



## **ISSUE**

The issue is whether appellant has met her burden of proof to establish the remaining claimed disability from work during the periods January 1 through July 28 and September 10 through October 28, 2024, causally related to the accepted September 20, 2020 employment injury.

## **FACTUAL HISTORY**

On October 20, 2020, appellant, then a 50-year-old former miscellaneous clerk/ enumerator, filed a traumatic injury claim (Form CA-1) alleging that on September 20, 2020 she injured her back, hip, groin, feet, ankles, and head when she tripped and fell while in the performance of duty. She stopped work on the date of injury, returned to work on September 21, 2020, and separated from federal employment effective November 25, 2020. OWCP initially accepted the claim for sprain of left great toe.

On May 12, 2023, appellant underwent first metatarsophalangeal (MTP) joint fusion by Dr. Cherie Kelly-Danhires, a podiatrist.

On February 5, 2024, OWCP expanded its acceptance of the claim to include unspecified abnormalities of gait and mobility, subluxation of MTP joint of left great toe, lesion of the left plantar nerve, and unspecified complications of medical care.

In a medical report dated March 28, 2024, Dr. Kelly-Danhires noted that appellant related complaints of swelling, trouble wearing shoes, pain, and tightness in the left foot. She performed a physical examination of the left foot and observed mild medial deviation of the hallux, pain along the first MTP joint, swelling in the first intermetatarsal space, and tight and painful plantar fascia. Dr. Kelly-Danhires diagnosed left-sided foot pain and swelling, tight plantar fascia, and difficult gait. She recommended a weight-bearing computerized tomography (CT) scan of the left foot to assess the need for hardware removal.

An April 8, 2024 weight-bearing CT scan of the left lower extremity demonstrated postoperative changes of the first MTP joint with complete joint fusion, intact hardware, no evidence of peri-hardware osteolysis or hardware loosening, and possible second through fourth hammertoe deformities.

In medical reports dated August 7 and September 9, 2024, Dr. Kelly-Danhires indicated that she performed surgery to remove hardware, release scar tissue, and release the plantar fascia of the left foot on July 29, 2024. She performed a physical examination of the left foot and observed well-healed incisions, no spasm, minimal thickness in the resected plantar fascia, and minimal active motion of the second and third toes. Dr. Kelly-Danhires obtained x-rays and diagnosed status post left-sided foot surgery, postoperative state with satisfactory progress, and postoperative pain.

OWCP also received physical therapy reports.

On October 29, 2024, appellant filed a claim for compensation (Form CA-7) for disability from work for the period January 1 through October 28, 2024.

In a development letter dated November 6, 2024, OWCP informed appellant of the deficiencies of her disability claim. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

OWCP thereafter received an October 25, 2024 medical report by Dr. Kelly-Danhires, who documented examination findings and diagnosed a new onset neuroma of the second intermetatarsal space. Dr. Kelly-Danhires administered an injection along the second intermetatarsal space.

By decision dated December 10, 2024, OWCP denied appellant's claim for disability from work during the period January 1 through October 28, 2024, finding that the medical evidence of record was insufficient to establish causal relationship between the claimed disability and the accepted September 20, 2020 employment injury.

On December 24, 2024, appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

In a January 16, 2025 follow-up report, Dr. Kelly-Danhires noted that appellant related complaints of left-sided foot pain and was using a cane for ambulation. She documented examination findings and diagnosed antalgic gait, left drop foot, left forefoot pain, and inability to move her toes on the left. Dr. Kelly-Danhires recommended an evaluation by a neurologist.

An unsigned note dated January 16, 2025, indicated that appellant was unable to work due to postoperative complications involving balance, drop foot, and antalgic gait, that she used a cane, and that she was unable to wear shoes.

Following a preliminary review, by decision dated February 3, 2025, an OWCP hearing representative vacated the December 10, 2024 decision, and remanded the case for further development.

On February 10, 2025, OWCP referred the case record and a statement of accepted facts (SOAF) to Dr. Arthur S. Harris, an OWCP district medical advisor (DMA), to address whether the July 29, 2024 surgery by Dr. Kelly-Danhires was medically necessary for appellant's accepted employment injury and the nature and extent of any attendant disability.

OWCP thereafter received a March 21, 2024 weight-bearing x-ray of the left foot, which demonstrated stable postsurgical changes, complete bony fusion across the arthrodesis site, and no acute bony abnormality or hardware failure.

In a February 5, 2025 medical report, Dr. Violina Melnic, a Board-certified neurologist, diagnosed left foot pain, antalgic gait, and footdrop and recommended an electromyography and nerve conduction velocity (EMG/NCV) study.

