

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

E.A., Appellant)
and) Docket No. 25-0761
DEPARTMENT OF THE ARMY, VICKSBURG) Issued: September 2, 2025
DISTRICT, U.S. ARMY CORPS OF)
ENGINEERS, Vicksburg, MS, 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

PATRICIA H. FITZGERALD, Deputy Chief Judge

JANICE B. ASKIN, Judge

JURISDICTION

On August 4, 2025 appellant filed a timely appeal from a July 25, 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

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the July 25, 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.*

ISSUE

The issue is whether appellant has met his burden of proof to establish disability from work for the period May 19 through June 15, 2024, causally related to his accepted February 3, 2024 employment injury.

FACTUAL HISTORY

This case has previously been before the Board on a different issue. The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference.³ The relevant facts are as follows.

On February 29, 2024 appellant, then a 51-year-old deckhand, filed a traumatic injury claim (Form CA-1) alleging that on February 3, 2024 he injured his genitals while in the performance of duty. He explained that he fell while pulling a pin to attach a mat sinking plant to a mooring barge. Appellant stopped work on February 23, 2024.

In support of his claim, appellant submitted reports dated February 7 through April 11, 2024 by Chris Johnson, an advanced practice registered nurse (APRN), who noted that appellant related complaints of significant pain in his right groin and testicle, pain with hip flexion, and urinary frequency, which he attributed to a fall at work wherein he struck his right testicle on a metal pole. He diagnosed right hip tendinitis, right lower quadrant pain, right testicular pain, and right-sided sciatica. Mr. Jonhson initially released appellant to return to full-duty work without restrictions but subsequently indicated appellant was totally disabled commencing April 11, 2024.

By decision dated May 22, 2024, OWCP accepted that the February 3, 2024 employment incident occurred, as alleged. However, it denied the claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP continued to receive evidence, including reports by Mr. Johnson dated April 1 and 25 and May 23, 2024, who diagnosed right hip flexor tendinitis, lumbar pain, right testicular swelling, right inguinal pain, and an impaired gait and opined that appellant was unable to work.

On June 14, 2024 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

OWCP thereafter received May 30, 2024 progress notes completed by Mr. Johnson, who noted a history that appellant fell at work and landed on a metal pole, causing pain to his testicular area. Mr. Johnson diagnosed right testicular pain and swelling, right-sided sciatica, and an enlarged prostate. He opined that "falling on pole caused spine and nerve impaction injury." In a work capacity evaluation (Form OWCP-5c) of even date, Mr. Johnson indicated that appellant was unable to work but estimated that he would be released to return to sedentary work with frequent changes of position in six weeks.

³ Docket No. 24-0937 (issued October 24, 2024).

An MRI scan dated June 5, 2024 demonstrated midline disc protrusion with bilateral neural foraminal stenosis at L5-S1.

By decision dated September 11, 2024, an OWCP hearing representative affirmed the May 22, 2024 decision.

Appellant appealed to the Board. By decision dated October 24, 2024⁴, the Board reversed, in part, OWCP's September 11, 2024 decision, finding that the evidence of record established that he sustained a visible injury of swelling of the right testicle as causally related to the February 3, 2024 employment incident. The Board remanded the case to OWCP for payment of medical expenses and any attendant disability. The Board also affirmed OWCP's September 11, 2024 decision that appellant had not met his burden of proof to establish an additional medical condition as causally related to the accepted February 3, 2024 employment injury.

OWCP continued to receive evidence during the pendency of appellant's appeal, including an August 7, 2024 medical report by Dr. Samuel C. Overley, a Board-certified orthopedic surgeon, who noted appellant's complaints of upper and lower extremity numbness and tingling and testicle pain that woke him up at night. He documented physical examination findings and diagnosed bilateral cubital tunnel syndrome and bilateral L5 radiculopathy.

An x-ray of the lumbar spine dated August 7, 2024 revealed degenerative retrolisthesis of L5 over S1 with disc height narrowing and moderate foraminal encroachment.

On September 6, 2024 Dr. Gregory L. Smith, a pain management physician, performed a bilateral L5-S1 transforaminal epidural steroid injection.

By decision dated February 14, 2025, OWCP accepted appellant's claim for inflammatory disorders of scrotum.

OWCP thereafter received a May 22, 2024 report by Dr. James Wright, Board-certified in family medicine. He indicated that appellant was partially disabled from work, effective February 7, 2024, and that a return to full-duty work date was undetermined due to the need for further testing. Dr. Wright noted that "falling on pole caused spine and nerve impaction injury."

In an August 13, 2024 emergency room discharge summary, Dr. Frances Duke, an emergency medicine physician, diagnosed acute nontraumatic lumbar back pain associated with degenerative disc disease of the lumbar and sacral spine and right-sided sciatica.

In a November 26, 2024 medical form, Dr. Overley diagnosed L5-S1 disc collapse. He noted that appellant was scheduled to undergo surgery on December 6, 2024 and would be totally disabled from work during the period December 16, 2024 through February 16, 2025.

On March 12, 2025 OWCP received an undated letter by Dr. Overley, who noted the history of appellant's February 3, 2024 fall at work and subsequent complaints of back pain and bilateral lower extremity numbness and tingling.

⁴ *Id.*

On March 16, 2025, appellant filed a claim for compensation (Form CA-7) for disability from work for the period May 19 through June 15, 2024.

OWCP thereafter received a follow-up note dated October 23, 2024 by Dr. Overley, who diagnosed severe disc space collapse at L5-S1 and bilateral L5 nerve root compression due to severe foraminal stenosis. Dr. Overley opined that appellant was unable to work and recommended lumbar fusion surgery.

