

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

S.W., Appellant	)	
	)	
and	)	Docket No. 26-0069
	)	Issued: February 20, 2026
U.S. POSTAL SERVICE, WINDHAM POST OFFICE, Windham, ME, Employer	)	
	)	
	)	

*Appearances:* *Case Submitted on the Record*  
*Alan J. Shapiro, Esq.*, for the appellant<sup>1</sup>  
*Office of Solicitor*, for the Director

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge

**JURISDICTION**

On November 3, 2025 appellant, through counsel, filed a timely appeal from an October 22, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>3</sup>

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<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> The Board notes that, following the October 22, 2025 decision, appellant submitted additional evidence to OWCP. 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 her burden of proof to establish an occupational disease in the performance of duty, as alleged.

## **FACTUAL HISTORY**

On March 5, 2025 appellant, then a 54-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed a torn rotator cuff due to factors of her federal employment, including 24 years of repetitive movement. She noted that she first became aware of her condition on July 1, 2024, and realized its relationship to factors of her federal employment on February 13, 2025. Appellant did not stop work.

In support of her claim, appellant submitted a February 28, 2025 left shoulder magnetic resonance imaging (MRI) scan which demonstrated a full-thickness, near complete tear of the supraspinatus tendon with mild tendon retraction, mild degenerative changes in the shoulder joint, and acromioclavicular joint arthrosis.

In a March 10, 2025 development letter, OWCP informed appellant of the deficiencies of her claim and advised her of the type of factual and medical evidence necessary to establish her claim. It afforded her 60 days to respond.

OWCP subsequently received a February 13, 2025 report in which Dr. Sarah B. Shubert, a Board-certified orthopedic surgeon, related findings on physical examination and recounted that appellant's bilateral shoulder pain began in the summer of 2024 and was exacerbated when she fell on her left shoulder when roller skating in September 2024. Dr. Shubert diagnosed left shoulder rotator cuff syndrome of the left shoulder after a fall.

OWCP also received a February 13, 2025 x-ray of the left shoulder which revealed no acute bony abnormality.

On March 14, 2025 appellant responded to OWCP's development letter and asserted that she worked as a rural carrier for 24 years with 750 boxes on her route. She related that her shoulder condition began in the spring of 2024 and that on July 1, 2024 she was diagnosed with a rotator cuff tear. Appellant alleged that her pain increased in November 2024 and that she then sought additional treatment.

In March 13, 2025 reports, Anne Rolfson, a physician assistant, related that appellant sustained a left shoulder injury in July 2024. On April 3, 2025 Sorenda Muth, a physician assistant, repeated this history.

In a follow-up letter dated April 9, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the March 10, 2025 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In an April 9, 2025 report, Dr. George W. Stockwell, an osteopathic Board-certified family practitioner, performed a physical examination and diagnosed left shoulder rotator cuff syndrome, rotator cuff tear, and impingement of the left shoulder with a history of shoulder arthroscopic surgery. He related that appellant reported chronic bilateral shoulder pain with the left shoulder more affected. Appellant attributed the pain to 24 years of repetitive work-related activities including heavy lifting. She first noticed significant pain in July 2024. In September 2024, appellant fell while roller skating, landing on her left arm and resulting in significant pain in her left shoulder. She alleged that the fall exacerbated existing rotator cuff pathology. Dr. Stockwell opined that the MRI scan demonstrated that the left rotator cuff tear was “probably already there before the fall.” He noted that the fall increased her shoulder pain. Dr. Stockwell concluded, “I would submit that it is not possible to tell sterilely when that tear occurred most certainly may have been an acute tear from her fall in September however her degenerative rotator cuff pathology and chronic impingement of the left shoulder were also quite possible contributing to weakness of rotator cuff and susceptibility to tearing.”

By decision dated June 4, 2025, OWCP denied appellant’s claim, finding that she had not established that she was injured while in the performance of any duty of her job and as a physician’s opinion as to how her employment activities caused, contributed to, or aggravated her medical condition had not been provided. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On June 19, 2025 appellant, through counsel, requested a review of the written record by a representative of OWCP’s Branch of Hearings and Review.

OWCP subsequently received additional reports from Ms. Muth dated August 28, 2025.

By decision dated October 22, 2025, OWCP’s hearing representative affirmed OWCP’s June 4, 2025 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;

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<sup>4</sup> *Id.*

<sup>5</sup> *C.L.*, Docket No. 25-0593 (issued July 15, 2025); *K.M.*, Docket No. 24-0752 (issued October 16, 2024); *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

(2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) rationalized medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>6</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>7</sup> The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors.<sup>8</sup>

### ANALYSIS

The Board finds that this case is not in posture for decision.

In the October 22, 2025 decision, OWCP's hearing representative found that appellant was in the performance of duty when injured, but did not explain the reasoning behind this conclusion. Rather, the hearing representative reviewed whether the medical evidence of record was sufficient to establish causal relationship between a medical condition and the accepted employment factors. In this regard, the hearing representative did not discharge their responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the precise defect of her claim and the kind of evidence which would overcome it.<sup>9</sup> Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and an award for or against payment of compensation.<sup>10</sup> Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of facts and a statement of reasons.<sup>11</sup> As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.<sup>12</sup>

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<sup>6</sup> *C.L., id.*; *M.Y.*, Docket No. 24-0865 (issued October 18, 2024); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>7</sup> *E.K.*, Docket No. 25-0077 (issued January 21, 2025); *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>8</sup> *P.V.*, Docket No. 25-0547 (issued June 23, 2025); *S.W.*, Docket No. 25-0261 (issued February 24, 2025); *D.W.*, Docket No. 24-0492 (issued January 14, 2025); *D.J.*, Docket No. 19-1301 (issued January 29, 2020); *A.T.*, Docket No. 18-0221 (issued June 7, 2018).

<sup>9</sup> *S.C.*, Docket No. 23-0094 (issued January 29, 2026); *see also N.R.*, Docket No. 22-0958 (issued February 21, 2025); *D.W.*, Docket No. 18-0483 (issued March 7, 2019).

<sup>10</sup> 5 U.S.C. § 8124(a).

<sup>11</sup> 20 C.F.R. § 10.126.

<sup>12</sup> Federal (FECA) Procedure Manual Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013) (all decisions should contain findings of fact sufficient to identify the benefit being denied and the reason for the disallowance).

As such, the Board shall set aside the October 22, 2025 hearing decision and remand the case for findings of fact and a statement of reasons with regard to whether appellant was injured while in the performance of duty, pursuant to the standards set forth in section 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126.<sup>13</sup> After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

**CONCLUSION**

The Board finds that this case is not in posture for decision.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 22, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 20, 2026  
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

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<sup>13</sup> *D.O.*, Docket No. 22-0315 (issued June 29, 2022).