United States Department of Labor
Employees' Compensation Appeals Board

M.R., Appellant	)	
and	)	**Docket No. 26-0020**
	)	**Issued: January 21, 2026**
U.S. POSTAL SERVICE, HUDSON POST OFFICE, Hudson, FL, Employer	)	

Appearances:
Daniel DeCiccio, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 10, 2025 appellant, through counsel, filed a timely appeal from a September 16, 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 16, 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 his burden of proof to establish disability from work during the period April 4 through September 30, 2020, causally related to the accepted employment injury.

FACTUAL HISTORY

On January 24, 2020 appellant, then a 65-year-old rural mail carrier, filed an occupational disease claim (Form CA-2) alleging that he developed extreme pain and swelling in his right foot due to factors of his federal employment, including repeatedly mounting and dismounting his postal vehicle. He noted that he first became aware of his condition and realized its relationship to his federal employment on December 20, 2019. Appellant stopped work on January 24, 2020. OWCP accepted the claim for unspecified injury to the muscles and tendons of the right ankle and foot. It paid appellant wage-loss compensation on the supplemental rolls from January 8 through March 6, 2020.

In a medical report dated February 21, 2020, Dr. Lawrence Kales, a podiatrist, noted that appellant was utilizing a controlled ankle motion (CAM) walker boot. He performed a physical examination of the right foot and observed decreased edema and no sign of infection. In work excuse notes dated February 21 and March 13, 2020, Dr. Kales recommended that appellant remain off work through March 13, 2020, noting that he was "unable to perform normal work activities at this time."

In a follow-up note dated April 3, 2020, Dr. Kales noted that appellant had discontinued the CAM walker boot and was wearing an ankle/foot trauma rehabilitation (AFTR) brace. He performed a physical examination and observed decreased edema and no sign of infection. Dr. Kales noted that appellant was "doing well at this juncture."[4]

In an April 27, 2023 narrative medical report, Dr. Theodore P. Vlahos, a Board-certified orthopedic surgeon, related appellant's complaints of pain in the right foot at the first metatarsophalangeal (MTP) joint, posterior tibial tendon, and lateral sinus tarsi, which he attributed to the December 20, 2019 employment injury. He indicated that he related difficulty standing and walking, and that "he was released by his physician in September 2020." Dr. Vlahos performed a physical examination of the right foot and ankle and observed marked pronation, tenderness in the posterior tibial region, and decreased sensation in the third and fourth toes. He obtained x-rays, which revealed first MTP joint degeneration and a healed stress fracture at the base of the third metatarsal. Dr. Vlahos noted an impression of "work-related stress fracture of the right [third] metatarsal, manifesting itself in 2019 that took prolonged period of time to heal, during which time [appellant] was unable to work until at least September 2020." He indicated that appellant was currently unable to perform his regular duties as a mail carrier but could perform sedentary-duty work.

In a disability statement dated June 8, 2023, Dr. Vlahos opined that the "work-related accepted condition directly and proximately caused the patient's inability to perform any type of

[4] Appellant retired from federal service, effective November 23, 2020.

work whatsoever from March 7, 2020 through September 30, 2020, during which time he was temporarily and totally disabled."

On June 12, 2023 appellant filed a claim for compensation (Form CA-7) for disability from work for the period March 7 through September 30, 2020.

In a development letter dated June 26, 2023, OWCP informed appellant of the deficiencies of his disability claim. It advised him of the type of medical evidence needed and afforded him 30 days to respond.

OWCP thereafter received an impairment rating evaluation report dated August 21, 2023 by Dr. Mark Seldes, a Board-certified orthopedic surgeon, and physical therapy reports.

By decision dated September 7, 2023, OWCP found that the medical evidence of record was sufficient to authorize payment of wage-loss compensation for disability from work during the period March 7 through April 3, 2020. However, it denied appellant's claim for disability from work during the period April 4 through September 30, 2020, finding that the medical evidence of record was insufficient to establish causal relationship between the claimed disability and the accepted employment injury.

OWCP continued to receive evidence. A magnetic resonance imaging scan of the right foot dated September 8, 2023 demonstrated a healing third metatarsal fracture and mild first MTP joint osteoarthritis.

On August 26, 2024 appellant requested reconsideration.

By decision dated September 3, 2024, OWCP denied modification of its September 7, 2023 decision.

In medical reports dated September 11, 2024 and February 4, 2025, Dr. Seldes documented appellant's subjective complaints and examination findings. Dr. Seldes also asserted that appellant was entitled to "back pay" for the period March 8 through September 22, 2020 "when he was not given an assignment at work" and "he was not able to work at his center due to his supervisor sending him home."

On August 26, 2025 appellant, through counsel, requested reconsideration and submitted additional medical evidence.

In a March 13, 2020 report, Dr. Kales performed a physical examination, which revealed edema but no infection. He recommended that appellant continue to use the CAM walker boot for 10 days and fitted him for an AFTR brace, which he indicated was comfortable for appellant. Dr. Kales noted that he had "counseled [him] not to return to work until symptoms resolve."

An x-ray of the right foot dated April 3, 2020 revealed a fracture of the third metatarsal with bony callous noted.

