

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

K.A., Appellant)	
)	
and)	Docket No. 26-0031
)	Issued: February 26, 2026
U.S. POSTAL SERVICE, PAINESVILLE POST)	
OFFICE, Painesville, OH, Employer)	
)	

Appearances: *Case Submitted on the Record*
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 13, 2025 appellant, through counsel, filed a timely appeal from a September 9, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes, that following the issuance of the September 9, 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 OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective May 13, 2025, as she no longer had disability or residuals causally related to her accepted January 18, 2013 employment injury.

FACTUAL HISTORY

This case was previously before the Board on a different issue.⁴ The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On January 19, 2013 appellant, then a 39-year-old transitional city carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 18, 2013 she strained her lower back when the postal vehicle she was operating was rear-ended while in the performance of duty. She stopped work on the date of injury. On February 15, 2013 OWCP accepted appellant's claim for sprains of the cervical, lumbar, and thoracic areas of the spine, right elbow and forearm, and right shoulder and upper arm. It paid appellant wage-loss compensation on the supplemental rolls from March 5 through May 4, 2013, and on the periodic rolls, commencing May 5, 2013.

On October 25, 2024 OWCP referred appellant, together with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Randy P. Plona, an osteopath Board-certified in family and occupational medicine, for a second opinion examination to determine whether appellant continued to suffer from residuals and/or disability causally related to the accepted work-related injury.

In a November 19, 2024 report, Dr. Plona noted his review of the SOAF and the medical record. He related appellant's current complaints and provided findings on physical examination of the cervical, thoracic, and lumbar areas of the spine, both heels, right shoulder, and right elbow. Dr. Plona indicated that her cervical spine was stable and neurovascularly intact with a subjective complaint of pain radiating to the elbows and had decreased range of motion (ROM). The thoracic and lumbar areas of the spine were also stable and neurovascularly intact with decreased ROM. Dr. Plona noted that she was not able to stand on her heels or toes. Deep tendon reflexes were +2/4 bilateral brachial radialis and +2/4 bilateral patellar. The right shoulder and right elbow were stable and neurovascularly intact with decreased ROM. There were no areas of decreased sensation in a dermatomal distribution on appellant's body. Dr. Plona opined that the accepted work-related conditions had resolved as there was no residual evidence of the accepted conditions. He further opined that appellant was "medically capable of performing her job duties of mail carrier that she held on her date of injury." Dr. Plona explained that sprains would resolve within six to eight weeks of injury. He further indicated that "there may be currently nonallowed or unrelated conditions such as L5-S1 lumbar retrolisthesis and lumbar disc bulge with radiculopathy that would amend this determination." Dr. Plona advised that any residual pain, and decreased strength and ROM of the lumbar spine in appellant's claim could potentially be attributable to the preexisting L5-S1 lumbar retrolisthesis

⁴ Docket No. 18-0378 (issued June 18, 2019).

and lumbar disc bulge with lumbar radiculopathy. In a work capacity evaluation (Form OWCP-5c) dated November 25, 2024, he indicated that appellant could not perform her usual job due to her nonemployment-related L5-S1 lumbar retrolisthesis and lumbar disc bulge with lumbar radiculopathy. Dr. Plona noted that her restrictions were permanent.

In a notice dated March 19, 2025, OWCP advised appellant that it proposed to terminate her wage-loss compensation and medical benefits based on Dr. Plona's opinion that the accepted employment-related conditions had ceased without residuals or disability. It afforded her 30 days to submit additional evidence or argument challenging the proposed termination.

In an April 3, 2025 Form OWCP-5c, Dr. Kim Hyun, an osteopath Board-certified in psychiatry and a Board-certified internist, indicated that appellant would be totally disabled from work until she was able to undergo and recover from lumbar spine surgery.

In an April 3, report, Katherine Burke, DPT, a physical therapist and medical researcher, discussed appellant's current complaints and physical examination findings. She noted that the claim was accepted for sprain of ligaments of lumbar spine, initial encounter; radial collateral ligament sprain of right elbow, initial encounter; sprain of ligaments of cervical spine, initial encounter; sprain of right acromioclavicular joint, initial encounter; and sprain of ligaments of thoracic spine, initial encounter. Dr. Burke opined that appellant suffered more than sprains due to the accepted employment injury and recommended a magnetic resonance imaging scan of the cervical and lumbar areas of the spine. She also discussed appellant's treatment plan.

