United States Department of Labor
Employees' Compensation Appeals Board

T.J., Appellant	)	
	)	**Docket No. 26-0098**
and	)	**Issued: June 10, 2026**
U.S. POSTAL SERVICE, MAIN POST OFFICE, San Bernardino, CA, Employer	)	

Appearances:
Jessica Duncan, 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 November 6, 2025, appellant, through counsel, filed a timely appeal from a July 24, 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 July 24, 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 appellant has met her burden of proof to establish a recurrence of total disability commencing February 7, 2007, causally related to her accepted September 22, 2004 employment injury.

FACTUAL HISTORY

This case has previously been before the Board on a different issue.[4] 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 March 29, 2004, appellant, then a 45-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that she developed sciatica due to factors of her federal employment. She noted that she first became aware of her condition on September 22, 2003, and realized its relationship to her federal employment on September 22, 2004.[5] OWCP accepted the claim for lumbar and cervical sprains/strains.) It paid appellant wage-loss compensation for total disability on the supplemental rolls, effective May 23, 2005.

Commencing August 31, 2005, appellant returned to work four hours a day with restrictions, including lifting and carrying five pounds, sitting and standing for one hour each, no walking, climbing, kneeling, bending, stooping, twisting, pushing and pulling or reaching above the shoulder, and driving a vehicle one hour a day. OWCP paid appellant wage-loss compensation for the remaining four hours a day.

On February 6, 2007, Dr. Khalid B. Ahmed, a Board-certified orthopedic surgeon, provided work restrictions including no lifting over 25 pounds, no overhead work, no standing or walking over two hours, and no repeated bending and stooping.

Appellant returned to work on February 7, 2007, worked for four hours, and then stopped work on that date due to pain.

On February 9, 2007, Dr. Ahmed found that appellant was totally disabled from work commencing that date causally related to her accepted employment injury.

In a notice of recurrence (Form CA-2a) dated February 19, 2007, appellant asserted that on February 7, 2007 she sustained a recurrence of total disability causally related to her accepted September 22, 2004 employment injury.

[4] Docket No. 19-1656 (issued September 18, 2020).

[5] OWCP assigned the present claim OWCP File No. xxxxxx877. Appellant has additional claims before OWCP. Under OWCP File No. xxxxxx180, OWCP accepted appellant's Form CA-2 for bilateral plantar fascial of September 1, 2003. Under OWCP File No xxxxxx738, it accepted appellant's Form CA-2 for cervical and lumbar sprain/strains, left lateral epicondylitis, and left shoulder affliction as of January 1, 2005. OWCP has administratively combined appellant's claims under OWCP File Nos. xxxxxx180, xxxxxx738, and xxxxxx877, with the latter serving as the master file.

In a February 24, 2007 statement, appellant's supervisor, S.M., related that appellant reported to work on February 7, 2007 at 7:30 a.m. She was not aware that appellant was returning to work and did not have a worksite prepared for her. S.M. directed appellant to sit at a desk outside of the passport office and assist another worker in completing forms for incoming certified mail. Appellant subsequently determined that she could not continue working and sought medical treatment. On February 8, 2007 she again reported to work and received the same assignment.

On February 24, 2007, C.O., the customer services supervisor, recounted the events of February 7, 2007, during which he informed appellant that she would be assigned tasks within the February 6, 2007 restrictions provided by Dr. Ahmed. Appellant then asserted that she required additional restrictions.

On March 23, 2007, Dr. Ahmed continued to opine that appellant was totally disabled from work.

On April 6, 2007, OWCP referred appellant, together with a statement of accepted facts (SOAF), the medical record, and a series of questions, to Dr. Bunsri T. Sophon, a Board-certified orthopedic surgeon, for a second opinion evaluation regarding the nature and extent of any employment-related conditions and any related disability.

In an April 26, 2007 report, Dr. Sophon reviewed the medical record and SOAF. He performed a physical examination and found loss of range of motion (ROM) in the cervical and lumbar spines and diminished sensation on the plantar surface of the right heel. Dr. Sophon diagnosed cervical and lumbar strains. He related that appellant continued to experience residuals of her accepted conditions and found that she was totally disabled from work from May 23 through August 31, 2005, and from October 17, 2005 through February 6, 2007. Dr. Sophon found that she could return to modified-duty work on April 26, 2007. He completed an April 26, 2007 work capacity evaluation (Form OWCP-5c), wherein he found that appellant could work four hours a day with restrictions on sitting, walking, and standing for more than four hours a day, operating a motor vehicle at work for more than one hour a day, and squatting, kneeling, and climbing for more than two hours a day. Dr. Sophon provided a lifting restriction of 20 pounds.

