United States Department of Labor
Employees' Compensation Appeals Board

D.J., Appellant	)	
and	)	**Docket No. 18-0593**
	)	**Issued: February 24, 2020**
U.S. POSTAL SERVICE, POST OFFICE, Pasadena, CA, 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:
CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 26, 2018 appellant, through counsel, filed a timely appeal from a November 14, 2017 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 to consider 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 November 14, 2017 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 evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met his burden of proof to establish total disability for the period beginning January 17, 2017 causally related to his accepted employment-related condition of left hip sprain.

FACTUAL HISTORY

On October 4, 2016 appellant, then a 58-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that he developed pain in his left hip and groin area due to factors of his federal employment including repetitive standing, turning, mounting, and dismounting his mail truck.[4] He noted that he first became aware of his condition and first realized it was causally related to factors of his federal employment on June 23, 2016. OWCP accepted appellant's claim for left hip sprain, but denied additional claims for left thigh, groin, and left knee injury. Appellant stopped work on June 18, 2016 and worked intermittently thereafter.

A magnetic resonance imaging (MRI) scan of the left hip dated September 12, 2016 revealed: severe left hip osteoarthrosis, with extensive degenerative left hip acetabular labral tearing superiorly, superolaterally, and laterally; moderate right hip osteoarthrosis; acquired femoroacetabular impingement bilaterally; moderate degenerative changes of the pubis symphysis; and mild tendinosis of the hamstring tendons bilaterally.

Appellant was treated by Dr. Christopher P. DeCarlo, a Board-certified physiatrist, on September 29, 2016, for left hip pain radiating to the groin. He reported working as a mail carrier for 32 years performing repetitive duties. Dr. DeCarlo diagnosed severe left hip osteoarthrosis, acetabular labral tearing at the left hip, moderate right hip osteoarthritis, degenerative changes at pubic symphysis, and bilateral hamstring tendinosis. He opined that appellant had developed a cumulative trauma injury to his left hip which contributed to the severity of the degenerative disease.[5] Dr. DeCarlo returned him to limited-duty work on September 29, 2016 subject to restrictions of: lifting intermittently up to 5 pounds; sitting and standing for 10 minutes; no walking climbing, kneeling, bending/stooping, twisting, or pushing/pulling; simple grasping as required; fine manipulation/keyboarding as required; no reaching above shoulder level; no driving for more than 10 minutes; and no overtime. He noted that he must wear a back brace while working.

On November 21, 2016 the employing establishment offered appellant a modified position as a lobby director for 3.5 hours per day effective November 22, 2016. The physical requirements included lifting up to 5 pounds intermittently over 3.5 hours, standing and sitting one hour each,

[4] Appellant has filed 12 injury claims with OWCP. The current claim has been administratively combined with OWCP File No. xxxxxx852 which has been accepted for the conditions of intervertebral disc degeneration of the lumbar spine and plantar fascial fibromatosis. By decision dated July 11, 2017, OWCP denied wage-loss compensation for greater than 4.5 hours per day for the period November 25, 2016 through January 16, 2017 as 3.5 hours of medically-suitable work per day was made available.

[5] In a report dated October 31, 2016, Dr. DeCarlo indicated that x-rays of appellant's left hip showed bone on bone severe left hip osteoarthrosis. He opined that his medical condition was a direct result of performing his letter carrier duties.

walking 30 minutes per hour intermittently, and no driving a vehicle. Appellant accepted the position.

In a report dated December 15, 2016, Dr. DeCarlo diagnosed severe left hip osteoarthrosis, acetabular labral tearing at the left hip, degenerative changes at the pubic symphysis, and left hamstring tendinosis. In a duty status report (Form CA-17) of even date, he continued appellant's September 29, 2016 work restrictions.

