United States Department of Labor
Employees' Compensation Appeals Board

J.W., Appellant	)	
	)	**Docket No. 26-0011**
and	)	**Issued: January 15, 2026**
U.S. POSTAL SERVICE, CENTEREACH POST OFFICE, Centereach, NY, Employer	)	

Appearances:
Paul Kalker, Esq., for the appellant[1]
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 October 2, 2025, appellant, through counsel, filed a timely appeal from a September 25, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (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 September 25, 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 OWCP has met its burden of proof to terminate appellant's wage-loss compensation, effective September 25, 2025, pursuant to 20 C.F.R. § 10.500(a), based on her refusal of an offer of a temporary limited-duty assignment.

FACTUAL HISTORY

On January 5, 2008, appellant, then a 46-year-old clerk, filed a traumatic injury claim (Form CA-l) alleging that, on January 5, 2008, she injured her back and legs when she caught her foot in shrink wrap losing her balance, but not falling, while in the performance of duty. She stopped work in October 2008. On April 14, 2008, OWCP accepted the claim for sprain of the lumbosacral joint, and displacement of lumbar intervertebral disc without myelopathy. It paid appellant wage-loss compensation on the supplemental rolls effective April 14, 2008 and on the periodic rolls effective September 28, 2008.

In a notice dated July 21, 2010, OWCP advised appellant that it proposed to terminate her wage-loss compensation and medical benefits.

By decision dated August 24, 2010, OWCP terminated appellant's wage-loss compensation and medical benefits effective that date.

On October 18, 2010, appellant, through counsel, requested reconsideration. By decision dated January 28, 2011, OWCP vacated the August 24, 2010 termination decision. On January 31, 2011 it expanded the acceptance of the claim to include left thoracic or lumbosacral neuritis or radiculitis. On August 29, 2010 OWCP paid wage-loss compensation on the supplemental rolls and commencing July 1, 2021 on the periodic rolls.

On February 23, 2024 and February 7, 2025, Dr. Marc Chernoff, a Board-certified orthopedic surgeon, completed attending physician's reports (Form CA-20) describing appellant's history of injury and diagnosing herniated disc L4-5. He opined that she was partially disabled and could only lift less than 10 pounds.

On May 13, 2025, OWCP requested that the employing establishment prepare a written job offer consistent with the work restrictions outlined in Dr. Chernoff's February 7, 2025 Form CA-20.

On May 14, 2025, the employing establishment offered appellant a written job offer beginning on May 5, 2025, for 40 hours a week. The cover letter instructed appellant to report to work on May 5, 2025 at a time and address provided and described the position as an "Offer of Permanent Rehabilitation Assignment." The position description also explained that the position was an offer of permanent rehabilitation assignment and listed the title as a modified sales services/distribution associate. The physical demands were noted as lifting, carrying, pushing, and pulling up to 10 pounds. The signature page of the May 14, 2025 written job offer included the statement that according to 5 U.S.C. § 8106(c) and 20 C.F.R. § 10.517 a partially disabled employee who either refused to seek suitable work or refused or neglected to work after suitable work was offered, was not entitled to compensation.

On May 15, 2025, appellant, through counsel, rejected the job offer.

In a notice dated June 12, 2025, OWCP proposed to terminate appellant's wage-loss compensation, pursuant to 20 C.F.R. § 10.500(a). It advised her that it had reviewed the work restrictions provided by Dr. Chernoff and determined that the temporary position the employing establishment offered on May 14, 2025, was within her work restrictions. OWCP informed appellant of the provisions of 20 C.F.R. § 10.500(a) and advised her that her entitlement to wage-loss compensation would be "terminated indefinitely" if she did not accept the job offered or provide a written explanation with justification for her refusal within 30 days.

On July 1, 2025, appellant, through counsel, asserted that she was unable to perform the duties of the offered position. She provided an April 11, 2025 Form CA-20 completed by Dr. Chernoff which included additional work restrictions. Dr. Chernoff opined that appellant was unable to stand or walk for a prolonged period and that she was unable to repetitively bend or twist, and that she could not carry greater than 10 pounds.