In a report dated March 14, 2025, Dr. Harris, as DMA, reviewed the SOAF and medical record. He noted that the July 29, 2024 left foot surgery included hardware removal, plantar fascial release, excision of soft tissue mass, lengthening of the flexor hallucis brevis (FHB) tendon, and debridement of the first MTP joint. Dr. Harris recommended retrospective authorization of the July 29, 2024 left foot surgery as medically necessary for appellant's accepted employment injuries. He opined that she would have been temporarily totally disabled from work for six weeks

following the July 29, 2024 surgery, after which she could return to work with limited weightbearing activities.

A March 26, 2025 EMG/NCV study of the left lower extremity was read as normal.

OWCP also received follow-up reports by Drs. Kelly-Danhires and Melnic dated May 7 and 8, 2025, respectively.

By *de novo* decision dated May 30, 2025, OWCP found that the medical evidence of record was sufficient to authorize payment of wage-loss compensation for disability from work during the period July 29 through September 9, 2024. However, it denied appellant's claim for disability from work during the periods January 1 through July 28 and September 10 through October 28, 2024, finding that the medical evidence of record was insufficient to establish causal relationship between the claimed disability and the accepted September 20, 2020 employment injury.

On June 10, 2025, appellant, through counsel, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

OWCP thereafter received a July 29, 2024 operative report by Dr. Kelly-Danhires, who performed removal of deep retained hardware, plantar fascial release with resection, excision of lipoma, lengthening of the FHB tendon, and debridement of scar tissue around the first MTP joint and sesamoid apparatus.

A July 22, 2025 x-ray of the left hip revealed mild degenerative arthrosis.

By decision dated October 17, 2025, OWCP's hearing representative affirmed the May 30, 2025 decision.

### **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.<sup>4</sup> 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.<sup>5</sup> Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.<sup>6</sup> 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.<sup>7</sup> 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

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<sup>4</sup> *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).

<sup>5</sup> 20 C.F.R. § 10.5(f).

<sup>6</sup> *See H.B.*, Docket No. 20-0587 (issued June 28, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

<sup>7</sup> *See H.B., id.; K.H.*, Docket No. 19-1635 (issued March 5, 2020).

employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.<sup>8</sup>

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.<sup>9</sup>

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.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish the remaining claimed disability from work during the periods January 1 through July 28 and September 10 through October 28, 2024, causally related to the accepted September 20, 2020 employment injury.

In support of her disability claim, appellant submitted medical reports dated March 28, 2024 through May 7, 2025 by Dr. Kelly-Danhires and dated February 5 and May 8, 2025 by Dr. Melnic. Both physicians noted examination findings and diagnoses related to her left foot. However, neither physician opined that appellant was disabled from work during the remaining specific claimed periods causally related to the accepted September 20, 2020 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.<sup>11</sup> Therefore, this evidence is of no probative value and is insufficient to establish the disability claim.

Appellant also submitted an unsigned note dated January 16, 2025. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.<sup>12</sup>

The remaining evidence of record consists of physical therapy reports and diagnostic studies. The Board has held that certain healthcare providers such as physical therapists are not considered physicians as defined under FECA and, therefore, are not competent to provide a

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<sup>8</sup> See *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

<sup>9</sup> *F.B.*, Docket No. 22-0679 (issued January 23, 2024); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

<sup>10</sup> *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

<sup>11</sup> *Supra* note 9; see also *T.H.*, Docket No. 23-0811 (issued February 13, 2024); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> See *E.S.*, Docket No. 16-0267 (issued May 17, 2016); *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

medical opinion.<sup>13</sup> Thus, these reports are of no probative value and are insufficient to establish appellant's claim.

Moreover, 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.<sup>14</sup> Therefore, this evidence is insufficient to establish appellant's disability claim.

As the medical evidence of record is insufficient to establish the remaining claimed disability from work during the periods January 1 through July 28 and September 10 through October 28, 2024 causally related to the accepted September 20, 2020 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.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish the remaining claimed disability from work during the periods January 1 through July 28 and September 10 through October 28, 2024 causally related to the accepted September 20, 2020 employment injury.

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<sup>13</sup> Section 8101(2) of FECA 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). *See also V.R.*, Docket No. 19-0758 (issued March 16, 2021) (a physical therapist is not considered a physician under FECA); *C.K.*, Docket No. 19-1549 (issued June 30, 2020) (physical therapists are not considered physicians as defined under FECA).

<sup>14</sup> *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 17, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 1, 2026  
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