On December 16, 2024, Dr. Overley performed an unauthorized lumbar fusion with instrumentation and laminectomy at L5-S1. His postoperative diagnoses were severe degenerative disc disease at L5-S1 and severe bilateral foraminal stenosis.

In a January 17, 2025 progress note, Rebecca Gibbs, a registered nurse, noted that appellant related complaints of pain and tightness in the right hip and buttocks. She obtained x-rays of the lumbar spine, which revealed stable hardware.

In a February 6, 2025 letter, Dr. Overley recommended that appellant remain off work until March 14, 2025. On March 14, 2025, he recommended that he remain off work for an additional three months.

In a June 10, 2025 development letter, OWCP informed appellant of the deficiencies of his claim for compensation. It advised him of the type of medical evidence needed to establish his claim and afforded him 30 days to respond.

OWCP thereafter received a June 9, 2025 report by Dr. Bruno Machado, a urologist, who noted that appellant related complaints of pain from his scrotum into his right hip, groin, and leg, erectile dysfunction, and issues with urination, which he attributed to the February 3, 2024 employment injury. He performed a penoscrotal examination, which was within normal limits. Dr. Machado diagnosed erectile dysfunction, right groin pain, and lower urinary tract symptoms, which given the “mechanism of injury [were] concerning for possible urethral stricture.”

In a progress report dated June 18, 2025, Ms. Gibbs noted that appellant related significant improvement in his radicular complaints after undergoing a lumbar fusion.

In a June 18, 2025 letter and June 19, 2025 Form OWCP-5c, Dr. Overley recommended that appellant remain off work due to the L5-S1 fusion.

On June 20, 2025 OWCP received a statement from appellant. He enclosed an amended version of the May 22, 2024 Form OWCP-5c wherein Dr. Wright opined that he was unable to work, but estimated that he would be released to return to sedentary work in six weeks with frequent changes of position “to relieve pressure on spine and nerves.”

By decision dated July 25, 2025, OWCP denied appellant’s disability claim finding that the medical evidence of record was insufficient to establish disability from work during the claimed period causally related to the accepted employment injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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.⁵ Under FECA, the term “disability” means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.⁶ Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.⁷ 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.⁸ 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.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 claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹¹

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish disability from work for the period May 19 through June 15, 2024, causally related to his accepted employment injury.

In a May 22, 2024 report, Dr. Wright opined that appellant was partially disabled effective February 7, 2024 due to a “spine and nerve impaction injury,” and that a return to full-duty work

⁵ *S.F.*, Docket No. 20-0347 (issued March 31, 2023); *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ 20 C.F.R. § 10.5(f).

⁷ See *H.B.*, Docket No. 20-0587 (issued June 28, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

⁸ See *H.B.*, *id.*; *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

⁹ See *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

¹⁰ *F.B.*, Docket No. 22-0679 (issued January 23, 2024); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

¹¹ *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

date was undetermined due to the need for further testing. He further noted that appellant was unable to work but estimated that he would be released to return to sedentary work in six weeks with frequent changes of position to relieve pressure on the “spine and nerves.” However, Dr. Wright did not opine that appellant was disabled from work due to the accepted February 3, 2024 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. Therefore, these reports are of no probative value and are insufficient to establish appellant’s disability claim.¹²

Appellant also submitted medical reports for treatment to his lumbar spine by Dr. Overley dated August 7, 2024 through June 19, 2025, which recommended that appellant remain off work due to lumbar spine conditions; by Dr. Duke dated August 13, 2024, who diagnosed acute nontraumatic lumbar back pain associated with degenerative disc disease of the lumbar and sacral spine and right-sided sciatica; and by Dr. Smith dated September 6, 2024, who performed a lumbar injection. Although Dr. Overley opined that appellant was totally disabled, he did not address causal relationship. Drs. Duke and Smith likewise did not offer an opinion on causal relationship. As noted above, 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.¹³ This evidence is, therefore, insufficient to establish the claim.

In his June 9, 2025 medical report, Dr. Machado noted his concern for possible urethral stricture based upon appellant’s symptoms and mechanism of injury. However, he did not offer an opinion as to whether he was disabled from work due to the accepted conditions during the claimed period. Therefore, Dr. Machado’s June 9, 2025 report is of no probative value and is insufficient to establish appellant’s claim for compensation.¹⁴

Appellant also submitted reports by Mr. Johnson, an APRN, and Ms. Gibbs, a registered nurse. Certain healthcare providers, such as registered nurses and APRNs, are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion.¹⁵

¹² *Id.*

¹³ See *S.M.*, Docket No. 22-1209 (issued February 27, 2024); *A.S.*, Docket No. 21-1263 (issued July 24, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁴ *Id.*

¹⁵ 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) (September 2020); *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 *M.M.*, Docket No. 23-0475 (issued July 27, 2023) (registered nurses and APRNs are not considered physicians as defined under FECA).

The remainder of the evidence of record consisted of diagnostic studies. The Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injury caused the claimed disability.¹⁶

As the medical evidence of record is insufficient to establish disability from work during the period May 19 through June 15, 2024, due to the accepted February 3, 2024 employment injury, the Board finds that appellant has not met his 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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish disability from work for the period May 19 through June 15, 2024, causally related to his accepted February 3, 2024 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the July 25, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 2, 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

¹⁶ F.D., Docket No. 19-0932 (issued October 3, 2019); J.S., Docket No. 17-1039 (issued October 6, 2017).