United States Department of Labor
Employees' Compensation Appeals Board

S.B., Appellant	)	
and	)	**Docket No. 26-0079**
	)	**Issued: March 9, 2026**
U.S. POSTAL SERVICE, WESTPORT POST OFFICE, Westport, MA, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On November 10, 2025 appellant, through counsel, filed a timely appeal from an October 31, 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 October 31, 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 OWCP has met its burden of proof to rescind the acceptance of the claim with regard to valgus deformity of the right ankle, right plantar fascial fibromatosis, Charcot's joint, and right ankle contracture.

FACTUAL HISTORY

On October 18, 2018 appellant, then a 39-year-old rural carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that, on October 17, 2018, she sprained her right ankle when she rolled her ankle as she stepped from her delivery vehicle while in the performance of duty. She stopped work on October 18, 2018, and returned to full-time, modified-duty work on October 27, 2018. OWCP accepted the claim for right ankle and right foot sprains.

In reports dated April 25, 2019 through August 18, 2021, Dr. Christoper Chihlas, a Board-certified orthopedic surgeon, recounted appellant's history of injury and treatment, and related her symptoms of continuing pain and paresthesias in the right foot and ankle. On examination of the right foot and ankle, he noted a positive Tinel's sign over the distal tarsal tunnel, decreased ankle dorsiflexion, and contracture of the Achilles tendon. Dr. Chihlas diagnosed right tarsal tunnel syndrome and sequela of right ankle sprain. He attributed these conditions to the accepted October 17, 2018 employment injury.[4]

An August 11, 2021 magnetic resonance imaging (MRI) scan of appellant's right ankle revealed mild peroneus tenosynovitis, and a small ankle joint effusion.

In a September 9, 2021 report, Dr. Prajeena Mainali, an osteopath Board-certified in family practice, recounted appellant's history of injury and treatment. On examination, she observed pain with eversion of the right foot, and pain along the medial aspect of the right ankle. Dr. Mainali diagnosed pain in the right ankle and joints of right foot, and other chronic pain.

In reports dated November 11, 2021 through February 16, 2022, Dr. Jonathan Sabourin, a podiatrist, recounted a history of injury and treatment and related appellant's complaints of chronic pain in the right foot and ankle. On examination of the right foot, he found a positive Tinel's sign at the tarsal tunnel over the area of the abductor muscle belly, pain along the distal third of the posterior tibial tendon, and a compensated rearfoot valgus deformity. Dr. Sabourin diagnosed right tarsal tunnel syndrome, posterior tibial tendon dysfunction of the right foot, pain, and difficulty walking. He opined that the diagnosed tarsal tunnel syndrome was causally related to the accepted employment injury. Dr. Sabourin recommended surgery.

In reports dated April 26 and July 12, 2023, Dr. Seth O'Donnell, a Board-certified orthopedic surgeon, recounted a history of injury and treatment and recounted appellant's complaints of chronic right ankle pain, worsening deformity of the foot and ankle, and ongoing episodes of instability. On examination, Dr. O'Donnell found a hindfoot varus, cavus alignment, and tenderness to palpation along the tarsal tunnel, medial soft tissue structures, anterior joint at the navicular bone, the lateral gutter, and lateral alignments. He noted that when seated, appellant held both feet in an equinus cavovarus posture, with weakness in eversion, right greater than left.

[4] August 13, 2019 electromyogram/nerve conduction velocity (EMG/NCV) studies of the right lower extremity were within normal limits.

Dr. O'Donnell obtained weight-bearing right ankle x-rays, which demonstrated an enthesophyte at the origin of the plantar fascia. He diagnosed chronic mild right plantar fasciitis with small plantar calcaneal spur, stable mild peroneus tenosynovitis, and chronic right foot pain. Dr. O'Donnell indicated that appellant's diagnosed conditions were due to her work-related injury. He prescribed ankle stabilizing orthosis. Dr. O'Donnell also recommended an evaluation for "Charcot-Marie-Tooth" disease as appellant had indicative weakness and sensory changes.[5]

In reports dated October 4, 2023 through March 26, 2024, Dr. John T. Ponti, Board-certified in family practice and sports medicine, observed that appellant toe walked on the right due to an equinus contracture. He diagnosed right equinus contracture, right Achilles tendinosis, right plantar fasciitis, and possible pain from adhesions within the tibiotalar joint capsule. Dr. Ponti administered a series of injections to the right foot.