On January 24, 2017 appellant filed a wage-loss compensation claim (Form CA-7) for leave without pay (LWOP) for partial disability for the period January 17 to 20, 2017. In an attached time analysis form (Form CA-7a), he indicated that there was no work available from the employing establishment. Appellant's supervisor indicated that three and half hours of work was available each day within appellant's restrictions, but he had stopped coming to work. Appellant then worked approximately 30 minutes per day through April 5, 2017.

In support of his claim appellant submitted a December 29, 2016 report by Dr. Charles Herring, a Board-certified orthopedist. In his report Dr. Herring diagnosed severe left hip osteoarthrosis, moderate right hip osteoarthrosis, and femoroacetabular impingement bilaterally. He opined that appellant's job duties as a letter carrier had accelerated and aggravated the development of osteoarthritis in the hip. Dr. Herring continued appellant on modified duty.

In a Form CA-17 dated January 16, 2017, Dr. DeCarlo opined that constant walking, standing, and mounting, and dismounting his truck accelerated and aggravated the development of appellant's left hip osteoarthritis. He diagnosed severe left hip osteoarthrosis, acetabular labral tearing at the left hip, degenerative changes at pubic symphysis, and left hamstring tendinosis. In a Form CA-17 dated February 14, 2017, Dr. DeCarlo diagnosed a lumbar spine injury and returned appellant to work with restrictions of five pounds intermittent weight limit; sitting and standing for 1 hour per day; walking up to 30 minutes per day; no climbing, kneeling, bending, stooping, twisting, pulling or pushing, or reaching over shoulder; simple grasping as required, fine manipulation as required; back brace required; no overtime; and no driving at work.

In a development letter dated February 14, 2017, OWCP requested that appellant submit additional information to support his claim for intermittent wage-loss compensation, including medical evidence establishing that his disability was due to the accepted condition for the period claimed. It specifically indicated that the employing establishment noted that three and a half hours of work remained available to him per day. OWCP afforded appellant 30 days to respond.

On February 16, 2017 appellant was treated by Dr. Judith Kraft, a Board-certified family practitioner, for a left hip injury. She continued Dr. DeCarlo's February 14, 2017 work restrictions.

In a February 17, 2017 statement, appellant indicated on January 17, 2017 that he informed his supervisor, E.C., that the new claim for his hip would over-ride the previous claim for his back, OWCP File No. xxxxxx852, and that his work restrictions would change. He advised that pursuant to the new restrictions he could not work the available three and half hours per day. Appellant reported that he did not get a modified-job offer from E.C., but on February 1, 2017 the acting postmaster instructed him to report to the North Hollywood location for 25 minutes per day, five days per week. He indicated that he received a verbal order, but had not received a modified-job

offer. Appellant asserted that he had continued to work 25 minutes per day and was entitled to 7.75 hours of compensation per day for five days per week.

Appellant filed additional wage-loss compensation claims (Form CA-7) for LWOP for partial disability for the period January 21 through March 3, 2017. In an attached Form CA-7a, he indicated that he worked 25 minutes per day and requested LWOP for 7.75 hours per day. On an OWCP time loss logging sheet, appellant's supervisor indicated that three and a half hours of work was available within his restrictions each day.

In a report dated February 16, 2017, Dr. Kraft treated appellant for left hip pain and weakness in the left lower extremity, noting that he was awaiting determination on whether his condition of osteoarthritis would be accepted. She noted that appellant's restrictions permitted him to work approximately 25 minutes per day. Dr. Kraft noted findings on examination and diagnosed severe left hip osteoarthrosis, acetabular labral tearing at the left hip, degenerative changes at pubic symphysis, and left hamstring tendinosis. She continued his prior work restrictions.

In a development letter dated March 23, 2017, OWCP requested that appellant submit additional information to support his claim for intermittent compensation for the period January 17, 2017 and continuing. It noted that he had stopped work on January 17, 2017 and returned to a partial workday on February 4, 2017. OWCP advised appellant that the medical evidence did not substantiate that the disability was caused by the work injury because he was provided with work restrictions for conditions that have not been accepted by OWCP as work related. It requested that he submit a narrative report from his physician as to whether his restrictions were due to the accepted sprain and not the more severe degenerative conditions which were not accepted.

