

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

E.E., Appellant)	
)	
and)	Docket No. 24-0593
)	Issued: May 14, 2026
U.S. POSTAL SERVICE, POST OFFICE, Chicago, IL, Employer)	
)	

Appearances: *Case Submitted on the Record*
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On May 8, 2024 appellant, through counsel, filed a timely appeal from an April 10, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (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 April 10, 2024 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 disability for the period October 16 through November 12, 2023 causally related to her accepted January 23, 2023 employment injury.

FACTUAL HISTORY

On January 26, 2023 appellant, then a 44-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 23, 2023 she injured her right wrist and hand, right knee, and right ankle when she fell while delivering mail in the performance of duty. She stopped work on January 23, 2023 and returned to modified employment on April 13, 2023. OWCP accepted the claim for right wrist sprain, right knee sprain, right ankle sprain, right Achilles tendon sprain, lumbar sprain, and right ankle effusion.

On November 3, 2023 appellant filed claims for compensation (Form CA-7) for disability from work during the period October 7 through November 3, 2023 causally related to the accepted employment injury.

In a development letter dated November 13, 2023, OWCP advised appellant of the deficiencies of her claim for disability compensation. It afforded her 30 days to submit the necessary evidence.

In a report dated November 22, 2023, Dr. David Barnes, an osteopath, discussed appellant's history of an injury on January 23, 2023 and reviewed the results of her diagnostic testing. He noted that a magnetic resonance imaging (MRI) scan of the right knee, performed on February 15, 2023, demonstrated minimal effusion of the knee joint and very localized low grade chondromalacia patella. An MRI scan of the right ankle performed on February 2, 2023 demonstrated mild subcutaneous edema. Dr. Barnes related, "[Appellant] has continued to work since the injury but due to performing her job duties and getting in and out of her LLV [long life vehicle] work truck the right knee began swelling and causing pain which made it difficult for her to walk so [appellant] was taken off work on October 16 through November 6, 2023. She returned at that time and remained at work."

In correspondence dated December 29, 2023, OWCP discussed Dr. Barnes' finding that appellant's job duties caused right knee swelling. It informed her that this constituted new work exposure and thus failed to support that she had sustained a spontaneous recurrence of disability. OWCP advised appellant of the definition of a recurrence of disability and requested that she resubmit a Form CA-7 with supporting medical evidence.

In a January 4, 2024 report, Dr. Barnes indicated that appellant had advised that he had made a clerical error when he indicated that she was taken off work from October 16 through November 6, 2023 due to a new injury. He noted that she was off work due to her accepted condition. Dr. Barnes again opined that getting in and out of her work truck caused right knee swelling and pain such that appellant was unable to work from October 16 through November 6, 2023. In a duty status report (Form CA-17) of even date, he determined that appellant was disabled from work.

On January 25, 2024, Dr. Barnes again noted that appellant related a clerical error as she was off work from October 16, 2023 through January 12, 2024 due to her previously accepted condition rather than a new injury. He related that she had experienced severe right wrist pain performing her work duties. Dr. Barnes opined that appellant had a severe limitation in extension of the right wrist such that “any form of fine motor motion, gripping, pushing, or pulling would be very difficult for her to perform.” He concluded that, as a result, she had to stop working.

On January 29, 2024, appellant filed CA-7 forms for wage-loss compensation for disability from work during the periods October 7 through November 3, 2023 and December 30, 2023 through January 26, 2024. The employing establishment advised that appellant had worked from October 7 through 14, 2023.

By decision dated January 31, 2024, OWCP denied appellant’s claim for intermittent disability from work commencing October 7, 2023.

On February 13, 2024, appellant requested reconsideration.

OWCP subsequently received additional evidence. In a February 8, 2024 response, Dr. Barnes related that appellant asserted that climbing up into and down from her work van caused right knee swelling and pain such that she had difficulty performing the duties of her position. He indicated that he had reviewed the MRI scan and findings on physical examination showing limited flexion of the right knee, swelling, and tenderness. Dr. Barnes opined that appellant was unable to work from October 16 through November 2, 2023, and noted that he had made a clerical error in finding earlier that she was off work beginning October 7, 2023. He advised that appellant did not have a new injury on October 16, 2023, noting that she had sustained an accepted right knee injury on January 23, 2023. Dr. Barnes indicated that on the week of January 4, 2024 appellant’s pain increased when performing her job duties, in particular opening and closing the door of her van. He related that as a result she could not do any lifting or gripping with her right wrist, and he opined that she was unable to work on January 5, 2024. Dr. Barnes discussed his examination findings and the results of diagnostic testing. He diagnosed right ankle sprain, a strain of the right Achilles tendon, right ankle joint effusion, lumbar sprain, and right knee sprain.