In an April 11, 2024 report, Dr. Ivan Urits, Board-certified in anesthesiology and pain management, diagnosed thoracic spine pain, chronic pain syndrome, and right plantar fasciitis. He noted that appellant had failed conservative treatment measures including a course of physical therapy. Dr. Urits recommended a right plantar percutaneous needle tenotomy.

In a development letter dated April 23, 2024, OWCP informed appellant of the deficiencies of her claim for expansion to include consequential right tarsal tunnel syndrome, equinus contracture of right ankle, right plantar fasciitis, Achilles tendinosis of right ankle, and right peroneal tendinosis. It advised her of the type of medical evidence needed to establish expansion of acceptance of the claim and afforded her 30 days to submit the necessary evidence.

In a May 3, 2024 statement, appellant noted that Dr. Chihlas diagnosed right tarsal tunnel syndrome in August 2019, and in 2023 Dr. O'Donnell and Dr. Ponti diagnosed right equinus contracture, right Achilles tendinosis, and right peroneal tendinosis. Additionally, Dr. Sabourin diagnosed right plantar fasciitis. She asserted that all of these conditions were related to the accepted October 17, 2018 employment injury with no intervening injury. OWCP also received excerpts of medical literature about equinus contracture and Achilles tendinosis.

Thereafter, OWCP received an April 24, 2024 MRI scan report of the right foot and ankle, which revealed chronic plantar fasciitis with minimal proliferative change at the calcaneal attachment, new low-grade partial interstitial tear of the peroneus longus tendon from the peroneal tubercule to the calcaneocuboid articulation, minimal stress-related marrow edema within the latter hallux sesamoid, and multifocal trace intermetatarsal bursitis.

In a July 31, 2024 report, Dr. Erika T. Yih, Board-certified in physiatry and pain medicine, recounted appellant's history of injury and treatment. She related that appellant's symptoms worsened in February 2024 with midfoot pain and swelling. On examination, Dr. Yih observed allodynia diffusely throughout the right foot. She opined that appellant met the Budapest diagnostic criteria for complex regional pain syndrome (CRPS) as she had continuing pain disproportionate to the inciting event, and one symptom in three out of four diagnostic categories, including sensory allodynia, edema, and motor dysfunction. Dr. Yih also diagnosed sprain of unspecified ligament of right ankle, and right plantar fasciitis.

[5] A June 27, 2023 MRI scan of the right foot and ankle revealed chronic mild plantar fasciitis with small plantar calcaneal spur, stable mild peroneus tenosynovitis, without evidence of tendon or ligament tear.

In a November 7, 2024 report, Dr. Elizabeth Martin, a Board-certified orthopedic surgeon, opined that the October 17, 2018 employment injury caused an ankle sprain with plantar fasciitis, neuritis and subsequent CRPS evidenced by diffuse hypersensitivity throughout the right foot and ankle.

On November 21, 2024, OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. John W. Golberg, a Board-certified orthopedic surgeon, for a second opinion regarding the nature and extent of the accepted conditions.

On December 11, 2024, OWCP referred the case to Dr. William Tontz, Jr., a Board-certified orthopedic surgeon serving as OWCP's district medical adviser (DMA), for an opinion regarding whether appellant developed consequential right tarsal tunnel syndrome, equinus contracture of the right Achilles tendon, mild peroneal tenosynovitis, tibial tendon dysfunction, calcaneal valgus deformity, chronic mild plantar fasciitis with small calcaneal spur, CRPS, ankle sprain with neuritis, and "Charcot-Marie-Tooth disease."

In a December 26, 2024 report, Dr. Tontz opined that based on his review of the SOAF and medical record, appellant developed right tarsal tunnel syndrome, equinus contracture of the right Achilles tendon, mild peroneal tenosynovitis, tibial tendon dysfunction, calcaneal valgus deformity, chronic mild plantar fasciitis with small calcaneal spur, CRPS, ankle sprain with neuritis, and "Charcot-Marie-Tooth disease" as a result of the accepted October 17, 2018 employment injury.

