

¹ 5 U.S.C. § 8101 *et seq.*

and (3) whether OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On May 14, 2020 appellant, then a 21-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her back, right leg, and head, when the postal vehicle she was operating was stuck on the driver's side by another vehicle while in the performance of duty. She stopped work on May 15, 2020. OWCP accepted the claim for right shoulder internal impingement, right femoral acetabular impingement, right knee sprain, right sacroiliitis, right ankle sprain, thoracic spine sprain, whiplash injury of the neck, and right iliotibial band syndrome. It paid appellant wage-loss compensation for disability from work on the supplemental rolls effective June 29, 2020, and on the periodic rolls, effective January 31, 2021.

On April 30, 2025 OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions to Dr. Michael J. Battaglia, a Board-certified orthopedic surgeon, for a second opinion examination regarding whether she had continuing work-related disability and/or residuals.

In a June 5, 2025 report, Dr. Battaglia related appellant's factual and medical history, including her treatment for back and right extremity injuries caused by the accepted May 14, 2020 employment injury. He reported the findings of his physical examination, noting that appellant complained of pain in the spine, and right buttock, numbness in her lateral hip and aching pain in the right knee and right shoulder. Dr. Battaglia noted a completely normal physical examination of the cervical spine, shoulders, and right hip. He related that appellant exhibited subjective complaints only and no objective signs concerning any pathology. Dr. Battaglia determined that there was "absolutely no reason that she cannot work." He opined that appellant was at maximum medical improvement with respect to all accepted conditions. Dr. Battaglia completed a June 5, 2025 work capacity evaluation (Form OWCP-5c), and advised that she could perform her date-of-injury job without restrictions.

In a July 22, 2025 notice, OWCP informed appellant that it proposed to terminate her wage-loss compensation and medical benefits based on Dr. Battaglia's opinion that the accepted May 14, 2020 employment-related injury had ceased without residuals or disability. It afforded her 30 days to submit additional evidence or argument challenging the proposed termination action.

On August 18, 2025 appellant disagreed with Dr. Battaglia's findings and conclusions.

By decision dated September 8, 2025, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date, finding that she no longer had disability or residuals causally related to her accepted May 14, 2020 employment injury. It accorded the weight of the medical opinion evidence to Dr. Battaglia's opinion.

On October 4, 2025 appellant requested reconsideration of the September 8, 2025 decision. In a September 15, 2025 report, Tristan Peninger, a certified medical assistant, noted that Dr. Katharine Anna Smolinski, an osteopath and Board-certified physiatrist, examined appellant

due to back pain resulting from a motor vehicle accident. Appellant also provided a September 22, 2025 report from Amelia J. Pinegar, a nurse practitioner.

By decision dated October 23, 2025, OWCP denied modification of its September 8, 2025 decision.

On December 16, 2025 appellant requested reconsideration. In support thereof, she submitted additional medical evidence, including a copy of Mr. Penninger's September 15, 2025 report, countersigned by Dr. Smolinski. Dr. Smolinski diagnosed chronic thoracolumbar pain that began after a work-related motor vehicle accident.

By decision dated December 19, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT – ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.² After it has determined that, an employee has a disability causally related to his or her employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.³ Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁴

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁵ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.⁶

ANALYSIS -- ISSUE 1

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 8, 2025, as she no longer had disability or residuals causally related to her accepted May 14, 2020 employment injury.

² *Z.D.*, Docket No. 19-0662 (issued December 5, 2019); *see R.P.*, Docket No. 17-1133 (issued January 18, 2018); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

³ *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

⁴ *See P.T.*, Docket No. 21-0328 (issued May 2, 2022); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁵ *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *A.P.*, Docket No. 08-1822 (issued August 5, 2009). *See also Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁶ *T.C.*, Docket No. 20-1163 (issued July 13, 2021); *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002); *Furman G. Peake*, *id.*

In a June 5, 2025 report, Dr. Battaglia, the OWCP referral physician, opined that appellant's subjective complaints did not correspond to the objective findings and opined that she was at maximum medical improvement with respect to all accepted conditions. He found a completely normal physical examination in the cervical spine, shoulders, and right hip. Dr. Battaglia opined that there was "absolutely no reason that she cannot work" and determined that appellant could perform her date-of-injury job without restrictions.

The Board finds that the weight of the medical evidence is represented by the thorough, well-rationalized opinion of Dr. Battaglia, who opined that appellant ceased to have disability or residuals causally related to her accepted May 14, 2020 employment injury, effective September 8, 2025. Dr. Battaglia provided a thorough factual and medical history. He also provided a well-rationalized medical opinion, explaining that the objective medical findings of record did not demonstrate that appellant continued to have disability/residuals causally related to the accepted May 14, 2020 employment injury. Thus, Dr. Battaglia's opinion is sufficient to carry the weight of the medical evidence.⁷

The Board, therefore, finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 8, 2025.

