

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

D.J., Appellant

and

**U.S. POSTAL SERVICE, LEXINGTON-
LIBERTY ROAD POST OFFICE,
Lexington, KY, Employer**

)
)
)
)
)
)
)
)
)
)
)

**Docket No. 26-0321
Issued: June 12, 2026**

Appearances:
*Matt Housh, for the appellant*¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 18, 2026, appellant, through his representative, filed a timely appeal from a January 26, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP).²

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 Appellant, through his representative, timely requested oral argument before the Board. 20 C.F.R. § 501.2(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's request for oral argument, his representative contended that OWCP improperly relied on the medical opinion of its second-opinion physician as it was based on an incomplete case record, he had the right to be present during an OWCP-directed impartial medical examination or second-opinion examination, and OWCP's long-standing recognition of appellant's accepted employment-related injuries and disability for over 20 years heightened its evidentiary burden or limited its authority to terminate wage-loss compensation without clear and convincing medical evidence. The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

Pursuant to the Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.⁴

ISSUE

The issue is whether OWCP met its burden of proof to terminate appellant's wage-loss compensation, effective January 26, 2026, as he no longer had disability causally related to his accepted April 20, 2004 employment injury.

FACTUAL HISTORY

On April 20, 2004, appellant, then a 35-year-old modified city carrier, filed a notice of recurrence (Form CA-2a) alleging that he sustained a recurrence of disability on that day. He noted that he sustained the original injury on January 5, 2002. Appellant claimed that he was sore after work on April 19, 2004, and when he woke up on April 20, 2004, he could not move his neck and he experienced the same severe pain as he had previously experienced. He related that following the January 5, 2002 employment injury he returned to light-duty work for four months.⁵

In a May 7, 2004 memorandum, OWCP determined that the April 20, 2004 incident would be treated as a new traumatic injury. It accepted the claim for "cervical strain" and bilateral trapezoid strain.⁶

By decision dated January 9, 2024, OWCP expanded the acceptance of appellant's claim to include radiculopathy, cervical region.

In a letter dated May 9, 2024, OWCP requested that appellant submit a detailed narrative medical report from his treating physician addressing his employment-related residuals and disability. It afforded him 30 days to respond. Appellant did not respond.

On May 20, 2024, OWCP referred appellant, together with a statement of accepted facts (SOAF) dated May 10, 2024, the case record, and a series of questions, to Dr. Stacie Grossfeld, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine the nature and

³ 5 U.S.C. § 8101 *et seq.*

⁴ The Board notes that, following the issuance of the January 26, 2026 decision, OWCP received additional evidence. 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.*

⁵ Appellant filed a notice of traumatic injury (Form CA-1) on January 5, 2002 alleging that on that day he sustained shoulder, back and neck injuries as he picked up a bundle of mail in the performance of duty. OWCP assigned this claim File No. xxxxxx123 and accepted the claim for neck sprain, and bilateral shoulder and upper arm sprain. By letter dated March 25, 2008, OWCP advised appellant that this claim was closed as he was released to full duty on April 19, 2002. OWCP has not administratively combined this claim with the current claim, OWCP File No. xxxxxx509.

⁶ By decision dated September 7, 2007, OWCP granted appellant a schedule award for five percent permanent impairment of each upper extremity. On May 18, 2023, it granted appellant a schedule award for an additional 10 percent permanent impairment of each upper extremity, for a total 15 percent permanent impairment of each upper extremity.

extent of his accepted employment-related conditions and disability. The SOAF indicated that appellant's claim had been accepted for "cervical sprain" and cervical radiculopathy.

