

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

E.I., Appellant)	
)	
)	
and)	Docket No. 25-0837
)	Issued: January 20, 2026
U.S. POSTAL SERVICE, POST OFFICE, Coppell, TX, Employer)	
)	
)	

Appearances:

Alan J. Shapiro, Esq., for the appellant¹
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
JANICE B. ASKIN, Judge

JURISDICTION

On August 29, 2025 appellant, through counsel, filed a timely appeal from an August 8, 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 August 8, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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 his burden of proof to establish intermittent disability from work commencing July 5, 2023, causally related to the accepted employment injury.

FACTUAL HISTORY

On October 31, 2023 appellant, then a 53-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained injuries due to factors of his federal employment, which included walking and carrying mail and packages. He asserted that he developed multiple conditions, including plantar fasciitis, pain/swelling in his knees and feet, bone spurs, and tendinopathy. Appellant noted that he first became aware of his claimed conditions on May 15, 2023 and realized their relation to his federal employment on June 2, 2023. At the time he filed the October 31, 2023 Form CA-2, appellant had been working in a limited-duty position for six hours per day since early-July 2023 without wage loss.

Appellant submitted medical evidence in support of his claim. In a July 5, 2023 report and a “letter of causal relationship” of even date, Dr. Ronnie D. Shade, a Board-certified orthopedic surgeon, indicated that appellant presented for the first time on July 5, 2023 and complained of sustaining injury on May 15, 2023 to his feet, ankles, and knees due to factors of his federal employment, which included walking, standing, climbing, bending, stooping, lifting, and mounting and dismounting his work vehicle. Appellant also noted that he developed symptoms in his feet, ankles, and knees over time. Dr. Shade detailed the findings of his physical examination and diagnosed work-related unilateral primary osteoarthritis of each knee, bilateral knee effusion, bilateral enthesopathy of the feet/ankles, and plantar fascial fibromatosis.

In a July 5, 2023 note, Dr. Shade indicated that appellant could return to work on July 6, 2023 for six hours per day. He advised that appellant was able to engage in prolonged standing/sitting/walking, pushing/pulling, and working overhead for six hours per day.

In November 8 and 27, 2023 reports, Dr. Shade noted that appellant could continue limited-duty work, with walking not to exceed six hours. In a November 8, 2023 work excuse note, he indicated that appellant could engage in prolonged standing/sitting/walking for six hours per day, pushing/pulling up to 25 pounds for four hours per day, and working overhead for four hours per day. In a November 27, 2023 note, Dr. Shade advised that appellant could engage in prolonged standing/sitting/walking for six hours per day, lifting/pushing/pulling up to 25 pounds for four hours per day, and working overhead for four hours per day.

On January 9, 2024 OWCP accepted appellant’s claim for plantar fascial fibromatosis.

Appellant continued to submit medical evidence. In a December 11, 2023 report, Dr. Shade indicated that he could continue limited-duty work per provided restrictions. In a December 11, 2023 note, he advised that appellant could engage in prolonged standing/sitting/walking for six hours per day, lifting/pushing/pulling up to 25 pounds for four hours per day, and working overhead for four hours per day. In a January 8, 2024 report, Dr. Shade indicated that he could continue limited-duty work per prior restrictions. In a January 8, 2024

note, he advised that appellant could return to limited-duty work on January 9, 2024 for eight hours per day.

In February 13, March 8 and 29, April 16, May 21, and July 9 and 25, 2024 reports, Dr. Jose D. Fajardo, a podiatrist, discussed appellant's lower extremity conditions and detailed the findings of his physical examinations. He diagnosed multiple lower extremity conditions, including bilateral plantar fasciitis, bilateral enthesopathy of the feet/ankles, and bilateral neuromas and calcaneal spurs of the feet. Dr. Fajardo indicated that appellant was able to leave ambulating on his own in apparently satisfactory condition.

In June 10 and July 29, 2024 reports, Dr. Shade indicated that appellant could perform limited-duty work for six hours per day.

OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Ali Ashraf, a Board-certified orthopedic surgeon, for a second opinion examination to obtain updated work-related injury diagnoses, assess continued work-related residuals, and provide updated work restrictions. In a June 15, 2024 report, Dr. Ashraf reported his physical examination findings and diagnosed bilateral plantar fasciitis, noting that no additional diagnosis should be added as work related. He indicated that appellant's bilateral plantar fasciitis had not yet resolved. In a June 19, 2024 work capacity evaluation (Form OWCP-5c), Dr. Ashraf indicated that appellant could work in a medium-duty position for eight hours per day with no prolonged standing or walking.