Appellant filed additional wage-loss compensation claims (Form CA-7) for LWOP for partial disability for the additional period from March 4 through 30, 2017.[6] In an attached Form CA-7a, he indicated that he worked 25 minutes per day and requested LWOP for 7.75 hours per day. On an OWCP time loss logging sheet, appellant's supervisor indicated that three and a half hours of work within his restrictions was available each day.

In a March 15, 2017 report, Dr. DeCarlo requested that the acceptance of appellant's claim be expanded to include severe left hip osteoarthrosis, acetabular labral tearing at the left hip, degenerative changes at pubic symphysis, and left hamstring tendinosis. In a Form CA-17 dated April 10, 2017, he provided restrictions of: use of a walker for ambulation while at work; 5 pounds intermittent lifting; sitting and standing for 10 minutes; walking up to 5 minutes per day; no climbing, kneeling, bending, stooping, twisting, pulling, or pushing; simple grasping and fine manipulation as required; no reaching above the shoulders; and no driving at work. In a report dated April 10, 2017, Dr. DeCarlo noted appellant's condition was deteriorating and he was having trouble ambulating and again recommended the use of a walker.

On March 29 and April 13, 2017 appellant, through counsel, requested that the acceptance of his claim be expanded to include the additional conditions of severe left hip osteoarthrosis,

[6] On March 16, 2017 Dr. Rody A. Yoshinaka, a Board-certified gastroenterologist, noted that appellant had a personal medical procedure and would be excused from work for one day.

acetabular labral tearing at the left hip, degenerative changes at pubic symphysis, and left hamstring tendinosis as work related.

Appellant filed additional wage-loss compensation claims (Form CA-7) for LWOP for partial disability for the period April 3 through 5, 2017.

By decision dated May 2, 2017, OWCP denied appellant's wage-loss compensation claim for partial disability for the period beginning January 17, 2017. On May 8, 2017 appellant, through counsel, requested an oral hearing before an OWCP hearing representative.

Appellant submitted reports from Dr. Joseph Pham, a Board-certified anesthesiologist, dated June 20, 2012 to November 24, 2014, who treated him for chronic low back and bilateral leg pain. He was treated by Dr. Michael Chen, a Board-certified internist, from May 13, 2013 to February 21, 2014, for left hip pain gradually worsening since a fall five to six years prior. Reports from Dr. James T. Tran, a Board-certified neurosurgeon, dated May 13, 2013 to January 20, 2017, noted treating appellant in follow-up for back pain and recommended a lumbar laminotomy and foraminotomies.

In a report dated May 5, 2017, Dr. DeCarlo requested that appellant's claim be upgraded and that appellant be returned to work subject to the restrictions noted in an April 24, 2017 functional capacity evaluation (FCE).[7] In reports dated May 10 and June 5, 2017, he noted that appellant had reported difficulty ambulating and he recommended use of a walker. Dr. DeCarlo maintained appellant's work restrictions and noted that he was basing his work restrictions on an FCE and a diagnoses of degenerative hip disease and not just a hip sprain. In May 10 and June 5, 2017 Form CA-17 reports, he restricted appellant to work for six hours per day, pursuant to the restrictions of an FCE performed April 24, 2017. Additional restrictions included: use of a walker for ambulation at all times; 23 pounds intermittent lifting; sitting for eight hours per day; standing and walking for one hour per day; no climbing, squatting, or kneeling; bending/stooping and twisting for one hour per day; pulling/pushing limited to 55 pounds for one hour per day; simple grasping, fine manipulation, and reaching above the shoulders for eight hours per day; and driving one hour per day at work and one hour per day to and from work. In a report dated June 16, 2017, Dr. DeCarlo diagnosed severe left hip osteoarthrosis, acetabular labral tearing of the left hip, degenerative changes at the pubic symphysis, and left hamstring tendinosis. He opined that appellant required a total left hip arthroplasty due to degenerative disease in his left hip and could not be expected to return to full or part-time work.

