



(3) whether OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

### **FACTUAL HISTORY**

On January 17, 2025, appellant, then a 31-year-old police officer, filed a traumatic injury claim (Form CA-1) alleging that on January 16, 2025 she tripped and fell when operating a building ramp, striking the right side of her body and her left knee while in the performance of duty. She stopped work on January 16, 2025.

In a February 4, 2025 prescription note, Dr. Susan J. Liu, a Board-certified physiatrist, diagnosed a right shoulder sprain and left knee contusion. She prescribed physical therapy.

On March 7, 2025, OWCP accepted the claim for left knee contusion.

OWCP subsequently received work slips dated February 18 through March 18, 2025, wherein Dr. Liu held appellant off work through April 1, 2025.

On March 24, 2025, appellant filed a claim for compensation (Form CA-7) for disability from work for the period March 11 through 22, 2025. She also filed a Form CA-7 on April 5, 2025 for the period March 25 through April 5, 2025.

In a development letter dated March 26, 2025, OWCP notified appellant of the deficiencies in her disability claim. It advised her of the type of factual and medical evidence needed and afforded her 30 days to respond.

OWCP subsequently received an April 1, 2025 work slip, wherein Dr. Liu held appellant off work through April 7, 2025. She returned appellant to full duty, effective April 8, 2025.

In an April 1, 2025 work capacity evaluation (Form OWCP-5c), Dr. Liu recounted appellant's symptoms of "difficulty with her neck, mid back[,] and right shoulder" with numbness and tingling radiating into the right upper extremity. She returned appellant to sedentary duty, effective April 8, 2025.

By decision dated May 6, 2025, OWCP denied appellant's claim for disability from work commencing March 11, 2025. It found that the medical evidence of record was insufficient to establish disability from work during the claimed period causally related to the accepted January 16, 2025 employment injury.

Appellant subsequently requested that OWCP expand acceptance of her claim to include additional conditions.

In a development letter dated May 27, 2025, OWCP informed appellant of the deficiencies of her claim for a consequential condition causally related to the accepted January 16, 2025 employment injury. It advised her of the type of factual and medical evidence needed to establish her claim and afforded her 30 days to respond.

In a June 6, 2025 response, appellant requested that OWCP expand its acceptance of her claim to include right shoulder and right upper torso injuries. She explained that on January 16, 2025, she slipped and fell onto her right side, with her torso landing inside the booth. The booth door struck her left knee, causing immediate swelling. The following day, appellant experienced severe right shoulder pain upon awakening and sought treatment at an urgent care facility.

OWCP subsequently received a January 17, 2025 clinical summary signed by Nona Khutsishvili, a physician assistant. She diagnosed unspecified injury of right shoulder and upper arm, unspecified dorsalgia, and strain of unspecified muscle, fascia, and tendon at right shoulder and upper arm level.

OWCP also received a February 4, 2025 report wherein Dr. Liu related that, while at work on January 16, 2025, appellant slipped and fell as she stepped into a guard booth, striking her right shoulder and left knee on the door. On examination, Dr. Liu noted a positive impingement test in the right shoulder, pain with isolated supraspinatus testing, pain with lift-off testing, and swelling of the left knee with tenderness to palpation of the medial joint line. She diagnosed right shoulder sprain and left knee contusion as a “result of the work-related injury on January 16, 2025.”

In additional reports dated February 18 through April 29, 2025, Dr. Liu noted continued left knee and right shoulder pain. She diagnosed cervical strain, thoracic strain, possible right thoracic outlet syndrome, and right shoulder sprain “as a result of the work-related injury on January 16, 2025.”

By decision dated July 3, 2025, OWCP denied a recurrence of disability, finding that the medical evidence of record was insufficient to establish causal relationship.

On September 15, 2025, appellant requested a review of the written record by a representative of OWCP’s Branch of Hearings and Review.

By decision dated September 29, 2025, OWCP denied appellant’s request for a review of the written record, finding that the request was not made within 30 days of the July 3, 2025 decision and, therefore, was untimely filed. It further exercised its discretion and determined that the issue in the case could equally well be addressed through a request for reconsideration before OWCP along with the submission of new evidence.

### **LEGAL PRECEDENT -- ISSUE 1**

An employee seeking benefits under FECA<sup>2</sup> 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.<sup>3</sup>

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<sup>2</sup> *Supra* note 1.

<sup>3</sup> *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).

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.<sup>4</sup> Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup>

For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work causally related to the accepted employment injury.<sup>9</sup> 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 their disability and entitlement to compensation.<sup>10</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant has not met her burden of proof to establish disability from work, commencing March 11, 2025, causally related to the accepted January 16, 2025 employment injury.