On February 12, 2024, appellant filed a Form CA-7 claim for disability from work during the period January 27 through February 9, 2024.

By decision dated February 21, 2024, OWCP vacated in part, finding that it had failed to properly develop appellant’s claims for recurrences of disability from December 30, 2023 through January 3, 2024 and beginning January 5, 2024. It, however, affirmed in part, finding that she had not established a recurrence of disability from October 16 through November 12, 2023. OWCP noted that the evidence supported that new work exposure resulted in her condition.

On March 18, 2024, appellant requested reconsideration and submitted additional evidence.

In a report dated March 14, 2024, Dr. Barnes noted that on January 4, 2024 appellant was performing her job duties, which he summarized from her position description. He asserted that overexertion and repetitive motion “directly contributed to her injuries.”

In a CA-17 form dated March 28, 2024, Dr. Barnes advised that appellant was disabled from work.

Thereafter, OWCP received a report of work status (Form CA-3), which indicated that appellant had stopped work on October 16, 2023 and returned to her usual employment without restrictions on November 13, 2023.

Appellant continued to file Form CA-7 claims for wage-loss compensation.

By decision dated April 10, 2024, OWCP denied modification of its February 21, 2024 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.⁴ This term also means an inability to work because a light-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. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.⁵

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.⁶

OWCP's procedures provide additional guidance as to when a notice of recurrence should be filed. Its procedures provide, in relevant part, that a recurrence of disability does not include a work stoppage caused by "[a] condition which results from a new injury, even if it involves the same area of the body previously injured, or by renewed exposure to the causative agent of a previously suffered occupational disease."⁷ If a new work-related injury or exposure occurs, a Form CA-1 or Form CA-2 should be completed accordingly.⁸

⁴ 20 C.F.R. § 10.5(x); *see also E.D.*, Docket No. 21-1368 (issued September 7, 2023); *J.D.*, Docket No. 18-1533 (issued February 27, 2019).

⁵ *Id.*

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *T.M.*, Docket No. 24-0150 (issued April 9, 2024); *F.C.*, Docket No. 18-0334 (issued December 4, 2018).

⁷ *Id.* at Chapter 2.1500.3c(5) (June 2013).

⁸ *Id.*

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability for the period October 16 through November 12, 2023 causally related to her accepted January 23, 2023 employment injury.

In a November 22, 2023 report, Dr. Barnes discussed appellant's history of an injury on January 23, 2023 and provided his review of her diagnostic studies. He noted that she continued to work after the injury but that getting in and out of her vehicle had caused her right knee to become painful and swollen. Dr. Barnes related that appellant had difficulty walking and was thus taken off work from October 16 through November 6, 2023. However, he did not provide an opinion on disability causally related to the January 23, 2023 accepted employment injury.⁹ Consequently, this evidence is insufficient to establish appellant's recurrence claim.

On January 4, 2024, Dr. Barnes advised that he had made a clerical error in finding that appellant was off work during the period October 16 through November 6, 2023 due to a new injury. He asserted that she was off work due to her accepted employment injury. In a January 25, 2024 report, Dr. Barnes again advised that appellant was taken off work due to her accepted condition. He noted that she experienced severe pain performing her job duties. Dr. Barnes found that appellant's pain and reduced right wrist motion would make fine motor action extremely difficult and that she consequently could not work. However, although he provided an opinion on disability causally related to the January 23, 2023 employment injury, his opinion lacked rationale. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain sufficient medical rationale explaining how a given medical condition/disability was related to employment factors.¹⁰ This evidence is, therefore, insufficient to establish appellant's recurrence claim.

On February 8, 2024, Dr. Barnes related that climbing up into and down from appellant's work van had caused right knee pain and swelling such that she had difficulty performing her job duties. He opined that she was unable to work from October 16 through November 2, 2023. Dr. Barnes asserted that appellant had not experienced a new injury on October 16, 2023 and noted that she had an accepted claim for a right knee injury on January 23, 2023. He further maintained that during the week of January 4, 2024 her pain had increased while performing her job duties, including opening and closing the door of her van such that she was unable to perform lifting or gripping with the right wrist. Dr. Barnes opined that appellant was disabled from work beginning January 5, 2024. Again, however, his opinion lacked rationale. As noted above, a report is of limited probative value regarding causal relationship if it does not contain sufficient medical rationale explaining how a given medical condition/disability was related to employment factors.¹¹ This evidence is, therefore, insufficient to establish appellant's recurrence claim.

⁹ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁰ See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹¹ *Id.*

As the medical evidence of record is insufficient to establish a recurrence of disability during the period October 16 through November 12, 2023 causally related to appellant's accepted January 23, 2023 employment injury, the Board finds that she 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability for the period October 16 through November 12, 2023 causally related to her accepted January 23, 2023 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the April 10, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 14, 2026
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board