By decision dated January 6, 2025, OWCP expanded its acceptance of appellant's claim to include valgus deformity of the right ankle not elsewhere classified, right tarsal tunnel syndrome, plantar fascial fibromatosis, CRPS of right lower limb, Charcot's joint (right ankle and foot), and right ankle contracture.

OWCP subsequently received a December 30, 2024 report, wherein Dr. Golberg related his review of the medical record and SOAF. On examination of the right foot and ankle, he observed an equinus contracture at the right ankle, significant contracture of the gastrocsoleus complex, paresthesias over the right midfoot, and allodynia over the right midfoot. Dr. Golberg diagnosed right ankle sprain, low-grade right plantar fasciitis, partial peroneal tendon tear of the right lateral ankle, CRPS, plantar fasciitis, and clinical symptoms suggestive of right tarsal tunnel syndrome. He opined that the accepted injury had not resolved. In an undated addendum report, received by OWCP on January 16, 2025, Dr. Golberg related that he had reviewed additional diagnostic studies. He concluded that appellant was currently presenting with a certain degree of chronic pain syndrome, and she had clinical symptoms consistent with plantar fasciitis and tarsal tunnel syndrome.

On February 12, 2025, OWCP requested that Dr. Golberg submit a supplemental report addressing whether appellant's CRPS, plantar fasciitis, and tarsal tunnel syndrome were causally related to the accepted October 17, 2018 injury. It advised Dr. Golberg that it expanded acceptance of the claim to include valgus deformity, right ankle sprain of unspecified ligament, right tarsal tunnel syndrome, plantar fascial fibromatosis, CRPS of right lower limb, Charcot's joint at right ankle and foot, and right ankle contracture.

OWCP subsequently received a December 17, 2024 report, wherein Dr. Ponti repeated his prior diagnoses and recommended a cortisone injection to the right plantar fascia, followed by a course of physical therapy treatments.

In a February 13, 2025 report, Dr. Golberg noted his review of the accepted medical conditions. He related that appellant's diagnosed CRPS of the right foot and ankle, right plantar fasciitis, and right tarsal tunnel syndrome were "indirectly related" to the October 17, 2018 employment injury. Dr. Golberg concluded that it was "not possible to precisely explain why these conditions occur." He indicated disagreement with the diagnosis of Charcot's joint of the right ankle and foot as he found no evidence supportive of the diagnosis. Dr. Golberg indicated that there was no definitive treatment for CRPS, but that lumbar sympathetic nerve block or medications could have some benefit.

In a March 7, 2025 letter, OWCP advised appellant that it proposed to rescind acceptance of her claim for valgus deformity of the right ankle not elsewhere classified, right tarsal tunnel syndrome, plantar fascial fibromatosis, CRPS of right lower limb, Charcot's joint, right ankle and foot, and right ankle contracture based on its error. It found that Dr. Golberg's opinion was definitive and invalidated the prior acceptance. OWCP afforded appellant 30 days to present evidence and argument challenging the proposed rescission action.

In an April 15, 2025 report, Dr. Ponti opined that appellant's ongoing orthopedic issues caused pain and difficulty ambulating, potentially affecting her ability to work.

By decision dated June 3, 2025, OWCP finalized the proposed rescission of the acceptance of appellant's claim for valgus deformity, right ankle, right plantar fascial fibromatosis, Charcot's joint, and right ankle contracture, effective that date. It found that the weight of the medical evidence rested with Dr. Golberg.

On June 12, 2025, appellant, through counsel, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

Thereafter, OWCP received a March 19, 2025 report, wherein Dr. Ponti noted his administration of an arthrocentesis injection to the right ankle to address equinus contracture, Achilles tendinosis of right ankle, and right plantar fasciitis.

In an August 12, 2025 report, Dr. Katelyn Olivera, an osteopath Board-certified in neurology and clinical neurophysiology, recounted appellant's history of injury and treatment. She related appellant's symptoms of neuropathic pain in the right foot and ankle "not in a distribution of any nerve root or peripheral nerve." On examination of the right foot and ankle, Dr. Olivera observed that appellant was unable to lift her foot from the heel but was able to stand on her toes. She recommended additional diagnostic testing and prescribed medication.

