United States Department of Labor
Employees' Compensation Appeals Board

R.D., Appellant	)	
and	)	**Docket No. 26-0662**
	)	**Issued: October 1, 2026**
DEPARTMENT OF VETERANS AFFAIRS, LIEUTENANT COLONEL LUKE WEATHERS, JR. VA MEDICAL CENTER, Memphis, TN, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 6, 2026 appellant filed a timely appeal from an April 24, 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]

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical diagnosis in connection with the accepted December 3, 2025 employment incident.

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that OWCP received additional evidence following the April 24, 2026 decision. 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 at the time of its final decision 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.*

FACTUAL HISTORY

On December 10, 2025 appellant, then a 69-year-old registered nurse, filed a traumatic injury claim (Form CA-1) alleging that on December 3, 2025 she sustained a closed fracture of the left hip, contusion of the left knee, and jammed wrists when she tripped and fell on the asphalt as she was crossing the street en route to her car in a parking lot while in the performance of duty. On the reverse side of the claim form and in a letter dated December 15, 2025 the employing establishment controverted the claim, contending that appellant was not in the performance of duty because her tour had ended, she was not on employing establishment premises, and she was not involved in official business off premises. Appellant stopped work on December 4, 2025.

In a December 3, 2025 e-mail and a December 10, 2025 Occupational Safety and Health Administration (OSHA) Form 301 injury and illness incident report, appellant reiterated that on December 3, 2025 she tripped and fell on the asphalt as she was crossing the street to her car in a parking lot and possibly sustained a fractured femur.

In return-to-work notes dated December 4 and 11, 2025, Dale A. Dawson, a physician assistant, indicated that appellant was unable to work until her follow-up evaluations.

In a return-to-work note dated December 16, 2025, Dr. Christopher T. Cosgrove, a Board-certified orthopedic surgeon, advised that appellant was unable to work for the next month. He noted that her work status would be reevaluated at her appointment in January 2026. In an encounter summary dated January 5, 2026, Dr. Cosgrove diagnosed closed nondisplaced fracture of the greater trochanter of the left femur with delayed healing. He noted that the onset of the diagnosed condition was on December 12, 2025. Dr. Cosgrove again advised that appellant was unable to return to work.

In a development letter dated January 8, 2026, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of additional factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a separate letter of even date, it requested that the employing establishment provide information regarding appellant's claim, including whether, at the time of the claimed employment injury, appellant was on the employing establishment premises and whether she was performing official duties or engaged in activities reasonably incidental to her job. OWCP afforded the employing establishment 30 days to respond.

OWCP subsequently received a January 22, 2026 return-to-work note, wherein Dr. Cosgrove cleared appellant to return to light-duty work with restrictions eight hours per day as of February 2, 2026.

In a February 2, 2026 letter, the employing establishment continued to controvert appellant's claim, reiterating its prior contention that appellant was not injured in the performance duty. It also asserted that the medical evidence submitted did not contain a rationalized opinion establishing causal relationship between a diagnosed medical condition and the December 3, 2025 incident.

In a follow-up letter dated February 10, 2026, OWCP advised appellant that it had conducted an interim review and the evidence remained insufficient to establish her claim. It

noted that she had 60 days from the January 8, 2026 letter to submit the necessary evidence. OWCP further advised that if the necessary evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No response was received.

By decision dated April 24, 2026, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a medical diagnosis in connection with the accepted December 3, 2025 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,[4] that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[5] These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is that the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.[7]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[8] The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment incident.[9] Neither the mere fact that a disease or condition manifests itself during a

[3] *Supra* note 1.

[4] *E.K.,* Docket No. 22-1130 (issued December 30, 2022); *F.H.,* Docket No. 18-0869 (issued January 29, 2020); *J.P.,* Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron,* 41 ECAB 153 (1989).

[5] *L.C.,* Docket No. 19-1301 (issued January 29, 2020); *J.H.,* Docket No. 18-1637 (issued January 29, 2020); *R.C.,* 59 ECAB 427 (2008); *James E. Chadden, Sr.,* 40 ECAB 312 (1988).

[6] *P.A.,* Docket No. 18-0559 (issued January 29, 2020); *K.M.,* Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett,* 41 ECAB 992 (1990).

[7] *T.H.,* Docket No. 19-0599 (issued January 28, 2020); *K.L.,* Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone,* 41 ECAB 354 (1989).

[8] *S.S.,* Docket No. 19-0688 (issued January 24, 2020); *A.M.,* Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris,* 48 ECAB 238 (1996).

[9] *F.S.,* Docket No. 23-0112 (issued April 26, 2023); *T.L.,* Docket No. 18-0778 (issued January 22, 2020); *Y.S.,* Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams,* 41 ECAB 345, 352 (1989).

period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[10]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical diagnosis in connection with the accepted December 3, 2025 employment incident.

In support of her claim, appellant submitted a January 5, 2026 encounter summary, wherein Dr. Cosgrove diagnosed closed nondisplaced fracture of the greater trochanter of the left femur with delayed healing. He noted that the onset of the diagnosed condition was on December 12, 2025. However, OWCP accepted that the incident occurred on December 3, 2025. Dr. Cosgrove's January 5, 2025 report is therefore insufficient to establish a medical diagnosis in connection with the accepted December 3, 2025 employment incident.

In his remaining return-to-work notes dated December 16, 2025, and January 22, 2026, Dr. Cosgrove addressed appellant's work capacity, but failed to diagnose a medical condition. Lacking a firm diagnosis and a medical opinion connecting the diagnosis to the accepted incident, Dr. Cosgrove's return to work notes are of no probative value.[11] For these reasons, Dr. Cosgrove's reports are insufficient to establish appellant's claim.

Additionally, appellant submitted the December 4 and 11, 2025 return-to-work notes from Mr. Dawson, a physician assistant. However, certain healthcare providers such as physician assistants are not considered physicians as defined under FECA.[12] Thus, this evidence is of no probative value and is insufficient to establish appellant's claim.[13]

[10] *L.W.,* Docket No. 24-0947 (issued January 31, 2025); *T.H.,* Docket No. 18-1736 (issued March 13, 2019); *Dennis M. Mascarenas,* 49 ECAB 215 (1997).

[11] *See D.W.,* Docket No. 24-0492 (issued January 14, 2025); *M.G.,* Docket No. 23-1049 (issued November 26, 2024); *B.H.,* Docket No. 20-0777 (issued October 21, 2020); *L.B.,* Docket No. 18-0533 (issued August 27, 2018); *D.K*., Docket No. 17-1549 (issued July 6, 2018).

[12] Section 8101(2) of FECA provides that medical opinions can only be given by a qualified physician. This section defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (version 1.1 April 24, 2026); *David P. Sawchuk,* 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *see also A.C*., Docket No. 24-0661 (issued September 11, 2024) (medical reports signed solely by a nurse, physician assistant, or physical therapist are of no probative value, as such healthcare providers are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion); *C.V.,* Docket No. 26-0312 (issued June 11, 2026) (certain healthcare providers such as physician assistants are not considered physicians as defined under FECA; *M.F*., Docket No. 19-1573 (issued March 16, 2020) (medical reports signed solely by a physician assistant or a nurse practitioner are of no probative value as these care providers are not considered physicians as defined under FECA).

[13] *Id.*

As the evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted December 3, 2025 employment incident, 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 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 medical diagnosis in connection with the accepted December 3, 2025 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the April 24, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 1, 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