The EMG findings were abnormal in seven muscles.

On June 12, 2025 appellant requested reconsideration. She provided a narrative description of her injury, medical treatments, and test results, and ongoing symptoms. Appellant further described what she believed were workplace safety violations relating to her diagnosis of COVID-19.

By decision dated June 30, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT -- ISSUE 1

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.² This term also means an inability to work because a light-duty assignment made specifically to accommodate an employee's physical limitations, and which is necessary because of a work-related injury or illness, is withdrawn or altered so that the assignment exceeds the

² 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *J.D.*, Docket No. 18-1533 (issued February 27, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.³

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.⁴

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, based on a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment injury, and supports that conclusion with medical reasoning.⁵ Where no such rationale is present, the medical evidence is of diminished probative value.⁶

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability commencing July 12, 2024 causally related to her accepted December 18, 2020 employment injury.

In reports dated September 5 through November 2, 2024, Dr. Raynowska related that appellant experienced fatigue, lower extremity weakness, pain, and numbness following her COVID-19 infection in December 2020. She diagnosed functional neurologic disorder, SFN, and long COVID-19 syndrome. In a December 22, 2024 report, Dr. Hatefi diagnosed chronic long COVID-19 after infection in 2020. He found that appellant had developed left leg weakness, gait difficulty, and lower extremity numbness. Drs. Raynowska, and Hatefi attributed appellant's ongoing conditions to her accepted diagnosis of COVID-19. However, these physicians failed to provide rationale explaining the basis of their opinions. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain sufficient medical rationale explaining causal relationship between the claimed condition and disability and the

³ *Id.*

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

⁵ *See J.D.*, Docket No. 18-0616 (issued January 11, 2019); *see C.C.*, Docket No. 18-0719 (issued November 9, 2018).

⁶ *See M.T.*, Docket No. 25-0180 (issued January 25, 2025); *H.T.*, Docket No. 17-0209 (issued February 8, 2018).

accepted employment injury.⁷ Therefore this evidence is insufficient to establish appellant's recurrence claim.

Dr. Raynowska completed a September 5, 2024 report and recounted appellant's history of COVID-19 in December 2020. She opined that SFN from COVID-19 was a "possibility", but that SFN would only explain pain and sensory symptoms not weakness. The Board has held that medical opinions that are speculative or equivocal in nature are of limited probative value.⁸ This evidence is therefore insufficient to establish the recurrence claim.

On July 4, 2024 Dr. Mittal found that there was a low suspicion of systemic inflammatory autoimmune rheumatological condition as the proximate cause or key contributor to appellant's main complaints. In a July 12, 2024 note, Dr. Vasiuk found that appellant was totally disabled from work commencing July 15, 2024. In an August 13, 2024 note, she found that appellant was partially disabled beginning August 19, 2024 and provided work restrictions. On August 15, 2024 Dr. Parikh diagnosed SFN, chronic low back pain, and lumbar radiculopathy. In a September 6, 2024 note, Dr. Meunier diagnosed mild carpal tunnel syndrome and provided a corticosteroid injection. On September 19, 2024 Dr. Papamatheakis related that appellant developed asthma at 26 years old, that she was also experiencing back pains, neuropathy, and was previously diagnosed with COVID-19. These physicians, however, did not provide an opinion on causal relationship between appellant's claimed disability for the period commencing July 12, 2024 and the accepted December 18, 2020 employment injury. The Board has held that medical evidence that does not offer an opinion addressing whether a claimed condition or disability is causally related to the accepted employment-related injury is of no probative value.⁹ Therefore, this evidence is insufficient to establish appellant's recurrence claim.

In a March 5, 2025 note, Dr. Wu, a podiatrist, diagnosed bilateral foot numbness and foot drop, COVID-19, and chronic bilateral low back pain with bilateral sciatica. He opined that the "likely" cause of these conditions was a combination of low back L4-S1 pathology and degenerative disease and sequelae of COVID-19 disease. However, the Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.¹⁰ Thus, this evidence is insufficient to establish the recurrence claim.

Appellant also submitted evidence from physician assistants and nurse practitioners. As noted above, certain healthcare providers such as physician assistants and nurse practitioners, are not considered physicians as defined under FECA and, therefore, are not competent to provide a

⁷ See *J.R.*, Docket No. 23-0215 (issued July 28, 2023); *H.A.*, Docket No. 20-1555 (issued December 22, 2022); *S.K.*, Docket No. 19-0272 (issued July 21, 2020); *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

⁸ *S.M.*, Docket No. 25-0567 (issued July 21, 2025); *P.C.*, Docket No. 22-1242 (issued May 23, 2023); *J.W.*, Docket No. 18-0678 (issued March 3, 2020).

