United States Department of Labor
Employees' Compensation Appeals Board

H.R., Appellant	)	
	)	**Docket No. 26-0470**
and	)	**Issued: August 12, 2026**
	)	
U.S. POSTAL SERVICE, NEWINGTON POST OFFICE, Newington, CT, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 18, 2026, appellant filed a timely appeal from a February 26, 2026 merit 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 to consider the merits of the case.

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to terminate appellant's entitlement to wage-loss compensation and schedule award benefits, effective September 26, 2025, because she refused an offer of suitable work, pursuant to 5 U.S.C. § 8106(c)(2); and (2) whether appellant has met her burden of proof to establish that her refusal of suitable work was justified.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On May 27, 2016, appellant, then a 55-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on May 26, 2016, she sprained her left ankle, wrist, elbow, and hip, and scraped her knees when she stepped onto an uneven surface as she was delivering mail while in the performance of duty.[2] She stopped work on May 26, 2016. OWCP initially accepted the claim for contusion of the left hip and left knee, and sprain of the left ankle and left wrist. It later expanded its acceptance of the claim to include strain of other muscles, fascia, and tendons at shoulder and upper arm level, left arm, initial encounter; aggravation of preexisting degenerative arthritis, left shoulder; adhesive capsulitis, left shoulder; and trochanteric bursitis, left hip. OWCP paid appellant wage-loss compensation commencing July 11, 2016.

On November 7, 2024, OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions, to Dr. Ira Spar, a Board-certified orthopedic surgeon, for a second opinion examination regarding the nature and extent of appellant's injury-related residuals and disability. The SOAF indicated that appellant's preexisting or concurrent medical conditions included "Depression." OWCP specifically asked whether appellant's conditions were caused directly by, or were aggravated by, preexisting conditions. It also asked whether appellant's preexisting conditions had resolved.

In a January 14, 2025 medical report, Dr. Spar noted his review of the SOAF, appellant's history of injury and medical treatment. He related appellant's complaints of decreased strength in the left upper extremity, persistent left shoulder pain with stiffness, pain in the right and left buttocks radiating to the lateral side of the thigh, spasms in the left leg with toes curling on the left foot, and decreased strength in the left hand. Dr. Spar further noted that she reported extreme difficulty performing housework and recreational activities, squatting, and lifting groceries or heavy items. Appellant could walk only less than two blocks at a time, and she had difficulty with stairs, standing, or sitting for more than one hour. On physical examination of the lower extremities, Dr. Spar observed essentially normal findings with the exception of limited range of motion (ROM) at the waist and left hip, and tenderness over the greater trochanter, but no crepitus. On physical examination of the right and left shoulders, he observed essentially normal findings with the exception of diminished ROM in all directions with guarding regarding the left shoulder. Dr. Spar further advised that there was guarding about the left hip with pain that had been thoroughly evaluated and treated. He indicated that the left wrist, knee, and ankle were basically asymptomatic, and had no residual objective or subjective findings. Additionally, Dr. Spar indicated that appellant had no left ankle, left knee, and left wrist restrictions regarding her city carrier assistant position. He maintained that the prognosis for the left ankle, left wrist, and left knee sprains was excellent as these conditions were asymptomatic. Dr. Spar noted that there was no aggravation of a preexisting condition. Appellant's previous open reduction and internal fixation of the lateral malleolus had healed without sequelae. She had a painful stiff left shoulder status post two shoulder arthroscopies and chronic left hip pain. There were no

[2] OWCP assigned the present claim OWCP File No. xxxxxx268. Appellant has a subsequent occupational disease claim (Form CA-2) under OWCP File No. xxxxxx083 alleging that she sustained severe major depressive disorder due to discrimination and harassment by the employing establishment. OWCP has administratively combined OWCP File Nos. xxxxxx083 and xxxxxx268, with the latter serving as the master file.

subjective or objective findings for the left ankle. In a work capacity evaluation (Form OWCP-5c) of even date, Dr. Spar checked a box marked "No" indicating that appellant could not perform her usual job without restrictions due to being postoperative OWCP-authorized left shoulder surgeries but, also checked a box marked "No" indicating that she could not work eight hours per day with restrictions. He listed appellant's permanent work restrictions, which included walking and standing no more than two hours a day; operating a motor vehicle to and from work no more than 30 minutes a day; pushing, pulling, and lifting no more than 10 pounds for two hours a day; and no operating a motor vehicle at work, squatting, kneeling, or climbing.

On February 10, 2025, the employing establishment offered appellant a full-time position as a modified city carrier assistant, effective January 14, 2025, based on Dr. Spar's January 14, 2025 restrictions. The position required casing routes with a stool, answering telephones, updating dog warning cards, editing case labels, clearing undeliverable bulk business mail (if needed), routing edit books, using the customer service request system, organizing gas receipts, and assisting with the delivery management system and lobby director intermittently up to four hours per day. The physical requirements of the position included lifting up to 10 pounds; pushing/pulling up to 10 pounds; and walking and standing intermittently up to two hours per day.