On May 8, 2017 OWCP referred appellant to Dr. Kevin F. Hanley, a Board-certified orthopedic surgeon, for a second opinion evaluation. In his report dated June 29, 2017, Dr. Hanley discussed appellant's work history and noted that appellant walked with a Trendelenburg limp and had significant loss of range of motion of the left hip consistent with a degenerative disease of the hip joint. He diagnosed advanced degenerative disc disease of the lumbar spine and advanced osteoarthritis of the left hip. Dr. Hanley noted that appellant did not have a left hip sprain, rather, he had a preexisting and progressive left hip osteoarthritis advancing for a long period, since at least 2013, with findings of limitation in range of motion, atrophy of the leg, and MRI scan

[7] An April 24, 2017 FCE demonstrated that appellant could return to work six hours per day; sitting, reaching, and reaching above the shoulder for eight hours per day; walking, standing, twisting, bending/stooping, and operating a motor vehicle limited to one hour; pushing and pulling limited to one hour at 55 pounds; lifting limited to 23 pounds for one hour; and no squatting, kneeling, or climbing.

evidence of degenerative disease. He opined that the left hip osteoarthritis was not a consequence of a specific traumatic injury and was unrelated to any type of cumulative exposure.[8] Dr. Hanley indicated that prolonged standing and walking would aggravate a degenerative problem, but this would be temporary and was no longer present. He advised that appellant could not work as a letter carrier without restrictions due to his nonindustrial left hip arthritis. In a work capacity evaluation report (Form OWCP-5c), Dr. Hanley noted that he could return to work full time in a sedentary position, walking and standing limited to one hour, and with pushing, pulling, and lifting limited to 10 pounds for one hour.

Appellant filed additional wage-loss compensation claims (Form CA-7) for LWOP for partial disability for the period April 20 through June 7, 2017. In an attached time analysis form (Form CA-7a), he indicated that he was requesting 2 hours of LWOP on April 20 and May 23, and 2.25 hours of LWOP from April 21 through June 7, 2017 to attend water therapy. The employing establishment noted that work had been made available within appellant's work restrictions.

In a report dated July 6, 2017, Dr. DeCarlo diagnosed severe left hip osteoarthrosis, acetabular labral tearing at the left hip, degenerative changes at the pubic symphysis, and left hamstring tendinosis. In Form CA-17 reports dated July 6 and August 10 2017, he continued appellant's work restrictions and on August 10, 2017 he released appellant from his care.[9]

In a development letter dated August 10, 2017, OWCP requested that appellant submit additional information to support his claim for intermittent compensation for the period April 20 through June 7, 2017.

On October 4, 2017 a telephonic hearing was held before a hearing representative with OWCP's Branch of Hearings and Review.

On October 10, 2017 appellant filed additional wage-loss compensation claims (Form CA-7) for LWOP for partial disability for the period September 29, 2016 through June 5, 2017.

By decision dated November 14, 2017, an OWCP hearing representative affirmed OWCP's May 2, 2017 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the evidence.[10] For each period of disability

[8] On August 25, 2017 OWCP found that there was a conflict of medical opinion with regard to causation and disability between Dr. DeCarlo, appellant's treating physician, who indicated that appellant had severe left hip osteoarthrosis, acetabular labral tearing, degenerative changes of the pubic symphysis, left hamstring tendinosis, moderate right hip osteoarthrosis and femoroacetabular impingement bilaterally causally related to his employment duties, and Dr. Hanley, an OWCP referral physician, who determined that appellant's left hip condition was preexisting, naturally progressing condition not related to work factors. There is no final adverse decision on the issue of claim expansion. Thus, it is not before the Board in the current appeal and will therefore not be addressed. *See* 20 C.F.R. §§ 501.2(c) and 501.3.

