

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

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C.L., Appellant

and

U.S. POSTAL SERVICE, JOHN F. KENNEDY  
AIRPORT POST OFFICE, Jamaica, NY,  
Employer

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**Docket No. 26-0005**  
**Issued: January 29, 2026**

*Appearances:*

James D. Muirhead, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On October 1, 2025 appellant, through counsel, filed a timely appeal from a July 2, 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 issuance of the July 2, 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 appellant has met her burden of proof to establish disability from work for the period July 2, 2022 through April 30, 2023, causally related to her accepted April 8, 2021 employment injury.

## **FACTUAL HISTORY**

This case was previously before the Board on a different issue.<sup>4</sup> 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 25, 2022 appellant, then a 58-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on April 8, 2021, she developed COVID-19 symptoms while in the performance of duty. She stopped work on April 10, 2021 and tested positive for the condition on April 16, 2021. OWCP accepted the claim for COVID-19 and paid appellant wage-loss compensation on the supplemental rolls from September 11, 2021 until February 28, 2022.

Thereafter, OWCP received medical evidence. In a May 25, 2022 progress note, Dr. Charmaine S. Johnson, an attending osteopath Board-certified in family medicine, indicated that appellant presented for a follow-up evaluation, recent laboratory test results, and completion of a disability form. She noted that appellant's hypertension proteinuria/diabetes mellitus was stable on medication and sarcoidosis/bronchiectasis was improved on medication. Dr. Johnson also noted that appellant was off an oxygen supplement, and she denied having chest pain or dyspnea. She discussed her physical examination findings and reviewed laboratory test results. Dr. Johnson diagnosed essential hypertension; proteinuria, unspecified type; bronchiectasis without complication; diabetes mellitus with proteinuria; and sarcoidosis of skin.

In reports dated October 28 and November 29, 2022, Dr. Steve Mermelstein, an attending Board-certified internist, noted appellant's history of sarcoidosis with post-inflammatory pulmonary fibrosis with significant reversal airway disease. He discussed his findings on physical examination and provided assessments of oxygen dependent; shortness of breath; wheezing; chronic asthmatic bronchitis, sarcoidosis on the skin; and post-inflammatory pulmonary fibrosis. Dr. Mermelstein concluded that appellant had a history of sarcoidosis with post-inflammatory pulmonary fibrosis with clearly significant reversal airway disease. He recommended that appellant restart Symbicort and long-acting inhaled bronchodilators, use albuterol in the evening only, and remain oxygen dependent.

Dr. Johnson, in an April 24, 2023 note, advised that appellant was able to return to modified-duty work on May 1, 2023 with restrictions. In an April 22, 2024 note, she recommended that appellant remain off work until July 22, 2024.

On October 18, 2024, appellant filed a claim for compensation (Form CA-7) for disability from work for the period July 2, 2022 through April 30, 2023.

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<sup>4</sup> Docket No. 25-0056 (issued November 22, 2024).

In a development letter dated October 24, 2024, OWCP informed appellant of the deficiencies of her claim for compensation. It advised her of the type of medical evidence required and afforded her 30 days to respond.

In response, appellant, through counsel, submitted an October 30, 2024 patient care summary from Dr. Mermelstein. Dr. Mermelstein again noted appellant's long history of sarcoidosis, as well as chronic asthmatic bronchitis, hospitalization for severe COVID-19 pneumonia, and discharge on inhaled bronchodilators and oxygen therapy. He further noted that following her hospitalization, appellant had been on disability since Spring 2023. Dr. Mermelstein discussed diagnostic test results. He opined that appellant had a long history of sarcoidosis and chronic asthmatic bronchitis and that she developed resultant pulmonary fibrosis following severe COVID-19 pneumonia.

Appellant also submitted diagnostic reports providing the results of a December 21, 2021 computerized tomography (CT) scan and coronary computed tomography angiography (CCTA) of the heart, and a November 26, 2023 x-ray of the chest.

By decision dated December 12, 2024, OWCP denied appellant's claim for disability from work during the period July 2, 2022 through April 30, 2023, finding that the medical evidence of record was insufficient to establish causal relationship between the claimed disability and her accepted April 8, 2021 employment injury.

Thereafter, appellant, through counsel, submitted the results of a November 20, 2024 CT scan of the chest.

On December 18, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Thereafter, appellant, through counsel, submitted a March 25, 2024 statement, wherein she noted that she returned to work on May 1, 2023, and contended that she used a portable oxygen tank and an oxygen tank at home from May 2022 through April 2023 as supported by a letter from Dr. Mermelstein.

Appellant also submitted an August 8, 2024 letter, wherein D.D., a chief mail handler steward, indicated that C.R., a manager of distribution operations, confirmed that he told appellant that she could not work in a limited-duty position with an oxygen tank.