On March 1, 2025, appellant refused the employing establishment's job offer. She explained that she could not perform any work duties due to her physical and emotional/stress-related conditions. Appellant requested further medical evaluation for post-traumatic stress disorder (PTSD).

In an April 9, 2025 letter, OWCP advised appellant of its determination that the modified city carrier assistant position offered by the employing establishment on February 10, 2025 was suitable in accordance with the medical limitations set forth in Dr. Spar's January 14, 2025 report. It related that it had confirmed with the employing establishment that the offered position remained available. Pursuant to 5 U.S.C. § 8106(c)(2), OWCP afforded appellant 30 days either to accept the position or to provide reasons for the refusal. It advised her that failure to do so would result in termination of her entitlement to wage-loss compensation and schedule award benefits.

OWCP subsequently received additional medical evidence. In a March 19, 2025 note, Jose Valentin, Ph.D., a licensed clinical psychologist, related that appellant was seen for psychotherapy from early March 2024 through March 19, 2025.

In an April 22, 2025 note, Dr. Fatema Islam, a Board-certified family practitioner, requested that appellant be excused from work due to medical and psychiatric conditions. She indicated that appellant required clearance from her psychiatrist before resuming any work.

On April 29, 2025, appellant informed OWCP that she was unable to return to work due to depression.

On July 7, 2025, the employing establishment informed OWCP that appellant had refused its job offer based on a medical condition that had not been accepted by OWCP. It indicated that the position offered remained available.

By letter dated August 6, 2025, OWCP notified appellant that she had not provided a valid reason for her refusal of the offered position. It noted that it had confirmed with the employing establishment that the offered position remained available and provided her 15 days to accept the position, or her entitlement to wage-loss compensation and schedule award benefits would be terminated, pursuant to 5 U.S.C. § 8106(c)(2).

In a September 5, 2025 letter, the employing establishment informed OWCP that appellant continued to refuse its offer of suitable employment. It requested that OWCP terminate her entitlement to compensation.

OWCP subsequently received a September 9, 2025 note, wherein Dr. Islam again requested that appellant be excused from work due to medical and psychiatric conditions. She reiterated that appellant needed clearance from her psychiatrist before resuming work.

On September 23, 2025, OWCP again confirmed with the employing establishment that the offered position remained available.

By decision dated September 26, 2025, OWCP terminated appellant's entitlement to wage-loss compensation and schedule award benefits, effective that date, pursuant to 5 U.S.C. § 8106(c)(2), based on her refusal of suitable work. It found that the job offer was suitable based upon her current work restrictions as provided by Dr. Spar in his January 14, 2025 report. OWCP also found that appellant's reasons for job refusal were not justified as the referenced emotional conditions had not been accepted as work related. It found that she did not submit sufficient rationalized medical evidence to establish a diagnosed condition that disabled her from performing the offered position.

OWCP subsequently received a September 25, 2025 report, wherein Karen Ennis, a nurse practitioner, diagnosed major depressive disorder, recurrent severe without psychotic features; generalized anxiety disorder; and PTSD, unspecified.

On October 10, 2025, appellant requested reconsideration.

By decision dated October 24, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

OWCP subsequently received a November 18, 2025 report, wherein Ms. Ennis reiterated her previous diagnoses. She noted that appellant reported that her mental health concerns began in 2016 following a work-related injury which increased her anxiety and depression.

On November 26, 2025, appellant requested reconsideration.

By decision dated December 11, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On December 19, 2025, appellant requested reconsideration.

OWCP subsequently received a report dated September 25, 2025 wherein Dr. Michael DeStefano, a Board-certified psychiatrist, related appellant's diagnoses of major depressive

disorder, recurrent severe without psychotic features; generalized anxiety disorder; and PTSD. He related that appellant's mental health concerns began in 2016 following a work-related injury. Dr. DeStefano opined that she was unable to work due to her increased anxiety, depression, and PTSD.

By decision dated January 5, 2026, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On January 16, 2026, appellant again requested reconsideration.

OWCP subsequently received a January 21, 2026 report, wherein Dr. DeStefano, restated his prior diagnoses, appellant's opinion regarding the cause of her conditions, and his opinion regarding her disability from work. Additionally, he explained that she was unable to work due to her worsening anxiety symptoms. Dr. DeStefano noted that appellant was experiencing significant functional impairment that would affect her ability to safely and effectively perform her work.

By decision dated February 26, 2026, OWCP denied modification of its September 26, 2025 termination decision.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of justifying termination or modification of an employee's compensation benefits.[3] Section 8106(c)(2) of FECA provides that a partially disabled employee who refuses or neglects to work after suitable work is offered to, procured by, or secured for the employee is not entitled to compensation.[4] To justify termination of compensation, OWCP must show that the work offered was suitable, that the employee was informed of the consequences of refusal to accept such employment, and that he or she was allowed a reasonable period to accept or reject the position or submit evidence to provide reasons why the position is not suitable.[5] Section 8106(c) will be narrowly construed as it serves as a penalty provision, which may bar an employee's entitlement to compensation based on a refusal to accept a suitable offer of employment.[6]

Section 10.517(a) of FECA's implementing regulations provides that an employee who refuses or neglects to work after suitable work has been offered or secured, has the burden of showing that such refusal or failure to work was reasonable or justified.[7] Pursuant to section

[3] *See B.P.,* Docket No. 21-0614 (issued December 30, 2021); *K.S.,* Docket No. 19-1650 (issued April 28, 2020); *J.R.,* Docket No. 19-0206 (issued August 14, 2019); *R.P.,* Docket No. 17-1133 (issued January 18, 2018); *S.F.,* 59 ECAB 642 (2008); *Kelly Y. Simpson,* 57 ECAB 197 (2005).