On August 8, 2024 appellant submitted a claim for compensation (Form CA-7) claiming disability from work during the period July 5, 2023 through August 7, 2024.

In an August 13, 2024 development letter, OWCP notified appellant of the deficiencies of his disability claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

On August 20, 2024 OWCP, received an August 7, 2024 report, wherein Dr. Fajardo diagnosed multiple lower extremity conditions, including bilateral plantar fasciitis, bilateral enthesopathy of the feet/ankles, and bilateral neuromas and calcaneal spurs of the feet.

By decision dated September 16, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish disability from work commencing July 5, 2023, casually related to the accepted employment injury.⁴

In a supplemental report dated September 11, 2024, Dr. Ashraf, OWCP's referral physician, indicated that appellant's conditions of unilateral primary osteoarthritis of each knee, bilateral knee effusion, and bilateral enthesopathy of the feet/ankles were likely work related.

⁴ OWCP listed the beginning date of appellant's claimed period of disability as July 5, 2024; however, this appears to be a typographical error as the actual date claimed was July 5, 2023.

Appellant continued to submit additional medical evidence. In reports dated September 16, October 7, November 19, and December 18, 2024, and January 20, 2025, Dr. Fajardo diagnosed multiple lower extremity conditions, including bilateral plantar fasciitis, bilateral enthesopathy of the feet/ankles, and bilateral neuromas and calcaneal spurs of the feet.

In a January 13, 2025 report, Dr. Shade diagnosed bilateral enthesopathy of the feet/ankles and indicated that appellant could return to limited-duty work on January 14, 2025.

On December 23, 2024 OWCP referred appellant, along with the medical record, a SOAF, and a series of questions, to Dr. Dawn M. Grosser, a Board-certified orthopedic surgeon, for a second opinion examination to discuss work-related injury diagnoses, assess continued work-related residuals, and provide updated work restrictions. In a January 24, 2025 report, Dr. Grosser reported the findings of her physical examination and discussed appellant's conditions of bilateral fasciitis and plantar fibromatosis of the left foot. In a January 24, 2025 Form OWCP-5c, she indicated that appellant could only work six hours per day with restrictions of walking, standing, and lifting up to 40 pounds for up to six hours per day, and squatting and kneeling for up to one hour per day.

In a supplemental report dated March 3, 2025, Dr. Grosser advised that the acceptance of appellant's claim should be expanded to include unilateral primary osteoarthritis of each knee.⁵

In March 10 and May 7, 2025 reports, Dr. Shade indicated that appellant could perform limited-duty work for six hours per day.

In March 24, April 3 and 23, May 28, 2025 reports, Dr. Fajardo diagnosed multiple lower extremity conditions, including bilateral plantar fasciitis, bilateral enthesopathy of the feet/ankles, and bilateral neuromas and calcaneal spurs of the feet.

On June 17, 2025 OWCP expanded the acceptance of appellant's claim to include unilateral primary osteoarthritis of each knee.

On June 26, 2025 OWCP continued to receive medical evidence. In a June 16, 2025 note, Dr. Shade indicated that appellant was treated on June 8, 2025 for a flare-up of the condition of both his feet, right foot worse than left foot, and had been off work since that date. He opined that appellant was totally incapacitated and unable to work as a city carrier for the period June 8 to 25, 2025 due to flare-ups, increased throbbing pain, swelling, soreness, and give-way sensations in both feet, right foot worse than left foot. In a June 19, 2025 report, Dr. Fajardo noted that appellant reported that he went to the emergency room on June 8, 2025 due to pain that started in his right foot while delivering mail at work on June 6, 2025 and that he was taken off work and prescribed medication. He indicated that appellant was currently not working due to his foot pain and advised that if he did not continue wearing orthotics he might need to decrease his work or transfer to a job that is not weight bearing or is less weight bearing.

⁵ In a supplemental report dated April 18, 2025, Dr. Grosser advised that the unilateral primary osteoarthritis of appellant's knees was permanently aggravated by his work.

In a June 25, 2025 note, Dr. Shade determined that appellant was totally incapacitated and unable to work as a city carrier for the period June 26 through July 10, 2025 due to difficulty in prolonged standing, walking, sitting, bending, lifting, and kneeling, as well as persistent throbbing aching pain, swelling, soreness, and give-way sensations in both feet and knees. In a June 25, 2025 Form CA-17, he listed a May 15, 2023 date of injury and identified “diagnose(s) due to injury” as patellofemoral disorders and unilateral primary osteoarthritis of each knee. Dr. Shade advised that appellant should be off work from June 26 through July 10, 2025.