By decision dated October 31, 2025, OWCP's hearing representative affirmed OWCP's June 3, 2025 rescission decision.

LEGAL PRECEDENT

Section 8128 of FECA provides that the Secretary of Labor may review an award for or against payment of compensation at any time on his or her own motion or on application.[6] The Board has upheld OWCP's authority under this section to reopen a claim at any time on its own motion and, where supported by the evidence, set aside or modify a prior decision and issue a new decision.[7] The Board has noted, however, that the power to annul an award is not arbitrary, and that an award for compensation can only be set aside in the manner provided by the compensation statute.[8]

Once OWCP accepts a claim, it has the burden of justifying termination or modification of compensation benefits. This also holds true where OWCP later decides that it erroneously accepted a claim.[9]

OWCP bears the burden of justifying rescission of acceptance on the basis of new evidence, legal argument and/or rationale.[10] Probative and substantial positive evidence or sufficient legal argument must establish that the original determination was erroneous. OWCP must also provide a clear explanation of the rationale for rescission.[11]

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to rescind its acceptance of the claim with regard to valgus deformity of the right ankle, right plantar fascial fibromatosis, Charcot's joint, and right ankle contracture.

By decision dated January 6, 2025, OWCP expanded its acceptance of the claim to include valgus deformity of the right ankle not elsewhere classified, right tarsal tunnel syndrome, plantar fascial fibromatosis, CRPS of right lower limb, Charcot's joint, right ankle and foot, and right ankle contracture as causally related to, or consequential to, the accepted October 17, 2018 employment injury. This acceptance was based on the December 26, 2024 report from Dr. Tontz, OWCP's DMA, who agreed with appellant's treating physicians that she developed these conditions as a result of the accepted October 17, 2018 employment injury.

OWCP then obtained a December 30, 2024 report, an undated addendum, and a February 13, 2025 report from Dr. Golberg, OWCP's second opinion physician. In his December 30, 2024 report, Dr. Golberg diagnosed right ankle sprain, low-grade right plantar fasciitis, partial peroneal tendon tear of the right lateral ankle, CRPS, plantar fasciitis, and clinical symptoms suggestive of right tarsal tunnel syndrome. In his February 12, 2025 report, he

---

[6] 5 U.S.C. § 8128.

[7] *See W.H.,* Docket No. 17-1390 (issued April 23, 2018); *John W. Graves,* 52 ECAB 160 (2000); 20 C.F.R. § 10.610.

[8] *D.W.,* Docket No. 17-1535 (issued February 12, 2018); *Delphia Y. Jackson,* 55 ECAB 373 (2004).

[9] *See V.C.,* 59 ECAB 137 (2007).

[10] *See L.G.,* Docket No. 17-0124 (issued May 1, 2018); *John W. Graves, supra* note 7.

[11] *W.H., supra* note 7.

explained that while appellant's diagnosed CRPS of the right foot and ankle, right plantar fasciitis, and right tarsal tunnel syndrome were "indirectly related" to the October 17, 2018 employment injury, it was "not possible to precisely explain why these conditions occur." Dr. Goldberg also indicated that there were no objective signs of Charcot's joint.

The Board finds that Dr. Golberg did not provide adequate medical rationale to negate the accepted causal relationship of CRPS of the right foot and ankle, right plantar fasciitis, and right tarsal tunnel syndrome to the accepted employment injury.[12] He simply opined that it was not possible to explain why those conditions occurred. For these reasons, Dr. Golberg's opinion cannot represent the weight of the medical evidence. The Board thus finds that OWCP failed to meet its burden of proof.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to rescind its acceptance of the claim with regard to valgus deformity of the right ankle, right plantar fascial fibromatosis, Charcot's joint, and right ankle contracture.

ORDER

IT IS HEREBY ORDERED THAT the October 31, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: March 9, 2026
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

[12] *C.H.*, Docket No. 20-0194 (issued August 26, 2021); *see R.B.,* Docket No. 20-0109 (issued June 25, 2020).