[4] 5 U.S.C. § 8106(c)(2); *see also Geraldine Foster*, 54 ECAB 435 (2003).

[5] *See R.A*., Docket No. 19-0065 (issued May 14, 2019); *Ronald M. Jones*, 52 ECAB 190 (2000).

[6] *S.D*., Docket No. 18-1641 (issued April 12, 2019); *Joan F. Burke*, 54 ECAB 406 (2003).

[7] 20 C.F.R. § 10.517(a).

10.516, the employee shall be provided with the opportunity to make such a showing before a determination is made with respect to termination of entitlement to compensation.[8]

The determination of whether an employee is physically capable of performing a modified assignment is a medical question that must be resolved by medical evidence.[9] OWCP's procedures provide that acceptable reasons for refusing an offered position include withdrawal of the offer or medical evidence of inability to do the work or travel to the job.[10] In a suitable work determination, OWCP must consider preexisting and subsequently-acquired medical conditions in evaluating an employee's work capacity.[11] OWCP's procedures provide that, if medical reports document a condition, which has arisen since the compensable injury and disables an employee from the offered job, the job will be considered unsuitable, even if the subsequently-acquired condition is not employment related.[12]

ANALYSIS -- ISSUE 1

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's entitlement to wage-loss compensation and schedule award benefits, effective September 26, 2025, because she refused an offer of suitable work, pursuant to 5 U.S.C. § 8106(c)(2).

On November 7, 2024, OWCP referred appellant, along with a SOAF, the medical record, and a series of questions, to Dr. Spar for a second opinion examination regarding the nature and extent of appellant's injury-related residuals and disability. The SOAF indicated that appellant's preexisting or concurrent medical conditions included "Depression." OWCP specifically asked Dr. Spar whether appellant's conditions were caused directly by, or were aggravated by, preexisting conditions. It also asked him whether appellant's preexisting conditions had resolved.

In a January 14, 2025 medical report, Dr. Spar noted his review of appellant's history of injury and medical treatment. He opined that the left wrist, knee, and ankle were basically asymptomatic, and had no residual objective or subjective findings. Additionally, Dr. Spar indicated that appellant had no left ankle, left knee, and left wrist restrictions regarding her city carrier assistant position. He maintained that the prognosis for the left ankle, left wrist, and left knee sprains was excellent as these conditions were asymptomatic. Dr. Spar noted that there was

[8] *Id.* at § 10.516.

[9] *See D.B.,* Docket No. 22-0594 (issued October 16, 2023); *C.M.*, Docket No. 19-1160 (issued January 10, 2020); *K.W.,* Docket No. 19-0860 (issued September 18, 2019); *M.A.*, Docket No. 18-1671 (issued June 13, 2019); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *Gayle Harris*, 52 ECAB 319 (2001).

[10] *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Job Offers and Return to Work*, Chapter 2.814.5a (June 2013); *see also E.B.*, Docket No. 13-0319 (issued May 14, 2013).

[11] *B.P., supra* note 3; *D.P.,* Docket No. 21-0596 (issued August 31, 2021); *see G.R.,* Docket No. 16-0455 (issued December 13, 2016); *G.R.*, Docket No. 16-0455 (issued December 13, 2016); *Richard P. Cortes*, 56 ECAB 200 (2004).

[12] Federal (FECA) Procedure Manual, *supra* note 10 at Chapter 2.814.4c(7) (June 2013); *R.M.,* Docket No. 19-1236 (issued January 24, 2020).

no aggravation of a preexisting condition. Appellant's previous open reduction and internal fixation of the lateral malleolus had healed without sequelae. She had a painful stiff left shoulder status post two shoulder arthroscopies and chronic left hip pain. There were no subjective or objective findings for the left ankle. Dr. Spar, however, did not address whether appellant's preexisting or concurrent depression condition impacted her ability to perform the offered job.

As previously noted, all conditions must be considered in determining whether an offered position is suitable work, whether or not they are employment related.[13] As OWCP did not obtain a medical opinion on whether appellant's depression prevented her from performing the modified city carrier assistant position offered by the employing establishment, the Board finds that OWCP failed to meet its burden of proof.[14]

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's entitlement to wage-loss compensation and schedule award benefits, effective September 26, 2025, because she refused an offer of suitable work, pursuant to 5 U.S.C. § 8106(c)(2).

[13] *Supra* notes 11 and 12.

[14] In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2026 decision of the Office of Workers' Compensation Programs is reversed.

Issued: August 12, 2026
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