⁹ See *A.J.*, Docket No. 25-0250 (issued May 27, 2025); *N.W.*, Docket No. 25-0270 (issued April 7, 2025); *M.T.*, Docket No. 24-0465 (issued September 27, 2024); *A.O.*, Docket No. 24-0382 (issued May 16, 2024); *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).

¹⁰ See *F.S.*, Docket No. 22-0070 (issued June 14, 2023); *M.L.*, Docket No. 18-0153 (issued January 22, 2020); *N.B.*, Docket No. 19-0221 (issued July 15, 2019); *Z.B.*, Docket No. 17-1336 (issued January 10, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

medical opinion.¹¹ Therefore, this evidence is of no probative value and is insufficient to establish appellant's recurrence claim.

Appellant also submitted diagnostic studies. The Board has held, however, that diagnostic studies, standing alone, lack probative value as they do not address whether the accepted employment injury resulted in a medical condition or disability.¹²

As the medical evidence of record is insufficient to establish a recurrence of disability commencing July 12, 2024 causally related to the accepted 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.

LEGAL PRECEDENT -- ISSUE 2

Section 8128(a) of FECA does not entitle a claimant to the review of an OWCP decision as a matter of right.¹³ OWCP has discretionary authority in this regard and has imposed certain limitations in exercising its authority.¹⁴ One such limitation is that the request for reconsideration must be received by OWCP within one year of the date of the decision for which review is sought.¹⁵

A timely request for reconsideration, including all supporting documents, must set forth arguments, and contain evidence that either: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.¹⁶ When a timely request for reconsideration does not meet at least one of

¹¹ *Supra* note 10; *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* *B.D.*, Docket No. 22-0503 (issued September 27, 2022) (nurse practitioners are not considered physicians as defined under FECA and their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (nurse practitioners are not considered physicians as defined under FECA). *H.S.*, Docket No. 20-0939 (issued February 12, 2021) (physician assistants are not considered physicians as defined under FECA).

¹² *F.G.*, Docket No. 25-0306 (issued March 19, 2025); *D.M.*, Docket No. 24-0832 (issued September 12, 2024); *L.A.*, Docket No. 22-0463 (issued September 29, 2022); *D.K.*, Docket No. 21-0082 (issued October 26, 2021); *O.C.*, Docket No. 20-0514 (issued October 8, 2020); *R.J.*, Docket No. 19-0179 (issued May 26, 2020).

¹³ 5 U.S.C. § 8128(a).

¹⁴ 20 C.F.R. § 10.607.

¹⁵ *Id.* at § 10.607(a). Formerly decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

¹⁶ *Id.* at § 10.606(b)(3); *see L.F.*, Docket No. 20-1371 (issued March 12, 2021); *B.R.*, Docket No. 19-0372 (issued February 20, 2020).

the above-noted requirements, OWCP will deny the request for reconsideration without reopening the case for a review on the merits.¹⁷

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On reconsideration, appellant did not allege or demonstrate that OWCP erroneously applied or interpreted a specific point of law. Rather, she provided a narrative description of her injury, medical treatments, and test results, and ongoing symptoms. Appellant further described what she believed were workplace safety violations relating to her diagnosis of COVID-19.

However, appellant's submission is irrelevant to the underlying issue of recurrence of disability, which is medical in nature and requires probative medical evidence. As explained above, the submission of evidence or argument which does not address the particular issue involved does not constitute a basis for reopening a case.¹⁸ Consequently, appellant is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).

In support of her request for reconsideration, appellant submitted a March 21, 2025 report wherein Dr. Engel found that her somatosensory evoked test responses were abnormal suggestive of a central nervous system process causing the abnormalities. She also provided an April 28, 2025 EMG/NCV study. However, this evidence does not address the underlying issue of whether appellant sustained a recurrence of disability commencing July 12, 2024, causally related to the accepted employment injury. As appellant has not provided relevant and pertinent new evidence, she is not entitled to a merit review based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).

The Board, therefore, finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability commencing July 12, 2024 causally related to her accepted December 18, 2020 employment injury. The Board further finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

¹⁷ *Id.* at § 10.608.

¹⁸ *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *Edward Matthew Diekemper*, 31 ECAB 224, 225 (1979).

ORDER

IT IS HEREBY ORDERED THAT the April 30 and June 30, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 4, 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