

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

R.C., Appellant	)	
	)	
and	)	Docket No. 24-0253
	)	Issued: June 14, 2024
U.S. POSTAL SERVICE, TINLEY PARK POST	)	
OFFICE, Tinley Park, IL, Employer	)	
	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. McGINLEY, Alternate Judge

**JURISDICTION**

On January 14, 2024 appellant filed a timely appeal from October 13, 2023 and January 5, 2024 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

**ISSUES**

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$3,330.78 for the period April 15, 2021 through November 1, 2022 because she improperly received wage-loss compensation at an augmented rate; (2) whether OWCP properly found appellant at fault in the creation of the overpayment, thereby precluding waiver of recovery of the overpayment; and (3) whether appellant has met her burden of proof to establish disability from work for the period July 12 through 14, 2023 causally related to the accepted January 28, 2021 employment injury.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On February 12, 2021 appellant, then a 47-year-old city carrier assistant 2, filed a traumatic injury claim (Form CA-1) alleging that on January 28, 2021 she strained her left knee when she slipped on ice delivering a parcel while in the performance of duty. She stopped work on January 30, 2021. OWCP accepted the claim for concussion without loss of consciousness, neck strain, right shoulder contusion, and contusion of the left knee. It subsequently expanded its acceptance of the claim to include cervical disc degeneration at C5-6 and C6-7, and complex tear of the medial meniscus of the left knee.

Beginning on April 19, 2021, appellant completed claims for compensation (Form CA-7) requesting wage-loss compensation commencing April 15, 2021. On the initial CA-7 form, she listed a minor child, T.F., born December 5, 2005, as a dependent. OWCP paid wage-loss compensation on the supplemental rolls at the augmented three-fourths rate commencing April 15, 2021. It paid wage-loss compensation on the periodic rolls at the augmented rate commencing June 19, 2022. In a June 29, 2022 letter, OWCP advised appellant that if the status of any dependent changed, she was to provide OWCP with signed notification including the name of the dependent whose status changed, the effective date of the change, and the nature of the change in status.

On September 9, 2022 appellant completed a Form EN-1032 which defined a dependent as “an unmarried child including an adopted child or stepchild, who lives with you and is under 18 years of age....” She reported that she did not claim compensation on account of a child. Appellant submitted a duplicate Form EN-1032 on October 19, 2022.

Appellant returned to full-time light-duty work on November 2, 2022.

Commencing January 26, 2023 OWCP paid appellant wage-loss compensation on the periodic rolls at the two-thirds rate as she had no dependents.<sup>2</sup>

In a February 22, 2023 memorandum of telephone call (Form CA-110), appellant reported that T.F. had not lived with her since February 14, 2022, but that she had another daughter, A.C., born February 19, 2007, who lived with her stepmother, while appellant provided financial support. OWCP requested the birth certificate of this minor child, her Social Security number, and documentation of financial support.

Appellant provided a record from the Cook County Clerk, that her daughter, A.C., was born on February 19, 2007. She also provided A.C.'s Social Security number. In an undated partially legible letter, S.C. verified that A.C. was staying with her while appellant provided financial support.

In an April 19, 2023 manual adjustment form, OWCP determined that an overpayment of compensation occurred because appellant was paid at the augmented 3/4 rate (75 percent), but did

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<sup>2</sup> By decision dated July 6, 2023, OWCP determined that appellant received an overpayment of compensation in the amount of \$9,715.00 for the period November 2, 2022 through February 25, 2023 as she continued to receive wage-loss compensation after returning to full-duty work.

not have any dependents. The form also showed that, during the relevant period February 14 through November 1, 2022, OWCP paid appellant net compensation of \$21,702.14, but that she should have been paid net compensation of \$19,354.15. It subtracted the net compensation of \$19,354.15 that appellant was entitled to receive from the net compensation of \$21,702.14 that she was paid, which resulted in an overpayment of \$2,347.99.