[9] Appellant attended physical therapy treatment from April 20 to August 1, 2017 and submitted accompanying notes from physical therapists.

[10] *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *T.A.*, Docket No. 18-0431 (issued November 7, 2018).

claimed, the employee has the burden of proof to establish that he or she was disabled for work as a result of the accepted employment injury.[11] Whether a particular injury causes an employee to become disabled for work, and the duration of that disability, are medical issues that must be proved by a preponderance of probative and reliable medical opinion evidence.[12]

Under FECA the term disability means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.[13] Disability is, thus, not synonymous with physical impairment which may or may not result in an incapacity to earn wages. An employee who has a physical impairment causally related to his or her federal employment, but who nonetheless has the capacity to earn the wages that he or she was receiving at the time of injury, has no disability and is not entitled to compensation for loss of wage-earning capacity.[14] 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 any loss of wages.[15]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish total disability for the period beginning January 17, 2017 causally related to his accepted employment-related condition of left hip sprain.

In support of his wage-loss compensation claim, appellant submitted a series of narrative medical reports from his attending physician, Dr. DeCarlo. In reports dated September 29, October 31, and December 15, 2016, Dr. DeCarlo diagnosed multiple conditions including severe left hip osteoarthrosis, acetabular labral tearing at the left hip, moderate right hip osteoarthritis, degenerative changes at pubic symphysis, and bilateral hamstring tendinosis. Based upon these diagnoses he assigned work restrictions which limited appellant's ability to return to work. Similarly, in reports dated March 15, May 5, June 16, and July 6, 2017, Dr. DeCarlo noted restrictions and formally requested that the accepted conditions in the claim be expanded to include severe left hip osteoarthrosis, acetabular labral tearing at the left hip, degenerative changes at pubic symphysis, and left hamstring tendinosis. However, the only accepted condition in this claim at the time of the November 14, 2017 decision was left hip strain. The additional diagnoses provided by Dr. DeCarlo are not accepted conditions. The Board has held that to establish a period of disability the medical evidence must provide a discussion of how objective medical findings, attributable to the accepted conditions, support a finding that appellant could not perform his job duties.[16] These reports are therefore insufficient to establish appellant's claim.

[11] *B.L.*, Docket No. 18-1786 (issued April 17, 2019); *D.R.*, Docket No. 18-0232 (issued October 2, 2018).

[12] *Id.*

[13] *M.B.*, Docket No. 19-1049 (issued October 21, 2019); *B.K.*, Docket No. 18-0386 (issued September 14, 2018); 20 C.F.R. § 10.5(f).

[14] *See B.A.*, Docket No. 17-1471 (issued July 27, 2018).

[15] *Supra* note 7.

[16] *See S.G.*, Docket No. 18-0209 (issued October 4, 2018); *R.A.*, Docket No. 17-1472 (issued December 6, 2017); *Sedi L. Graham*, 57 ECAB 494 (2006); *Deborah L. Beatty*, 54 ECAB 340 (2003).

In a series of Form CA-17 reports, including those dated December 15, 2015 and January 16, February 14, April 10, May 10, June 5, July 6, and August 10, 2017, Dr. DeCarlo provided detailed work restrictions for appellant's diagnosed conditions. However, these restrictions are based not only upon the accepted condition of left hip sprain, but also include diagnoses of severe left hip osteoarthrosis, acetabular labral tearing at the left hip, moderate right hip osteoarthritis, degenerative changes at pubic symphysis, and bilateral hamstring tendinosis.[17] The Form CA-17 reports also contain no narrative by Dr. DeCarlo explaining how or why the assigned restrictions are causally related to the accepted condition. The Board has held that a medical opinion, not fortified by medical rationale explaining how or why a period of disability is due to the accepted conditions in the claim, is of little probative value.[18] Therefore these reports are insufficient to establish appellant's claim.