In addition, an unsigned June 8, 2025 note indicated that appellant had been treated at an emergency department on June 8, 2025 and released appellant to return to work on June 14, 2025.

On June 30, 2025 appellant filed a Form CA-7 claim for disability from work for the period June 9 through 26, 2025.

OWCP subsequently received additional medical evidence. In a June 20, 2025 report, Dr. Fajardo diagnosed multiple lower extremity conditions, including bilateral plantar fasciitis, bilateral enthesopathy of the feet/ankles, and bilateral neuromas and calcaneal spurs of the feet. In a June 25, 2025 report, Dr. Shade advised that appellant was in off-work status from June 8 to July 10, 2025 due to difficulty with prolonged walking, standing, sitting, bending, and kneeling. In a July 18, 2025 report, Dr. Fajardo again discussed appellant’s visit to the emergency room on June 8, 2025 due to pain that started in his right foot while delivering mail at work on June 6, 2025.

On July 29, 2025 appellant, through counsel, requested reconsideration.

By decision dated August 8, 2025, OWCP denied modification of its September 16, 2024 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.⁶

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.⁷ Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.⁸ 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

⁶ *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).

⁷ 20 C.F.R. § 10.5(f).

⁸ See *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

receiving at the time of injury, has no disability as that term is used in FECA.⁹ 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 employee from continuing in his or her employment, he or she is entitled to compensation for loss of wages.¹⁰

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.¹¹

ANALYSIS

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

In a January 24, 2025 report, Dr. Grosser, an OWCP referral physician, reported findings of her physical examination and discussed appellant's conditions of bilateral fasciitis and plantar fibromatosis of the left foot. In a January 24, 2025 Form OWCP-5c, she indicated that appellant could only work six hours per day with restrictions of walking, standing, and lifting up to 40 pounds for up to six hours per day, and squatting and kneeling for up to one hour per day. On June 17, 2025 OWCP expanded the acceptance of appellant's claim to include unilateral primary osteoarthritis of each knee.

As noted, Dr. Grosser opined that appellant was partially disabled. However, her opinion does not identify the precise periods of this disability, particularly in relation to the periods of work-related disability claimed by appellant. It is noted that appellant claimed disability from work during the periods July 5, 2023 through August 7, 2024 and June 9 through 26, 2025.

Once OWCP undertakes development of the medical evidence, it must resolve the relevant issues in the case.¹² In a situation where OWCP secures an opinion from a second opinion physician and the opinion from such second opinion physician requires clarification or elaboration, it has the responsibility to secure a supplemental report from the physician for the purpose of correcting the defect in the original opinion.¹³

⁹ See *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

¹⁰ See *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

¹¹ *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

¹² See *K.A.*, Docket No. 23-0773 (issued November 1, 2024); *S.A.*, Docket No. 18-1024 (issued March 12, 2020); *L.B.*, Docket No. 19-0432 (issued July 23, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

¹³ See *G.L.*, Docket No. 23-0584 (issued April 1, 2024); *M.F.*, Docket No. 23-0881 (issued December 6, 2023); *G.T.*, Docket No. 21-0170 (issued September 29, 2021); *Ayanle A. Hashi*, 56 ECAB 234 (2004) (when OWCP refers a claimant for a second opinion evaluation and the report does not adequately address the relevant issues, OWCP should secure an appropriate report on the relevant issues).

The case therefore shall be remanded to OWCP to obtain clarification from Dr. Grosser in the form of a supplemental report which specifically addresses the above-noted matters relating to the claimed periods of disability, July 5, 2023 through August 7, 2024 and June 9 through 26, 2025. Dr. Grosser shall be provided an updated SOAF which includes the newly accepted condition of unilateral primary osteoarthritis of each knee. If she is unable to clarify or elaborate on her previous reports, or if the supplemental report is also vague, speculative, or lacking rationale, OWCP must submit the case record and an updated SOAF to a new second opinion physician for the purpose of obtaining a rationalized medical opinion.¹⁴ After this and such other 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 August 8, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for proceedings consistent with this decision of the Board.

Issued: January 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

¹⁴ *J.H.*, Docket No. 19-1476 (issued March 23, 2021); *R.O.*, Docket No. 19-0885 (issued November 4, 2019); *Talmadge Miller*, 47 ECAB 673 (1996).