On April 19, 2023 OWCP advised appellant that it had made a preliminary overpayment determination that she received an overpayment of compensation in the amount of \$2,347.99 for the period February 14 through November 1, 2022 because she received compensation at the augmented  $\frac{3}{4}$  (75 percent) rate instead of the basic  $\frac{2}{3}$  ( $66\frac{2}{3}$  percent) rate as she did not have an eligible dependent. It further advised appellant of its preliminary determination that she was with fault in the creation of the overpayment as she knowingly received compensation at the incorrect compensation rate. OWCP provided an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20) for her completion, and advised that, in order for it to consider the question of waiver or to determine a reasonable method for collection, she must provide a completed Form OWCP-20 and attach supporting financial documentation. Additionally, it notified appellant that, within 30 days of the date of the letter, she could request a final decision based on the written evidence, or a preresoupment hearing.

Appellant responded on April 30, 2023 and requested that OWCP make a decision on the written evidence. She disagreed that the overpayment occurred, and requested waiver. Appellant asserted that for period in question, she was supporting her daughter while she lived with her father. She provided a temporary guardianship agreement for T.F., her niece, beginning April 25, 2021. Appellant also partially completed a Form OWCP-20 and indicated that she supported her father and T.F.

On May 6, 2023 Dr. Aziz Abed, a Board-certified family practitioner, examined appellant following a fall while delivering mail. He recounted that while carrying her mailbag, she noticed that the street was uneven, and tripped falling forward landing and striking both knees, right hand, and the left side of her face. Appellant presented with scrapes and bleeding of the right knee, and a cut on her right hand. She reported dizziness after her fall, but denied any loss of consciousness. On physical examination, Dr. Abed found no abrasions or wounds to her face. He diagnosed bilateral knee contusions and abrasions, and bony contusion to the right hand with a superficial abrasion.<sup>3</sup> Appellant underwent right hand and bilateral knee x-rays of even date which were read as normal.

Dr. Maunak V. Rana, a Board-certified anesthesiologist, performed a left knee arthrocentesis on June 23, 2023.

In a July 12, 2023 note, Dr. Srinivasu Kusuma, a Board-certified orthopedic surgeon, advised that he had examined appellant due to her January 18, 2021 left knee injury. He determined that she could return to work on July 17, 2023 with restrictions on lifting and carrying more than 10 pounds, on continuously climbing and on continuous ascending or descending stairs.

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<sup>3</sup> There is no OWCP file number associated with these alleged work injuries.

In a July 18, 2023 letter, OWCP informed appellant that in order to be eligible for the augmented compensation rate, a dependent must be a child, adopted child, or stepchild, who lives with the employee, is under 18 years of age, and the employee makes regular direct payments for his or her support or a dependent child who does not live with the employee, but to whom the employee makes regular direct payments for his or her support, either as ordered by a court or through informal arrangement. It further advised that grandchildren and nieces/nephews need to be adopted in order to fit the definition of “child” for the purposes of a dependent for FECA augmented compensation purposes. OWCP requested verification of appellant’s relationship to T.F. in order to determine her entitlement to compensation benefits at the augmented rate, including certified copies of either a birth certificate or adoption papers. It afforded appellant 30 days to respond. OWCP did not request further information regarding A.C.

On July 22, 2023 appellant filed a Form CA-7 requesting wage-loss compensation for disability from work for the period July 12 through 16, 2023. On the accompanying time analysis form (Form CA-7a) appellant indicated that she claimed compensation for July 12 and 14, 2023 due to her knee injury.

In a July 25, 2023 development letter, OWCP informed appellant of the deficiencies of her claim for compensation. It advised her of the type of medical evidence needed to establish her claim and afforded her 30 days to respond.

Appellant resubmitted Dr. Abed’s May 6, 2023 notes and x-rays. In an additional July 12, 2023 treatment note, Dr. Kusuma recounted appellant’s symptoms of neck, head, right shoulder, left knee pain and frequent falls, including a fall onto concrete four days prior to examination. He further described her accepted January 28, 2021 employment injury.

In a July 26, 2023 letter, appellant asserted that she had consulted with an attorney and recounted that she had been informed that if T.F. resided in appellant’s home, or if she was providing support for her, although T.F. was living elsewhere, she could claim her as a dependent. She alleged that she did not need adoption papers, as she had temporary custody for two years and that she claimed T.F. on her federal income tax filings. Appellant resubmitted the temporary guardianship agreement, and partially legible tax information.

