United States Department of Labor
Employees' Compensation Appeals Board

J.G., Appellant	)	
and	)	**Docket No. 26-0633**
	)	**Issued: October 28, 2026**
U.S. POSTAL SERVICE, NORTH TEXAS PROCESSING & DISTRIBUTION CENTER, Coppell, TX, Employer	)	

Appearances:
Appellant, pro se
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 June 26, 2026 appellant filed a timely appeal from a June 10, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to reduce appellant's wage-loss compensation, effective March 6, 2026, pursuant to 20 C.F.R. § 10.500(a), based on her earnings had she accepted a temporary limited-duty assignment; and (2) whether appellant has met

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the June 10, 2026 decision, appellant submitted additional evidence to OWCP and with her appeal to the Board. 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.*

her burden of proof to establish that her refusal of the temporary light-duty assignment was justified.

FACTUAL HISTORY

On April 22, 2024, appellant, then a 37-year-old rural mail carrier, filed a traumatic injury claim (Form CA-1) alleging that on April 19, 2024 she injured her right knee and lower back when she fell when ascending stairs while in the performance of duty. She stopped work on April 20, 2024. OWCP accepted appellant's claim for contusion of right knee; strain of muscle, fascia and tendon of lower back; other meniscus derangements, other medial meniscus, right knee; radiculopathy, lumbar region; sprain of unspecified ligament of right ankle; and unspecified sprain of the right foot. It paid her wage-loss compensation on the supplemental rolls effective June 4, 2024, and on the periodic rolls effective October 6, 2024.

In medical reports dated April 26, 2024 through April 22, 2025, Dr. Russell Skinner, a Board-certified family practitioner, presented appellant's physical examination findings and continued to diagnose appellant's accepted conditions. He opined that she was temporarily disabled from work as a rural mail carrier due to severe swelling, decreased range of motion, decreased strength, and worsening inflammation in her lower back and right knee.

On February 19, 2025, OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. Thomas M. DeBerardino, a Board-certified orthopedic surgeon, for a second opinion examination. It requested that Dr. DeBerardino evaluate appellant's work-related residuals and work capacity.

In an April 11, 2025 report, Dr. DeBerardino reviewed the medical record and the SOAF. He reported appellant's physical examination findings, noting that her subjective complaints corresponded with her objective findings. Dr. DeBerardino opined that appellant's work-related conditions remained active with objective residuals including limp to the right with staggered and slow gait; guarded posture; discomfort in a seated position; moderate sensory deficits in the spine and lower extremity on the right; decreased strength in the right lower extremity; inability to perform the heel or toe walk; tenderness and spasms in the lumbar spine on the right; positive orthopedic tests in the lumbar spine on the right; tenderness and positive orthopedic tests in the right knee. He indicated that a functional capacity evaluation (FCE) indicated that she was unable to perform the usual duties of a rural mail carrier but could perform at the sedentary physical demand level. Dr. DeBerardino opined that appellant could occasionally stand, walk and lift up to 10 pounds, but she was unable to push or pull. He stated that appellant's work restrictions were not permanent, but that appellant would require further medical management. In an April 11, 2025 work capacity evaluation (Form OWCP-5c), Dr. DeBerardino opined that appellant had not reached maximum medical improvement (MMI), but she could perform sedentary employment for six to nine months with no pushing, pulling, squatting and kneeling; and no more than two hours walking, standing, bending stooping, and lifting up to 10 pounds. OWCP also received a copy of a May 15, 2025 FCE report.[3]

[3] In the May 15, 2025 FCE report, Dr. Deberardino opined that appellant met essential job demands for sitting, reaching overhead (front) right, reaching overhead (front), left, handling right, handling left, fingering right and fingering left. He opined that appellant did not meet the essential job demands of her occupation as a mail carrier, but could perform work at a sedentary demand level.

On July 7, 2025, OWCP requested that Dr. DeBerardino clarify his report. In a July 25, 2025 addendum report, he stated that appellant's magnetic resonance imaging (MRI) scans confirmed L4-5 and L5-S1 disc bulges. Dr. DeBerardino explained that appellant therefore required further physical medicine and rehabilitation evaluation and treatment.

