

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

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C.C., Appellant

and

DEPARTMENT OF VETERANS AFFAIRS,  
SACRAMENTO VA MEDICAL CENTER,  
Mather, CA, Employer

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) **Docket No. 25-0776**  
) **Issued: September 15, 2025**  
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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  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On August 11, 2025 appellant filed a timely appeal from a May 13, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether OWCP properly denied appellant's request for authorization of massage and physical therapy.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the May 13, 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.*

## **FACTUAL HISTORY**

On November 8, 2019 appellant, then a 46-year-old optometrist, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her spine when a patient tripped and fell on her while in the performance of duty. OWCP accepted the claim for cervical annular tear and temporary aggravation of advanced degenerative disc disease at L5-S1 (resolved as of June 12, 2020).

Appellant received medical treatment for the accepted conditions from Dr. Brian Christopher Joves, a Board-certified physiatrist and pain medicine specialist, including interlaminar epidural steroid injections from C7-T1 and referrals for massage therapy and physical therapy.

In an October 2, 2023 medical report, Dr. Joves noted that appellant related complaints of neck pain with radiation, numbness, and tingling in the left arm, and headache, which appellant indicated improved with injections, physical therapy, and massage therapy. He performed a physical examination and observed tenderness to palpation of the left trapezius, pain with left-sided lateral flexion of the cervical spine, positive Hoffman's sign bilaterally, no tenderness to the cervical paraspinal muscles, and normal strength and reflexes of the upper extremities. Dr. Joves diagnosed spondylosis of the cervical region without myelopathy, cervical spinal stenosis and facet arthropathy, myofascial pain, and chronic pain syndrome. He recommended massage therapy for appellant's neck pain, noting that she had previously received massage therapy and that it allowed "her to do more."

In a report also dated October 2, 2023, Matthew Baudendistel, a physical therapist, provided manual massage.

In medical reports dated March 22 and May 21, 2024, Dr. Joves performed a physical examination and observed tenderness to palpation over the cervical paraspinal muscles and trapezius; reduced range of motion (ROM) of the cervical spine in all planes; and negative Tinel's test and Spurling's sign, bilaterally. He noted that appellant had received 29 massage therapy sessions and reported 60 to 65 percent relief. Dr. Joves recommended massage therapy for neck and bilateral upper extremity myofascial release to improve appellant's symptoms and ROM. He indicated that massage therapy was beneficial in attenuating diffuse musculoskeletal symptoms and was as effective as standard medical care in chronic pain syndromes but that beneficial effects were typically registered only during treatment and dependence upon massage therapy should be avoided.

On May 1, 2024 OWCP referred the case record and a statement of accepted facts (SOAF) to Dr. Jack L. Miller, a Board-certified physiatrist and occupational medicine specialist serving as an OWCP district medical adviser (DMA), for review of the medical necessity of nonsurgical treatment.

In a report dated May 20, 2024, Dr. Miller noted that Dr. Joves had requested authorization for physical therapy, manual therapy, and massage therapy. He indicated that he had reviewed the medical record and SOAF, and noted that between October 2023 and March 2024, Dr. Joves' physical examination findings had remained unchanged. Dr. Miller opined that massage therapy had been of evanescent benefits, was not restorative, and was not medically necessary. He indicated that appellant could continue with a home exercise program as instructed.

By decision dated June 10, 2024, OWCP denied authorization for physical therapy and massage therapy. It explained that the evidence of record was insufficient to establish that the requested treatments were medically necessary to treat appellant's work-related conditions under FECA.

OWCP continued to receive evidence, including reports dated September 6, October 18, and November 20, 2024, wherein Dr. Joves noted similar examination findings, performed additional cervical epidural steroid injections, and continued to recommend therapy.

On December 30, 2024, and January 31 and March 14, 2025, Dr. Joves also requested authorization for physical therapy. In his January 31, 2025 report, he noted that active therapy was beneficial for restoring flexibility, strength, endurance, function, and ROM and could alleviate discomfort. Dr. Joves also indicated that a supervising physical therapist could provide verbal, visual, and tactile instruction and that patients are also expected to continue active therapies at home as an extension of the treatment process.

In an April 25, 2025 medical report, Dr. Joves noted the same complaints and physical examination findings. He again requested authorization for massage and physical therapy and reiterated that it was beneficial in attenuating diffuse musculoskeletal symptoms and was as effective as standard medical care in chronic pain syndromes but that beneficial effects were typically registered only during treatment and dependence upon massage therapy should be avoided.

On May 11, 2025 appellant requested reconsideration of OWCP's June 10, 2024 decision. In support thereof, she submitted an unsigned statement of even date which indicated that physical therapy and massage therapy were both medically necessary for the management of her chronic pain associated with her November 7, 2019 employment injury and allowed her to be functional in her life.

By decision dated May 13, 2025, OWCP denied modification of the June 10, 2024 decision.