LEGAL PRECEDENT – ISSUE 2

When OWCP properly terminates compensation benefits, the burden shifts to appellant to establish continuing residuals or disability after that date, causally related to the accepted employment injury.⁸ To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such causal relationship.⁹

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met her burden of proof to establish continuing disability or residuals, on or after September 8, 2025, causally related to her accepted May 14, 2020 employment injury.

After OWCP's September 8, 2025 termination of her wage-earning compensation and medical benefits, appellant submitted additional evidence.

In a September 15, 2025 report, Mr. Peninger, a certified medical assistant, noted that Dr. Smolinski examined appellant due to back pain resulting from a motor vehicle accident. Appellant also provided a September 22, 2025 report from Ms. Pinegar, a nurse practitioner.

⁷ See *D.G.*, Docket No. 23-1192 (issued March 20, 2024); *V.A.*, Docket No. 21-1023 (issued March 6, 2023).

⁸ See *S.M.*, Docket No. 18-0673 (issued January 25, 2019); *C.S.*, Docket No. 18-0952 (issued October 23, 2018); *Manuel Gill*, 52 ECAB 282 (2001).

⁹ *Id.*

Appellant submitted reports signed by a certified medical assistant and a nurse practitioner. These reports, however, do not constitute competent medical evidence because neither nurse practitioners nor certified medical assistants are considered physicians as defined under FECA.¹⁰ Their medical findings, reports, and/or opinions, unless cosigned by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.¹¹ Thus, this evidence is therefore insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish causal relationship between the claimed disability and the accepted May 14, 2020 employment injury on or after September 8, 2025, 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.

LEGAL PRECEDENT – ISSUE 3

Section 8128 (a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his or her own motion or on application.¹²

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.¹³

¹⁰ 5 U.S.C. § 8101(2) 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.” 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 J.P., Jr.*, Docket No. 25-0860 (issued January 5, 2026) (medical assistants are not considered physicians as defined under FECA); *F.A.*, Docket No. 24-0014 (issued January 30, 2026) (neither nurse practitioners nor physician assistants are considered physicians as defined under FECA).

¹¹ *See B.I.*, Docket No. 26-0193 (issued April 10, 2026); *A.V.*, Docket No. 25-0682 (issued August 7, 2025); *K.A.*, Docket No. 18-0999 (issued October 4, 2019); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, *id.*

¹² 5 U.S.C. § 8128 (a); *see L.C.*, Docket No. 25-0444 (issued April 23, 2025); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

¹³ 20 C.F.R. § 10.606(b)(3); *see M.S.*, Docket No. 18-1041 (issued October 25, 2018); *L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.¹⁴ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.¹⁵ If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.¹⁶

ANALYSIS -- ISSUE 3

The Board finds that OWCP improperly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On reconsideration, appellant submitted a medical report dated September 15, 2025 countersigned by Dr. Smolinski. Dr. Smolinski's signed report specifically addressed the underlying issue of whether appellant's claimed conditions were causally related to the accepted employment factors. As such, this report constitutes relevant and pertinent new evidence, not previously of record. Therefore, the submission of this evidence requires reopening of appellant's claim for merit review pursuant to the third above-noted requirement of 20 C.F.R. § 10.606(b).¹⁷

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 8, 2025, as she no longer had disability or residuals causally related to her accepted May 14, 2020 employment injury. The Board further finds that appellant has not met her burden of proof to establish continuing disability or residuals, on or after September 8, 2025, causally related to her accepted May 14, 2020 employment injury. The Board also finds that OWCP improperly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

¹⁴ *Id.* at § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

¹⁵ *Id.* at § 10.608(a); *see D.C.*, Docket No. 19-0873 (issued January 27, 2020); *M.S.*, 59 ECAB 231 (2007).

¹⁶ *Id.* at § 10.608(b); *see P.V.*, Docket No. 25-0547 (issued June 23, 2025); *T.V.*, Docket No. 19-1504 (issued January 23, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

¹⁷ *See G.B.*, Docket No. 26-0293 (issued May 19, 2026); *A.S.*, Docket No. 26-0038 (issued February 27, 2026); *D.B.*, Docket No. 22-0502 (issued September 21, 2023); *L.M.*, Docket No. 20-1185 (issued January 13, 2021); *C.H.*, Docket No. 17-1065 (issued December 14, 2017); *J.W.*, Docket No. 18-0822 (issued July 1, 2020); *D.M.*, Docket No. 10-1844 (issued May 10, 2011); *Kenneth R. Mroczkowski*, 40 ECAB 855 (1989).

ORDER

IT IS HEREBY ORDERED THAT the September 8 and October 23, decisions of the Office of Workers' Compensation Programs are affirmed. The December 19, 2025 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 15, 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