Dr. Ahmed continued to provide disability notes on May 4 and June 29, 2007, wherein he opined that appellant remained totally disabled from work.

On July 11, 2007, OWCP requested a supplemental report from Dr. Sophon addressing appellant's claimed recurrence of disability.

In an August 23, 2007 supplemental report, Dr. Sophon concurred that appellant was totally disabled from work from October 17, 2005 through February 6, 2007 and from February 8 through April 26, 2007.

On August 17, 2007, Dr. Ahmed continued to support appellant's total disability from work through October 5, 2007.

On a September 17, 2007, fiscal statement, OWCP related that the medical evidence of record did not support total disability, and that Dr. Sophon, the second opinion physician, found

that appellant could work four hours a day with restrictions. It noted that she was entitled to four hours of compensation commencing October 17, 2005, and that she should be placed on the periodic rolls.

In an October 4, 2007 memorandum of telephone call (Form CA-110), OWCP noted that the employing establishment could not accommodate appellant's restrictions.

In a series of reports dated October 5, 2007 through May 30, 2008, Dr. Ahmed continued to find appellant totally disabled from work for the period October 5, 2007 through July 18, 2008.

In a March 5, 2008 letter, OWCP informed appellant that she was receiving wage-loss compensation for four hours a day based on Dr. Sophon's April 26 and August 23, 2007 reports in which he found that she could work four hours a day with restrictions.

In a July 30, 2008 report, Dr. John B. Dorsey, a Board-certified orthopedic surgeon, related appellant's history of injury, performed a physical examination, and diagnosed chronic cervical strain with degenerative disc disease and radiculopathy, impingement syndrome left shoulder, left lateral epicondylitis, lumbar sprain/strain with degenerative disc disease, and disc herniations, bilateral S1 radiculopathy, and bilateral plantar fasciitis. He opined that her disability was work related and that upon returning to modified work in August 2005 she experienced an unexpected occurrence of her industrial back and neck pain. Dr. Dorsey found that she was totally disabled, that her multiple disabilities precluded her from gainful employment. He related that appellant's primary disability resulted from her cervical sprain/strain with degenerative disc disease and radiculopathy and lumbar sprain/strain with degenerative disc disease and radiculopathy. Dr. Dorsey determined that continuing to work would only compound her problems and make matters worse.

In a series of notes dated March 20 through October 30, 2009, Dr. Ahmed found that appellant was totally disabled from work through December 18, 2009.

In a March 23, 2010 Form OWCP-5c, Dr. Ahmed indicated that appellant could work four hours a day with no more than two hours each of sitting, walking, reaching, twisting, bending/stooping, and operating a motor vehicle at work. He determined that she could push and pull for no more than one hour each. On November 30, 2010, Dr. Ahmed found that appellant was totally disabled from work.

Dr. Ahmed completed a Form OWCP-5c on December 30, 2011 and indicated that appellant could work three to four hours a day with restrictions of sitting, walking, standing, bending, and stooping for no more than two to three hours each. He also provided restrictions of no more than two to three hours each of repetitive movements of the wrists, pushing, pulling, lifting, squatting, kneeling, and climbing.

In an August 29, 2012 note, Dr. Ahmed diagnosed herniated cervical and lumbar discs and internal derangement of the knees. He opined that appellant would recover in three months.

On September 13, 2012, Dr. Ahmed completed a duty status report (Form CA-17) and opined that appellant could lift no more than five pounds, sit and stand for no more than one hour, and could not walk, climb, kneel, bend, stoop, twist, pull, push, or perform simple

grasping. He further opined that appellant could perform fine manipulation and reach above the shoulder for no more than four hours each.

In a February 8, 2019 report, Dr. Ahmed related appellant's continuing symptoms of cervical spine pain radiating to the bilateral upper extremities and low back pain radiating to the bilateral lower extremities. He performed a physical examination and diagnosed work-related cervical disc lesion with radiculitis/radiculopathy, lumbar disc lesion with radiculitis/ radiculopathy, left shoulder impingement syndrome, left lateral epicondylitis, and right foot and ankle plantar fasciitis with Achilles tendinitis. Dr. Ahmed found that appellant was totally disabled from work.