In a report dated December 29, 2016, Dr. Herring diagnosed severe left hip osteoarthrosis, moderate right hip osteoarthrosis, and femoroacetabular impingement bilaterally. He opined that appellant's job restricted his ability to work consistent with Dr. DeCarlo's December 29, 2016 Form CA-17 report. Likewise, the February 16, 2017 report by Dr. Kraft notes diagnosed conditions, including osteoarthritis, and adopts work restrictions by Dr. DeCarlo. As the reports by Dr. Herring and Dr. Kraft fail to establish a period of disability attributable to the accepted conditions in the claim, their reports are insufficient to establish entitlement to wage-loss compensation benefits.[19]

In a report dated June 29, 2017, Dr. Hanley, an OWCP referral physician, diagnosed advanced degenerative disc disease of the lumbar spine and advanced osteoarthritis of the left hip. He noted that appellant did not have a left hip sprain, rather, he had preexisting progressive left hip osteoarthritis advancing over a long period as evidenced by the MRI scan. Dr. Hanley opined that the left hip osteoarthritis was not the consequence of specific traumatic injury and was unrelated to any type of cumulative exposure. He indicated that work activities would aggravate his degenerative problem, but this would be temporary. Dr. Hanley indicated that appellant had a primary problem of degenerative arthritis of the hip, a naturally occurring disease of life, unrelated to work exposure. He advised that appellant could not work as a letter carrier without restrictions due to his nonindustrial left hip arthritis. In a Form OWCP-5c, Dr. Hanley noted appellant's restrictions due to his personal medical conditions. As these reports by Dr. Hanley negate disability during the claimed period, they are insufficient to establish appellant's claim for wage-loss compensation.[20]

Appellant submitted reports from Dr. Pham, dated June 20, 2012 to November 24, 2014, Dr. Chen, from May 13, 2013 to February 21, 2014, and Dr. Tran dated May 13, 2013 which do not provide an opinion on whether appellant sustained lost time from work due to his left knee sprain. The Board has held that medical evidence that does not offer an opinion regarding the

[17] *Id*.

[18] *See D.Q.*, Docket No. 17-1220 (issued May 18, 2018); *George Randolph Taylor*, 6 ECAB 986, 988 (1954).

[19] *Supra* note 16.

[20] *M.J.*, Docket No. 19-1287 (issued January 13, 2020).

cause of an employee's disability is of no probative value on the issue of causal relationship.[21] Therefore, these medical reports are insufficient to establish appellant's claim.

Appellant submitted a left hip MRI scan. The Board has held, however, that diagnostic test reports lack probative value as they fail to provide an opinion on causal relationship the accepted conditions and period of disability.[22]

Appellant submitted physical therapy treatment reports from April 20 to August 1, 2017 and an FCE dated April 24, 2017. These reports were completed by physical therapists. The Board has held that treatment notes signed by a physical therapist[23] are not considered medical evidence as these providers are not considered "physician[s]" as defined under FECA.[24] Therefore these notes lack probative value and are sufficient to establish appellant's wage-loss compensation claim.

On appeal appellant asserts that he submitted sufficient medical evidence supporting disability for the period claimed. The Board finds that he failed to submit rationalized medical evidence establishing a causal relationship between the specific period of claimed disability and the accepted conditions. Consequently, appellant has not met his 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 his burden of proof to establish total disability for the period beginning January 17, 2017 causally related to his accepted employment-related condition of left hip sprain.

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

[22] *See J.M.*, Docket No. 17-1688 (issued December 13, 2018).

[23] *V.W.*, Docket No. 16-1444 (issued March 14, 2017).

[24] *See David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection 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).

ORDER

IT IS HEREBY ORDERED THAT the November 14, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 24, 2020
Washington, DC

Christopher J. Godfrey, 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