Dr. Liu, in a February 4, 2025 note, diagnosed a right shoulder sprain and left knee contusion. In work slips dated February 18 through April 1, 2025, and an April 1, 2025 Form OWCP-5c, she held appellant off work through April 7, 2025. However, Dr. Liu did not provide

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<sup>4</sup> 20 C.F.R. § 10.5(f).

<sup>5</sup> See *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

<sup>6</sup> See *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

<sup>7</sup> See *D.R.*, Docket No. 18-0323 (issued October 2, 2018).

<sup>8</sup> *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

<sup>9</sup> *D.A.*, Docket No. 25-0909 (issued February 18, 2026); *R.B.*, Docket No. 25-0715 (issued December 9, 2025); *A.M.*, Docket No. 25-0788 (issued November 17, 2025); see *C.W.*, Docket No. 25-0243 (issued July 17, 2025); *B.D.*, Docket No. 18-0426 (issued July 17, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

<sup>10</sup> *Id.*

an opinion on causal relationship between the claimed disability and the accepted January 16, 2025 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.<sup>11</sup> Thus, this evidence is insufficient to establish appellant's disability claim.

As the medical evidence of record is insufficient to establish causal relationship between the claimed period of disability and the accepted January 16, 2025 employment injury, 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 2**

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.<sup>12</sup>

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. The 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.<sup>13</sup>

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, based on 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

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<sup>11</sup> See *N.W.*, Docket No. 25-0270 (issued April 7, 2025); *M.T.*, Docket No. 24-0465 (issued September 27, 2024); *A.O.*, Docket No. 24-0382 (issued May 16, 2024); *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *J.D.*, Docket No. 18-1533 (issued February 27, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

<sup>13</sup> *Id.*

injury, and supports that conclusion with medical reasoning.<sup>14</sup> Where no such rationale is present, the medical evidence is of diminished probative value.<sup>15</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds OWCP improperly determined that the issue presented was recurrence of disability causally related to the accepted January 16, 2025 employment injury.

Appellant requested that OWCP expand acceptance of her claim to include unspecified new conditions. In a development letter dated May 27, 2025, OWCP informed appellant of the deficiencies of her claim for a consequential condition causally related to the accepted January 16, 2025 employment injury. It advised her of the type of factual and medical evidence needed to establish her claim and afforded her 30 days to respond. In a June 6, 2025 response, appellant requested that OWCP expand its acceptance of her claim to include right shoulder and right upper torso injuries. In support thereof, she submitted evidence including a February 4, 2025 report, wherein Dr. Liu related that appellant struck her right shoulder when she slipped and fell in the guard booth on January 16, 2025. Dr. Liu found a positive impingement test of the right shoulder and diagnosed right shoulder sprain as a “result of the work-related injury on January 16, 2025.” In additional reports dated February 18 through April 29, 2025, she continued to diagnose a right shoulder sprain “as a result of the work-related injury on January 16, 2025.” Dr. Liu also diagnosed cervical strain, thoracic strain, and possible right thoracic outlet syndrome causally related to the accepted January 16, 2025 employment injury.

However, while OWCP initially developed the evidence with regard to the issue of expansion, it improperly adjudicated the issue of recurrence in its July 3, 2025 decision instead of adjudicating the issue of expansion. The Board finds that OWCP should have determined whether appellant had established expansion of the acceptance of the claim to include additional conditions as causally related to, or consequential to, the accepted employment injury. The Board shall, therefore, remand the case to OWCP for proper adjudication of the expansion issue, to be followed by issuance of a *de novo* decision.<sup>16</sup>

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish disability from work, commencing March 11, 2025, causally related to the accepted January 16, 2025 employment injury. The Board further finds that OWCP improperly determined that the issue presented was recurrence of disability causally related to the accepted January 16, 2025 employment injury.<sup>17</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> See *M.T.*, Docket No. 25-0180 (issued January 25, 2025); *H.T.*, Docket No. 17-0209 (issued February 8, 2018).

<sup>16</sup> See *Order Remanding Case, J.W.*, Docket No. 22-0314 (issued June 27, 2022).

<sup>17</sup> In light of the Board’s disposition of Issue 2, Issue 3 is rendered moot.

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 6, 2025 decision of the Office of Workers' Compensation Programs is affirmed. The July 3, 2025 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded for further proceedings consistent with this decision of the Board. The September 29, 2025 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: March 17, 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