In a May 31, 2019 report, Dr. Ahmed reviewed diagnostic studies and diagnosed disc herniation C4-7, T12-L1, and L3-S1. He provided work restrictions including no repetitive neck movements or prolonged fixed position of the neck; no repetitive bending, twisting, stooping, sitting, standing, or walking more than one hour without a 10-minute break; no overhead work or reaching with the left arm; and no kneeling, squatting, climbing, or lifting greater than 12 pounds.

On March 13, 2020 Dr. Ahmed diagnosed cervical strain/sprain with multiple level disc herniations, with clinical and diagnostic findings of radiculopathy in the left upper extremity, lumbar strain/sprain with herniated discs at L3-4, L4-5, and L5-S1, left shoulder strain/sprain with impingement syndrome, left elbow strain/sprain, right shoulder pain, anxiety and depression, and bilateral wrist and hand strain/sprain.

Commencing on April 14, 2021 appellant filed CA-7 claims for wage-loss compensation for total disability from work from August 8, 2018 through July 1, 2022.

In a February 11, 2022 report, Dr. Ahmed related that appellant had been under his care since 2003 and that her conditions had worsened, including work-related symptomatology in the low back, neck, left shoulder, wrists, and hand, along with symptoms of anxiety and depression.

On August 17, 2022, appellant, through her then-representative, requested expansion of the acceptance of the claim to include cervical and lumbar radiculopathy. On September 7, 2022, OWCP expanded the acceptance of the claim to include cervical and lumbar radiculopathy.

On December 5, 2022, Dr. Ahmed completed an attending physician's report (Form CA-20) relating that appellant developed low back pain on September 1, 2003 causally related to her federal employment duties of walking six hours a day. He diagnosed cervical spine and lumbar spine herniated discs and radiculopathy, and left shoulder impingement syndrome. Dr. Ahmed indicated by checking a box marked "Yes" that he believed the diagnosed conditions were caused or aggravated by her federal employment activities. He determined that appellant was permanently partially disabled from work.

In an August 1, 2023 report, Dr. Ahmed related that appellant's disability had increased and recommended medical retirement. On December 15, 2023, he diagnosed neck and back sprain, afflictions of the left shoulder, left lateral epicondylitis, anxiety, depression and right shoulder overload pain. Dr. Ahmed completed an additional Form CA-20 on December 20, 2023 and opined that the repetitive motion of her usual and customary work duties caused pain

and injury to the affected body parts, including cervical and lumbar herniated discs and radiculopathy and left shoulder impingement syndrome.

In an April 9, 2024 development letter, OWCP informed appellant of the deficiencies of her February 7, 2007 recurrence claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

On April 26, 2024, Dr. Ahmed completed a form report and alleged that the employing establishment did not comport with appellant's work restrictions which resulted in a significant increase in pain in the neck, shoulder, arm, back, and leg.

In a May 6, 2024 response to OWCP's development questionnaire, appellant asserted that when she returned to work she was directed to sit and stamp mail which caused pain in her buttocks, legs, hand, and shoulder. She further asserted that she was required to repeatedly bend her neck.

By decision dated May 17, 2024, OWCP denied appellant's claim for a February 7, 2007 recurrence of disability, finding that the medical evidence of record was insufficient to establish disability commencing February 7, 2007, casually related to her accepted September 22, 2004 work-related injury.

On May 28, 2024, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on September 12, 2024.

On December 20, 2024, Dr. Ahmed completed a Form CA-20 diagnosing multiple herniated discs with radiculopathy in the cervical and lumbar areas of the spine and left shoulder impingement syndrome. He opined that repetitive motions of appellant's usual and customary work duties caused pain and injury to the affected body parts. Dr. Ahmed indicated that appellant was totally disabled from work commencing May 24, 2005.

By decision dated January 22, 2025, OWCP's hearing representative reversed the May 17, 2024 OWCP decision.

On February 19, 2025, OWCP expanded the acceptance of the claim to include mutli-level cervical and lumbar herniated discs.

On April 11, 2025, OWCP referred appellant, together with a SOAF, the medical record, and a series of questions, to Dr. Adonis Sfera, a Board-certified psychiatrist, for a second opinion evaluation regarding the nature and extent of any employment-related emotional/stress-related conditions.