In a May 23, 2025 narrative report, Dr. Chernoff recounted appellant's history of injury on January 5, 2008, reviewed her medical treatment and found that her work restrictions included no heavy lifting, no repetitive bending, no prolonged walking, squatting, or kneeling.

By decision dated September 25, 2025, OWCP terminated appellant's wage-loss compensation, effective that date, pursuant to 20 C.F.R. § 10.500(a). It noted that she had not accepted the May 14, 2025 temporary light-duty position which was within the work restrictions provided by Dr. Chernoff.

LEGAL PRECEDENT

Under FECA, once OWCP has accepted a claim it has the burden of justifying termination or modification of compensation benefits.[4]

Section 10.500(a) of the Code of Federal Regulations provides:

> "(a) Benefits are available only while the effects of a work-related condition continue. Compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury. For example, an employee is not entitled to compensation for any wage-loss claimed on a Form CA-7 to the extent that evidence contemporaneous with the period claimed on a Form CA-7 establishes that an employee had medical work restrictions in place; that light duty within those work restrictions was available; and that the employee was previously notified in writing that such duty was available. Similarly, an employee receiving continuing periodic payments for disability was not prevented from earning the wages earned before the work-related injury if the evidence establishes that the employing establishment had

[4] *See L.C.*, Docket No. 25-0082 (issued December 26, 2024); *S.V.*, Docket No. 17-1268 (issued March 23, 2018); *I.J.*, 59 ECAB 408 (2008).

offered, in accordance with OWCP procedures, a temporary light-duty assignment within the employee's work restrictions. (The penalty provision of 5 U.S.C. § 8106(c)(2) will not be imposed on such assignments under this paragraph.)"[5]

OWCP's procedures also provide that if the evidence establishes that injury-related residuals continue and result in work restrictions, that light duty within those work restrictions is available, and the employee was notified in writing that such light duty was available, then wage-loss benefits are not payable for the duration of light-duty availability, since such benefits are payable only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.[6] The claims examiner must provide a pretermination notice if the claimant is being removed from the periodic rolls.[7] When a temporary light-duty assignment either ends or is no longer available, the claimant is entitled to compensation and should be returned to the periodic rolls immediately as long as medical evidence supports any disabling residuals of the work-related condition.[8]

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation, effective September 25, 2025.

The evidence of record contains a written job offer, dated May 14, 2025, for a modified sales services/distribution associate position, which appellant declined on May 15, 2025. However, in the May 14, 2025 job offer cover letter, and in the job offer itself, the employing establishment indicated that this was an offer of a permanent rehabilitation assignment. The employing establishment also included the penalty provision of 5 U.S.C. § 8106(c)(2) with the job offer.

Pursuant to 20 C.F.R. § 10.500(a), OWCP has the burden of proof to establish that appellant declined an offered employment position that was temporary in nature.[9] The evidence of record is insufficient to establish that the modified job offered on May 14, 2024 was temporary. The Board thus finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation.[10]

[5] 20 C.F.R. § 10.500(a).

[6] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Job Offers and Return to Work*, Chapter 2.814.9c(1)(a) (June 2013).

[7] *Id*. at Chapter 2.814.9c(1)(b).

[8] *Id*. at Chapter 2.814.9c(1)(d).

[9] *See N.H.*, Docket No. 24-0659 (issued September 19, 2024); *M.B.*, Docket No. 24-0478 (issued June 5, 2024); *A.W.*, Docket No. 21-1287 (issued September 22, 2023); *C.W.*, Docket No. 18-1779 (issued May 6, 2019).

[10] *See M.N.,* Docket No. 25-0818 (issued November 25, 2025); *L.C.*, Docket No. 25-0082 (issued December 26, 2024); *N.H., id*.; *M.B., id*.; *A.W., id*.; *C.W., id*.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation, effective September 25, 2025.

ORDER

IT IS HEREBY ORDERED THAT the September 25, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: January 15, 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