### **LEGAL PRECEDENT**

Section 8103(a) of FECA<sup>3</sup> provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed by or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.<sup>4</sup>

While OWCP is obligated to pay for treatment of employment-related conditions, appellant has the burden of proof to establish that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.<sup>5</sup> In order to prove that the procedure is warranted,

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<sup>3</sup> 5 U.S.C. § 8103(a).

<sup>4</sup> *Id.*; see *J.K.*, Docket No. 20-1313 (issued May 17, 2021); *Thomas W. Stevens*, 50 ECAB 288 (1999).

<sup>5</sup> *J.M.*, Docket No. 20-0565 (issued November 5, 2020); see *R.M.*, Docket No. 19-1319 (issued December 10, 2019); *Debra S. King*, 44 ECAB 209 (1992); *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981).

appellant must establish that the procedure was for a condition causally related to the employment injury and that the procedure was medically warranted. Both of these criteria must be met in order for OWCP to authorize payment.<sup>6</sup> Abuse of discretion is shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.<sup>7</sup>

### ANALYSIS

The Board finds that OWCP properly denied appellant's request for authorization of massage and physical therapy.

Appellant requested authorization for physical therapy and massage therapy as recommended by Dr. Joves in reports dated March 22, 2024 through April 25, 2025. Dr. Joves noted that she had received 29 massage therapy sessions and reported 60 to 65 percent relief. He recommended an additional six sessions of massage therapy and explained that massage therapy was beneficial in attenuating diffuse musculoskeletal symptoms and was as effective as standard medical care in chronic pain syndromes. Dr. Joves also noted that the beneficial effects of massage therapy were typically registered only during treatment and dependence upon massage therapy should be avoided. Regarding physical therapy, in his January 31, 2025 report, he noted that active therapy was beneficial for restoring flexibility, strength, endurance, function, and ROM and indicated that a supervising physical therapist could provide verbal, visual, and tactile instruction. Dr. Joves also noted that patients are expected to continue active therapies at home as an extension of the treatment process. However, he failed to provide a rationalized opinion to establish that additional physical therapy and massage therapy were medically necessary to treat appellant's accepted employment conditions.<sup>8</sup>

Appellant also submitted an unsigned statement dated May 11, 2025 by an unknown provider. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence because the author cannot be identified as a physician.<sup>9</sup> Thus, this report is of no probative value and is insufficient to establish appellant's claim.

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<sup>6</sup> *P.L.*, Docket No. 20-0392 (issued October 28, 2020); *see T.A.*, Docket No. 19-1030 (issued November 22, 2019); *Cathy B. Millin*, 51 ECAB 331, 333 (2000).

<sup>7</sup> *See J.K.*, Docket No. 20-1313 (issued May 17, 2021); *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *E.L.*, Docket No. 17-1445 (issued December 18, 2018); *L.W.*, 59 ECAB 471 (2008); *P.P.*, 58 ECAB 673 (2007)

<sup>8</sup> *See M.N.*, Docket No. 25-0271 (issued March 11, 2025); *K.M.*, Docket No. 23-0446 (issued September 26, 2023).

<sup>9</sup> *See P.V.*, Docket No. 25-0187 (issued March 17, 2025); *M.H.*, Docket No. 19-0162 (issued July 3, 2019); *see also Z.G.*, Docket No. 19-0967 (issued October 21, 2019); *D.D.*, 57 ECAB 734 (2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

OWCP also received physical therapy records. Physical therapists, however, are not considered physicians as defined under FECA, and their medical findings and opinions are insufficient to establish entitlement to benefits.<sup>10</sup>

In his May 20, 2024 report, Dr. Miller, OWCP's DMA, reviewed the medical record and a SOAF and noted that between October 2023 and March 2024, Dr. Joves' physical examination findings had remained unchanged. He opined that additional massage and physical therapy sessions were not medically necessary to treat appellant's accepted November 7, 2019 employment injury. Dr. Miller explained that massage therapy had been of evanescent benefit and was not restorative. He also explained that appellant could continue with a home exercise program as instructed.

As noted above, the only restriction on OWCP's authority to authorize medical treatment is one of reasonableness.<sup>11</sup> The medical evidence of record is insufficient to demonstrate abuse of discretion on the part of OWCP in denying authorization for massage and physical therapy for appellant's accepted conditions.<sup>12</sup> The Board thus finds that OWCP properly denied her request for authorization for massage and physical therapy.

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 OWCP properly denied authorization for massage therapy and physical therapy.

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<sup>10</sup> Section 8101(2) of FECA provides that a 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); *N.C.*, Docket No. 21-0934 (issued February 7, 2022) (as physical therapists are not considered physicians as defined under FECA, their medical findings and opinions are insufficient to establish entitlement to compensation benefits); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as nurses, physician assistants, and physical therapists are not competent to render a medical opinion under FECA).

<sup>11</sup> *Supra* note 5.

<sup>12</sup> *K.M.*, *supra* note 8.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 13, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 15, 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