On August 18, 2025, OWCP provided Dr. Skinner with a copy of Dr. DeBerardino's second opinion report. It asked that Dr. Skinner address whether he agreed with Dr. DeBerardino's recommendations.

In August 20 and September 15, 2025 reports, Dr. Skinner provided examination findings and opined that appellant could work in a modified position for the next 45 days. In Forms OWCP-5c of even dates, he opined that she could work four hours a day in a sedentary position with restrictions for 45 days. Dr. Skinner indicated that appellant could sit for four hours; walk and stand for two hours; push, pull, lift for two hours no more than 10 pounds; but was not allowed to reach, reach above the shoulder, twist, bend/stoop, operate motor vehicle at work, squat, kneel or climb. He further indicated that she would require 5-to-10-minute breaks every hour as needed for symptoms.

On September 26, 2025, the employing establishment offered appellant a modified assignment (limited duty) as a modified rural carrier, effective October 4, 2025 for 4 hours a day (20 hours per week). The duties were identified as casing sequence mail; loading mail into a vehicle; receiving, signing, and preparing accountable mail for forwarding; preparing a daily trip report; maintaining a list of customers on route; and delivering curb side delivery from a vehicle. The physical requirements were identified as lifting up to 10 pounds intermittently for two hours; standing, walking, bending/stooping, reaching; and sitting intermittently for two hours.

On October 1, 2025, appellant refused the modified job offer.

In an October 2, 2025 memorandum, the employing establishment acknowledged appellant's refusal of the offered position. In response to whether this was a temporary job, the employing establishment answered "No."

OWCP continued to receive progress notes dated October 27 through December 15, 2025 wherein Dr. Skinner reiterated appellant's restrictions.

On January 30, 2026, the employing establishment confirmed that the September 26, 2025 modified assignment remained available.

On January 30, 2026, OWCP issued appellant a notice of the proposed reduction of her wage-loss compensation in accordance with 20 C.F.R. § 10.500(a) based on her refusal of the part-time September 26, 2025 temporary, light-duty assignment. It advised her that it had reviewed the September 26, 2025 temporary, light-duty assignment for 20 hours per week and found that it appropriately accommodated the current work restrictions provided by Dr. Skinner in his September 15, 2025 report. OWCP informed appellant of the provisions of 20 C.F.R. § 10.500(a) and advised her that her entitlement to wage-loss compensation would be reduced indefinitely since the light-duty job had no projected end date. It provided her 30 days to either report to the temporary- light-duty assignment or demonstrate that the declination was justified.

In a February 16, 2026 progress report, Dr. Skinner opined that appellant could work four hours a day in a sedentary position with restrictions for 60 days, noting that she was concerned she would reinjure herself and her work restrictions would not be respected. He advised that she was not released to operate a motor vehicle at work and that she was not to perform any twisting, bending, stooping, reaching above shoulder, squatting, kneeling or climbing while at work to prevent further injuries. In a Form OWCP-5c of even date, Dr. Skinner continued appellant's prior work restrictions.

By decision dated March 6, 2026, OWCP advised appellant that her wage-loss compensation would be reduced effective that date, in accordance with 20 C.F.R. § 10.500(a). It noted that she had not accepted the September 26, 2025 temporary light-duty assignment, which was within the work restrictions provided by Dr. Skinner. Therefore, appellant would be paid compensation based on the difference between the pay of the temporary, light-duty assignment and the current pay of the position she held on the date of injury. OWCP applied the formula derived from the principles contained in the case of *Albert C. Shadrick*[4] to calculate her loss of wage-earning capacity (LWEC).

On March 12, 2026, appellant requested reconsideration. She stated that the essential functions of the modified position, which required operating a motor vehicle, bending, stooping, and reaching, fell outside of her medical restrictions. A copy of Dr. Skinner's February 16, 2026 report and a copy of the September 26, 2025 offer of modified assignment were resubmitted.