In an attending physician's report (Form CA-20) also dated April 3, 2025, Dr. Burke reiterated her diagnoses of the accepted conditions. She noted that appellant was not working at the time of her examination.

By decision dated May 13, 2025, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date, finding that Dr. Plona's opinion constituted the weight of the medical opinion evidence that appellant no longer had residuals or disability causally related to the accepted January 18, 2013 employment injury.

On May 29, 2025 appellant, through counsel, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. No additional evidence was received.

By decision dated September 9, 2025, OWCP's hearing representative affirmed the May 13, 2025 decision.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.⁵ After it has determined that, an employee has disability causally related to his or her federal employment, OWCP may not

⁵ *R.G.*, Docket No. 22-0165 (issued August 11, 2022); *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.⁶ Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁷

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.⁸ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁹

ANALYSIS

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective May 13, 2025, as she no longer had disability or residuals causally related to her accepted January 18, 2013 employment injury.

OWCP terminated appellant's wage-loss compensation and medical benefits, effective May 13, 2025, based on the November 19, 2024 report of Dr. Plona, the second opinion physician. Dr. Plona found that her cervical spine was stable and neurovascularly intact with a subjective complaint of pain radiating to the elbows and had decreased ROM. The thoracic and lumbar areas of the spine were also stable and neurovascularly intact with decreased ROM. Dr. Plona opined that the accepted work-related conditions had resolved as there was no residual evidence of the accepted conditions. He further opined that appellant was "medically capable of performing her job duties of mail carrier that she held on her date of injury." Dr. Plona explained that sprains would resolve within six to eight weeks of injury.

Dr. Plona based his opinion on a proper factual and medical history and appellant's physical examination findings. He provided medical rationale for his opinion that appellant did not have residual injury or disability. Accordingly, OWCP properly relied on Dr. Plona's November 19, 2024 second opinion report in terminating appellant's wage-loss and medical compensation benefits for the January 18, 2013 employment injury.¹⁰

Following the March 19, 2025 notice of proposed termination, in an April 3, 2025 Form OWCP-5c, Dr. Hyun related that appellant would remain totally disabled from work until she was able to undergo and recover from lumbar spine surgery. He did not, however, provide an opinion that appellant continued to have residuals or disability due to her accepted employment

⁶ See *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

⁷ *R.L.*, Docket No. 22-1175 (issued May 11, 2023); *M.C.*, Docket No. 18-1374 (issued April 23, 2019); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁸ *P.K.*, Docket No. 22-1345 (issued June 28, 2023); *A.G.*, Docket No. 19-0220 (issued August 1, 2019); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁹ See *A.G.*, *id.*; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002).

¹⁰ *C.C.*, Docket No. 19-1062 (issued February 6, 2020); see *S.M.*, Docket No. 18-0673 (issued January 25, 2019); see also *A.F.*, Docket No. 16-0393 (issued June 24, 2016).

injury.¹¹ OWCP also received reports from Dr. Burke, a physical therapist and medical researcher. Physical therapists, however, are not considered physicians as defined under FECA, and their medical findings and opinions are insufficient to establish entitlement to benefits.¹² The Board finds that the remaining contemporaneous medical evidence is insufficient to overcome the weight of the medical evidence or create a conflict with Dr. Plona's November 19, 2024 second opinion report.

The Board, therefore, finds that OWCP properly terminated appellant's wage-loss compensation and medical benefits, effective May 13, 2025.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective May 13, 2025, as she no longer had disability or residuals causally related to her accepted January 18, 2013 employment injury.

¹¹ See *B.B.*, Docket No. 25-0661 (issued September 9, 2025); *G.R.*, Docket No. 25-0540 (issued June 26, 2025); *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).

¹² 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); *C.C.*, Docket No. 25-0776 (issued September 15, 2025) (physical therapists are not considered physicians as defined under FECA); *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).

ORDER

IT IS HEREBY ORDERED THAT the September 9, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 26, 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