In a June 18, 2024 medical report, Dr. Grossfeld discussed appellant's history of injury and his preexisting conditions of cervical spondylosis, cervical degenerative joint disease, and lumbar degenerative joint disease. She reviewed the medical record. Dr. Grossfeld noted that she did not receive any medical records from April 20, 2004 through September 17, 2007. She further noted appellant's complaint of neck pain which he rated as 4 out of 10 and 8 out of 10 at the worst. Dr. Grossfeld related extensive physical examination findings and concluded that appellant had no active residuals of his accepted condition of "neck sprain." She further opined that he was medically capable of performing his date-of-injury position as a modified city carrier with no restrictions. Dr. Grossfeld advised that no further medical treatment was required. She advised that the April 20, 2024 employment injury temporarily aggravated appellant's preinjury conditions of cervical spondylosis and cervical degenerative joint disease and that this aggravation had ceased. In a work capacity evaluation (Form OWCP-5c) of even date, she reiterated her opinion regarding appellant's work capacity.

In a letter dated September 4, 2024, appellant, through his representative, contended that Dr. Grossfeld was biased against appellant and other disabled patients who were his clients because she had a pattern of finding that they did not suffer from any medical conditions.

On September 5, 2024 OWCP requested that Dr. Grossfeld clarify her June 18, 2024 report with respect to whether the accepted condition of cervical radiculopathy had resolved; whether the work-related temporary aggravation of appellant's preexisting cervical conditions had ceased; and whether he had any residuals, disability, or work restrictions causally related to his accepted April 20, 2004 employment injury. It requested that she provide medical rationale in support of her opinions. OWCP also requested that Dr. Grossfeld review the enclosed additional medical records covering the period April 20, 2004 through September 17, 2007.

In a September 24, 2024 supplemental report, Dr. Grossfeld noted her review of the additional medical records and again noted appellant's history of injury on April 20, 2004. She reiterated her opinion that the accepted condition of cervical strain had resolved as of July 2004, when he was released to return to regular-duty work. Dr. Grossfeld also noted that there were no medical records indicating that there was any damage to the cervical spine in 2004. She related that an April 18, 2006 magnetic resonance imaging (MRI) scan showed only degenerative changes. Dr. Grossfeld further opined that appellant had no residuals of his April 20, 2004 employment injury. She reiterated her opinion that the temporary aggravation of appellant's preexisting cervical conditions had resolved, noting that there were no objective findings of damage to the neck. Dr. Grossfeld also noted that a January 18, 2005 MRI scan showed minor age-related findings. Additionally, she reiterated her opinion that appellant could return to his date-of-injury modified city carrier position with no restrictions. Dr. Grossfeld advised that 100 percent of his symptomatology was related to his cervical stenosis, which had advanced. She further advised that any medical treatment after July 2004 was directly related to appellant's arthritis/cervical stenosis, which was clearly documented in the medical record. She concluded that any work restrictions were related to his worsening age-related cervical spine findings.

Dr. Grossfeld, in a November 1, 2024 letter, denied appellant's allegations of misconduct.

OWCP subsequently received reports dated March 26 and August 14, 2024, wherein Dr. Shawn Milburn, a Board-certified anesthesiologist, noted a history of the April 20, 2004 employment injury and appellant's chief complaint of neck pain. Dr. Milburn discussed his examination findings and diagnosed cervical spine sprain and cervical spondylosis. He administered an Oswestry Disability Index, which indicated that appellant had severe disability.

In an August 7, 2025 attending physician's report (Form CA-20), Dr. James C. Owen, a family practitioner, noted appellant's history of injury on April 20, 2004. He indicated that appellant likely had C5-6 radiculopathy, right greater than left. Dr. Owen opined that the diagnosed conditions were caused or aggravated by the accepted April 2004 employment injury and that appellant had been totally disabled since June 2006.

By notice dated December 11, 2025, OWCP advised appellant that it proposed to terminate his wage-loss compensation because he no longer had disability causally related to his accepted April 20, 2004 employment injury. It found that the weight of the medical evidence rested with the opinion of Dr. Grossfeld, the second opinion physician. OWCP afforded appellant 30 days to submit additional evidence or argument challenging the proposed termination.

In a response dated December 11, 2025, appellant, through his representative, contended that Dr. Grossfeld did not have the complete medical record. He further contended that Dr. Grossfeld's report was factually incomplete and contradicted objective evidence in the record.