In reports dated April 6 and May 4, 2026, Dr. Skinner opined that appellant was partially disabled as of April 19, 2024 from her employment-related condition due to severe swelling, decreased range of motion, decreased strength and worsening inflammation in her lower back and right knee. He stated that the physical demands of her employment would result in further injury; therefore, she should be on modified work for the next 60 days. Dr. Skinner continued to advise that appellant was limited to 4 hours of work per day, that she was not released to operate a motor vehicle at work, and that she should not perform any twisting, bending, stooping, reaching above shoulder, squatting, kneeling, or climbing while at work to prevent further injuries.

By decision dated June 10, 2026, OWCP denied modification.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation it has the burden of justifying termination or modification of compensation benefits.[5]

OWCP regulations at 20 C.F.R. § 10.500(a) provide in pertinent part:

> "(a) Benefits are available only while the effects of a work-related condition continue. Compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury. For example,

[4] 5 ECAB 376 (1953); codified at 20 C.F.R. §§ 10.403(d)-(e).

[5] *See G.D.,* Docket No. 25-0578 (issued July 7, 2025); *S.V.,* Docket No. 17-1268 (issued March 23, 2018); *I.J.,* 59 ECAB 408 (2008).

> an employee is not entitled to compensation for any wage-loss claimed on a Form CA-7 to the extent that evidence contemporaneous with the period claimed on a Form CA-7 establishes that an employee had medical work restrictions in place; that light duty within those work restrictions was available; and that the employee was previously notified in writing that such duty was available. Similarly, an employee receiving continuing periodic payments for disability was not prevented from earning the wages earned before the work-related injury if the evidence establishes that the employing establishment had offered, in accordance with OWCP procedures, a temporary light-duty assignment within the employee's work restrictions. (The penalty provision of 5 U.S.C. § 8106(c)(2) will not be imposed on such assignments under this paragraph.)"[6]

When it is determined that an appellant is no longer totally disabled from work and is on the periodic rolls, OWCP's procedures provide that the claims examiner should evaluate whether the evidence establishes that light-duty work was available within his or her restrictions. The claims examiner should provide a pretermination or prereduction notice if the claimant is being removed from the periodic rolls.[7] When the light-duty assignment either ends or is no longer available, the claimant should be returned to the periodic rolls if medical evidence supports continued disability.[8] OWCP's procedures further advise, "If there still would have been wage loss if the claimant had accepted the light-duty assignment, the claimant remains entitled to compensation benefits based on the temporary actual earnings WEC [wage-earning capacity] calculation (just as if he/she had accepted the light[-]duty assignment)."[9]

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to reduce appellant's wage-loss compensation, effective March 6, 2026.

The evidence of record contains a written job offer, dated September 26, 2025, for a part-time limited-duty assignment as a modified rural carrier. Appellant refused the position on October 1, 2025. However, the employing establishment did not indicate that the September 26, 2025 job offer was temporary and there is no evidence in the record that the employing establishment had communicated to appellant that the position was temporary. Additionally, in the October 2, 2025 job offer refusal memorandum, the employing establishment answered "No" to the question of whether the offered position was temporary.

[6] 20 C.F.R. § 10.500(a).

[7] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Job Offers and Return to Work*, Chapter 2.814.9c(1)(b) (June 2013).

[8] *Id*. at Chapter 2.814.9c(1)(d).

[9] *Id.* at Chapter 2.814.9c(8).

Pursuant to 20 C.F.R. § 10.500(a), OWCP had the burden of proof to establish that appellant declined an offered employment position that was temporary in nature.[10] The evidence of record is insufficient to establish that the modified job offered on September 26, 2025 was temporary. The Board thus finds that OWCP has not met its burden of proof to reduce appellant's wage-loss compensation.[11]

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to reduce appellant's wage-loss compensation, effective March 6, 2026.[12]

ORDER

IT IS HEREBY ORDERED THAT the June 10, 2026 decision of the Office of Workers' Compensation Programs is reversed.

Issued: October 28, 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

[10] *A.S.,* Docket No. 25-0821 (issued December 12, 2025); *G.D., supra* note 5. *See N.H.,* Docket No. 24-0659 (issued September 19, 2024); *M.B.,* Docket No. 24-0478 (issued June 5, 2024); *A.W.,* Docket No. 21-1287 (issued September 22, 2023); *C.W.,* Docket No. 18-1779 (issued May 6, 2019).

[11] *Id.*

[12] In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.