By decision dated July 2, 2025, OWCP's hearing representative affirmed the December 12, 2024 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>5</sup> has the burden of proof to establish the essential elements of his or her claim,<sup>6</sup> including that any disability or specific condition for

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<sup>5</sup> *Supra* note 2.

<sup>6</sup> *See L.S.*, Docket No. 18-0264 (issued January 28, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019).

which compensation is claimed is causally related to the employment injury.<sup>7</sup> For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.<sup>8</sup> Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.<sup>9</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 appellant, 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>10</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>11</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work for the period July 2, 2022 through April 30, 2023, causally related to her accepted April 8, 2021 employment injury.

In a May 25, 2022 progress note, Dr. Johnson diagnosed essential hypertension; proteinuria, unspecified type; bronchiectasis without complication; diabetes mellitus with proteinuria; and sarcoidosis of skin. This report predated the claimed period of disability and did not address the relevant claimed time period. As such, it is insufficient to establish appellant's claim for compensation.<sup>12</sup>

In a note dated April 24, 2023, Dr. Johnson advised that appellant was able to return to a modified-duty assignment on May 1, 2023 with restrictions. In another note dated April 22, 2024, she recommended that appellant remain off from work until July 22, 2024. However,

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<sup>7</sup> See *S.F.*, Docket No. 20-0347 (issued March 31, 2023); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>8</sup> *T.W.*, Docket No. 19-1286 (issued January 13, 2020).

<sup>9</sup> *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291-92 (2001).

<sup>10</sup> See *B.P.*, Docket No. 23-0909 (issued December 27, 2023); *D.W.*, Docket No. 20-1363 (issued September 14, 2021); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

<sup>11</sup> See *M.J.*, Docket No. 19-1287 (issued January 13, 2020); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, *supra* note 9.

<sup>12</sup> See *D.J.*, Docket No. 24-0175 (issued May 2, 2024); *R.B.*, Docket No. 23-0395 (issued October 2, 2023); *P.R.*, Docket No. 20-0596 (issued October 6, 2020); *M.L.*, Docket No. 18-1058 (issued November 21, 2019); *A.P.*, Docket No. 19-0446 (issued July 10, 2019); *D.J.*, Docket No. 18-0200 (issued August 12, 2019).

Dr. Johnson did not provide an opinion regarding disability from work during the period July 2, 2022 through April 30, 2023, causally related to the accepted April 8, 2021 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 on the issue of causal relationship.<sup>13</sup> Therefore, this evidence is insufficient to establish appellant's disability claim.

In reports dated October 28 and November 29, 2022, and an October 30, 2024 patient care summary, Dr. Mermelstein noted appellant's long history of sarcoidosis and chronic asthmatic bronchitis, hospitalization for severe COVID-19 pneumonia and treatment, discussed his examination findings, and provided assessments of oxygen dependent; shortness of breath; wheezing; chronic asthmatic bronchitis, sarcoidosis on the skin; and post-inflammatory pulmonary fibrosis. He opined that appellant developed pulmonary fibrosis as a result of severe COVID-19 pneumonia. In the October 30, 2024 patient care summary, he noted that appellant had been on disability since Spring 2023. While Dr. Mermelstein provided a general opinion that appellant was off work in Spring 2023, he did not specifically address the claimed period of disability from July 2, 2022 through April 30, 2023, or attribute appellant's inability to work due to her accepted April 8, 2021 employment injury. 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 April 8, 2021 employment injury.<sup>14</sup> Thus, this evidence is insufficient to establish appellant's disability claim.<sup>15</sup>

The record also contains diagnostic studies of the heart and chest. However, diagnostic studies, standing alone, lack probative value as they do not address whether an accepted employment condition caused the claimed disability.<sup>16</sup>

As the medical evidence of record is insufficient to establish causal relationship between the claimed period of disability and the accepted April 8, 2021 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.

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<sup>13</sup> See *B.B.*, Docket No. 25-0661 (issued September 9, 2025); *G.R.*, Docket No. 25-0540 (issued June 26, 2025); *E.M.*, Docket No. 25-0060 (issued June 17, 2025); *A.B.*, Docket No. 25-0205 (issued January 28, 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).

<sup>14</sup> *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

<sup>15</sup> *Id.*; see also *E.T.*, Docket No. 23-0001 (issued July 12, 2023).

<sup>16</sup> See *B.B.*, *supra* note 13; *R.C.*, Docket No. 24-0253 (issued June 14, 2024); *M.H.*, Docket No. 22-1178 (issued April 25, 2023); *M.D.*, Docket No. 21-1270 (issued March 21, 2022); *T.W.*, Docket No. 20-1669 (issued May 6, 2021); *A.V.*, Docket No. 19-1575 (issued June 11, 2020); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

**CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish disability from work for the period July 2, 2022 through April 30, 2023, causally related to her accepted April 8, 2021 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 2, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 29, 2026  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board