By decision dated January 26, 2026, OWCP terminated appellant's wage-loss compensation, effective that date, finding that Dr. Grossfeld's opinion constituted the weight of the medical opinion evidence and established that appellant no longer had disability causally related to the accepted April 20, 2004 employment injury. It noted that the decision did not terminate his medical benefits, which remained open if treatment was still needed.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.⁷ After it has been 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.⁸ Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁹

⁷ See *L.B.*, Docket No. 25-0766 (issued September 5, 2025); *P.B.*, Docket No. 21-0894 (issued February 8, 2023); *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *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).

⁸ See *L.B.*, *id.*; *R.P.*, *id.*; *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

⁹ See *L.B.*, *id.*; *P.T.*, Docket No. 21-0328 (issued May 2, 2022); *K.W.*, Docket No. 19-1224 (issued November 15, 2019); see *M.C.*, Docket No. 18-1374 (issued April 23, 2019); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation, effective January 26, 2026.

In a June 18, 2024 report, Dr. Grossfeld, OWCP's second opinion physician, reported essentially normal findings on physical examination and opined that appellant had no active residuals of his accepted condition of "neck sprain." She further opined that he was medically capable of performing his date-of-injury position as a modified city carrier with no restrictions. Additionally, Dr. Grossfeld opined that the April 20, 2024 employment injury temporarily aggravated appellant's preinjury conditions of cervical spondylosis and cervical degenerative joint disease, but that this aggravation had ceased.

On September 5, 2024, OWCP requested that Dr. Grossfeld review additional medical records and provide a rationalized opinion clarifying her June 18, 2024 report with respect to whether the accepted condition of cervical radiculopathy had resolved. In a supplemental report dated September 24, 2024, Dr. Grossfeld indicated that she had reviewed the newly provided medical records. She restated her opinion that the accepted condition of "cervical strain" had resolved. However, the Board finds that in her September 24, 2024 supplemental report, Dr. Grossfeld failed to provide a rationalized medical opinion clarifying the status of appellant's accepted condition of cervical radiculopathy and whether it continued to cause disability, as requested by OWCP. As such, her reports are insufficient to meet OWCP's burden of proof in this regard.

Additionally, Dr. Grossfeld did not address appellant's accepted condition of bilateral trapezioid strain. The Board notes that it is OWCP's responsibility to provide a complete and proper frame of reference for a physician by preparing a SOAF.¹⁰ OWCP's procedures dictate that, when a district medical adviser, second opinion specialist, or referee physician renders a medical opinion based on a SOAF, which is incomplete or inaccurate, or does not use the SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated altogether.¹¹

OWCP did not provide Dr. Grossfeld with a complete and accurate SOAF. The May 10, 2024 SOAF provided to Dr. Grossfeld only indicated that OWCP had accepted appellant's claim for "cervical sprain" and cervical radiculopathy. However, the case record reflects that OWCP had previously accepted appellant's claim for "cervical strain" and bilateral trapezoid strain. The Board thus finds that Dr. Grossfeld's opinions are of diminished probative value because they were not based on a proper SOAF.¹²

¹⁰ *A.B.*, Docket No. 25-0419 (issued May 13, 2025); *R.V.*, Docket No. 23-1151 (issued April 9, 2024); *M.B.*, Docket No. 21-0060 (issued March 17, 2022); *J.N.*, Docket No. 19-0215 (issued July 15, 2019); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

¹¹ *Order Remanding Case, R.W.*, Docket No. 19-1109 (issued January 2, 2020); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.3 (October 1990).

¹² *Id.* See also *M.W.*, Docket No. 26-0111 (issued April 22, 2026); *B.C.*, Docket No. 20-1672 (issued February 8, 2023); *C.S.*, Docket No. 20-1475 (issued October 4, 2021).

In light of the foregoing, the Board finds that Dr. Grossfeld's opinions are insufficient to constitute the weight of the medical opinion evidence. Therefore, OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation, effective January 26, 2026.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation, effective January 26, 2026.

ORDER

IT IS HEREBY ORDERED THAT the January 26, 2026 decision of the Office of Workers' Compensation Programs is reversed.

Issued: June 12, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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