In progress reports dated April 24 through September 11, 2020, Dr. Kales documented appellant's examination findings and progression from use of a CAM walker boot to an AFTR brace to orthotics. He observed decreasing edema and noted that he was "doing well."

An x-ray of the right ankle dated August 29, 2025 revealed mild anterior joint space narrowing at the tibiotalar joint. OWCP also received an x-ray of the right knee of even date.

By decision dated September 19, 2025, OWCP denied modification of its September 3, 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.[5] 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.[6] Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.[7] 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 receiving at the time of injury, has no disability as that term is used in FECA.[8] 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.[9]

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.[10]

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.[11]

[5] *S.F.*, Docket No. 20-0347 (issued March 31, 2023); *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).

[6] 20 C.F.R. § 10.5(f).

[7] *See H.B.*, Docket No. 20-0587 (issued June 28, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

[8] *See H.B.*, *id*.; *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

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

[10] *F.B.,* Docket No. 22-0679 (issued January 23, 2024); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

[11] *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *Fereidoon Kharabi,* 52 ECAB 291, 293 (2001).

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish the remaining claimed disability from work during the period April 4 through September 30, 2020, causally related to the accepted December 20, 2019 employment injury.

In support of his claim, appellant submitted an April 27, 2023 report wherein Dr. Vlahos noted an impression of "work-related stress fracture of the right [third] metatarsal, manifesting itself in 2019 that took prolonged period of time to heal, during which time [appellant] was unable to work until at least September 2020." He indicated that appellant was currently unable to perform his regular duties as a mail carrier but could perform sedentary-duty work. However, the Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/disability was related to employment factors.[12] As such, this evidence is insufficient to establish the disability claim.

In a disability statement dated June 8, 2023, Dr. Vlahos opined that the "work-related accepted condition directly and proximately caused the patient's inability to perform any type of work whatsoever from March 7 through September 30, 2020, during which time he was temporarily and totally disabled." However, he did not provide sufficient rationale to explain how appellant's accepted conditions resulted in the claimed disability. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain sufficient medical rationale explaining causal relationship between the claimed disability and the accepted employment injury.[13] This evidence is, therefore, insufficient to establish the disability claim.

In reports dated September 11, 2024 and February 4, 2025, Dr. Seldes asserted that appellant was entitled to "back pay" for the period March 8 through September 22, 2020 "when he was not given an assignment at work" and "he was not able to work at his center due to his supervisor sending him home." He did not, however, opine that appellant was disabled from work during the claimed period causally related to the accepted December 20, 2019 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.[14] Therefore, this evidence is of no probative value and is insufficient to establish the disability claim.

OWCP also received an August 21, 2023 impairment rating evaluation by Dr. Seldes, who did not offer an opinion as to whether appellant was disabled from work causally related to the

[12] *See Y.D.*, Docket No. 16-1896 (issued February 10, 2017) (a report is of limited probative value regarding causal relationship if it does not contain medical rationale describing the relation between work factors and a diagnosed condition/disability).

[13] *See J.R.,* Docket No. 23-0215 (issued July 28, 2023); *H.A.,* Docket No. 20-1555 (issued December 22, 2022); *S.K.,* Docket No. 19-0272 (issued July 21, 2020); *T.T.,* Docket No. 18-1054 (issued April 8, 2020); *Y.D.,* Docket No. 16-1896 (issued February 10, 2017).

[14] *T.H.,* Docket No. 23-0811 (issued February 13, 2024); *F.B., supra* note 10; *Y.S., supra* note 10; *see also L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

accepted employment injury. Therefore, this evidence is also of no probative value and is insufficient to establish the claim.[15]

In medical reports dated April 3 through September 11, 2020, Dr. Kales documented appellant's examination findings and progression from use of a CAM walker boot to an AFTR brace to orthotics. He observed decreasing edema and noted that he was "doing well." Dr. Kales did not, however, offer an opinion as to whether appellant was disabled from work due to the accepted conditions during the remaining claimed period. Therefore, this evidence is of no probative value and is insufficient to establish appellant's disability claim.

Appellant also submitted physical therapy reports. The Board has held that certain healthcare providers such as physical therapists are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion. Therefore, this evidence is of no probative value and is insufficient to establish appellant's disability claim.[16]

The remaining evidence of record consists of diagnostic studies. The Board, however, has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injury caused the claimed disability.[17]

As the medical evidence of record is insufficient to establish disability from work during the period April 4 through September 30, 2020 causally related to the accepted employment injury, the Board finds that appellant has not met his 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.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish disability from work during the period April 4 through September 30, 2020 causally related to the accepted employment injury.

[15] *Id*.

[16] Section 8101(2) of FECA provides that 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); *David P. Sawchuk,* 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). *See also V.R.,* Docket No. 19-0758 (issued March 16, 2021) (a physical therapist is not considered a physician under FECA); *C.K.,* Docket No. 19-1549 (issued June 30, 2020) (physical therapists are not considered physicians as defined under FECA).

[17] *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

ORDER

IT IS HEREBY ORDERED THAT the September 16, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 21, 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