In a May 1, 2025 report, Dr. Sfera related appellant's history of injury and diagnosed major depressive disorder, recurrent, generalized anxiety disorder, secondary to chronic pain due to her work-related injuries. He opined that she could not return to her date-of-injury position. Dr. Sfera completed a work capacity evaluation for psychiatric and psychological conditions (Form OWCP-5a) of even date, indicating that she was totally disabled due to chronic pain which aggravated depression and anxiety. He related that she was not a candidate for alternative work or vocational rehabilitation due to the severity of her symptoms.

On May 16, 2025, OWCP expanded the acceptance of the claim to include generalized anxiety disorder and major depressive disorder.

By decision dated July 11, 2025, OWCP, on its own motion, set aside the January 22, 2025 hearing decision and ordered the Branch of Hearings and review to issue a new hearing decision. By decision dated July 24, 2025, OWCP's hearing representative affirmed the May 17, 2024 OWCP decision.

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.[6] This term also means an inability to work because a limited-duty assignment made specifically to accommodate an employee's physical limitations, and which is necessary because of a work-related injury or illness, is withdrawn or altered so that the assignment exceeds the employee's physical limitations.[7] A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.[8]

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.[9]

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment injury, and supports that conclusion with medical reasoning.[10] Where no such rationale is present, the medical evidence is of diminished probative value.[11]

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[6] 20 C.F.R. § 10.5(x); *see J.D.*, Docket No. 18-1533 (issued February 27, 2019).

[7] *Id.*

[8] *Id.*

[9] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

[10] *J.D.*, Docket No. 18-0616 (issued January 11, 2019); *see C.C.*, Docket No. 18-0719 (issued November 9, 2018).

[11] *H.T.*, Docket No. 17-0209 (issued February 8, 2018).

When an employee who is disabled from the job he or she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establishes that he or she can perform the limited-duty position, the employee has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence a recurrence of total disability and to show that he or she cannot perform such limited-duty work.[12] As part of this burden, the employee must show a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the limited-duty job requirements.[13]

ANALYSIS

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

On April 6, 2007, OWCP referred appellant, together with a SOAF, the medical record, and a series of questions, to Dr. Sophon for a second opinion evaluation regarding the nature and extent of any employment-related conditions and any related disability. On April 11, 2025, OWCP referred appellant, together with a SOAF, the medical record, and a series of questions, to Dr. Sfera for a second opinion evaluation regarding the nature and extent of any employment-related emotional/stress-related conditions. However, OWCP did not ask these physicians to specifically address whether appellant sustained a recurrence of total disability, commencing February 7, 2007, causally related to her accepted September 22, 2004 employment injury.[14]

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence to see that justice is done.[15] Once OWCP undertakes development of the medical evidence, it must resolve the relevant issues in the case.[16]

The case shall therefore be remanded for further development. On remand, OWCP shall refer appellant, along with the case record and an updated SOAF, to a new second opinion physician in the appropriate field of medicine for an opinion specifically regarding whether appellant sustained a recurrence of total disability, commencing February 7, 2007, causally related to her accepted September 22, 2004 employment injury. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

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[12] *See D.W*., Docket No. 19-1584 (issued July 9, 2020); *S.D*., Docket No. 19-0955 (issued February 3, 2020); *Terry R. Hedman*, 38 ECAB 222 (1986).

[13] *C.B*., Docket No. 19-0464 (issued May 22, 2020); *Terry R. Hedman*, *id*.; *R.N*., Docket No. 19-1685 (issued February 26, 2020).

[14] *See J.J*. Docket No. 25-0925 (issued January 29, 2026); *A.B.,* Docket No. 25-0504 (issued June 20, 2025); *C.R.,* Docket No. 25-0245 (issued April 3, 2025); *J.V.,* Docket No. 24-0621 (issued September 19, 2024); *D.F.,* Docket No. 25-0111 (issued December 17, 2024); *J.A.,* Docket No. 24-0889 (issued December 11, 2024); *M.R.,* Docket No. 24-0562 (issued September 26, 2024).

[15] *See M.S.,* Docket No. 23-1125 (issued June 10, 2024); *E.B.,* Docket No. 22-1384 (issued January 24, 2024); *J.R.,* Docket No. 19-1321 (issued February 7, 2020); *S.S.,* Docket No. 18-0397 (issued January 15, 2019).

[16] *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).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the July 24, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 10, 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