In a September 12, 2023 letter, OWCP supplied appellant with a copy of the July 25, 2023 development letter, and afforded her an additional 30 days to respond.

OWCP continued to receive evidence. Colleen M. Golden, an advanced practice nurse, examined appellant on February 22, 2023. On September 1, 2023 Dr. Kusuma prescribed physical therapy.

In an October 6, 2023 manual adjustment form, OWCP determined that an overpayment of compensation occurred because appellant was paid at the augmented  $\frac{3}{4}$  rate, but did not have any dependents. The form also showed that, during the relevant period from April 15, 2021 through November 1, 2022, OWCP paid appellant net compensation of \$30,553.56, but that she should have been paid net compensation of \$27,222.78. OWCP subtracted the net compensation of \$27,222.78 that appellant was entitled to receive from the net compensation of \$30,553.56 that she was paid, which resulted in an overpayment of \$3,330.78.

On October 10, 2023 OWCP advised appellant that it had made a preliminary overpayment determination that she received an overpayment of compensation in the amount of \$3,330.78 for the period April 15, 2021 through November 1, 2022, because she received compensation at the augmented  $\frac{3}{4}$  rate instead of the basic  $\frac{2}{3}$  rate as she did not have an eligible dependent. It noted that although she claimed her niece as a dependent, she had never legally adopted her.<sup>4</sup> OWCP further noted that appellant had received a net compensation of \$30,553.56 for wage-loss compensation at the augmented rate based on an eligible dependent from April 15, 2021 through November 1, 2022 but was only entitled to receive \$27,222.78 in net compensation based on the appropriate basic  $\frac{2}{3}$  rate for lack of an eligible dependent, resulting in an \$3,330.78 overpayment. It further advised appellant of its preliminary determination that she was with fault in the creation of the overpayment as she knowingly received compensation at the incorrect compensation rate. OWCP provided an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20) for her completion, and advised that, in order for it to consider the question of waiver or to determine a reasonable method for collection, she must provide a completed Form OWCP-20, and attach supporting financial documentation. Additionally, it notified appellant that, within 30 days of the date of the letter, she could request a final decision based on the written evidence, or a prerecoupment hearing.

On October 24, 2023 appellant provided a Form OWCP-20. She indicated that she supported C.T., her 22-year-old nephew, T.F., her 18-year-old niece, and “A.W.,” her 16-year-old daughter. Appellant asserted that she had supported T.F. for five years, that she claimed her as a dependent on her taxes, and that she was in her custody. She further noted that she listed T.F. as her daughter as there was no option to claim her as her niece.

By decision dated October 13, 2023, OWCP found that appellant had not established disability from work for the period July 12 through 14, 2023.

By decision dated January 5, 2024, OWCP finalized its preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of \$3,330.78 for the period April 15, 2021 through November 1, 2022, because she had improperly received augmented compensation without having eligible dependents. It found her at fault in the creation of the overpayment as she continued to knowingly accept compensation at a rate to which she was not entitled. Therefore, OWCP found that appellant was not entitled to waiver of recovery.

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

FECA provides that the United States shall pay compensation for the disability or death of an employee resulting from a personal injury sustained while in the performance of duty.<sup>5</sup> If the disability is total, the United States shall pay the employee during the period of total disability the

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<sup>4</sup> OWCP also indicated that documents were received pertaining to A.C., but that they were illegible.

<sup>5</sup> 5 U.S.C. § 8102(a).

basic compensation rate of 66 2/3 percent of her monthly pay. A disabled employee is entitled to an augmented compensation rate of 75 percent if he or she has one or more dependents.<sup>6</sup>

A dependent includes an unmarried child who, while living with the employee or receiving regular contributions from the employee toward his or her support, is either under 18 years of age or over 18 years of age and incapable of self-support due to physical or mental disability.<sup>7</sup> A child is also considered a dependent if he or she is an unmarried student under 23 years of age who has not completed four years of education beyond the high school level and is currently pursuing a full-time course of study at a qualifying college, university, or training program.<sup>8</sup>

If a claimant received compensation at the augmented rate during a period when he or she did not have an eligible dependent, the difference between the compensation that was disbursed at the 75 percent augmented rate and the compensation that should have been disbursed at the 66 2/3 percent basic rate constitutes an overpayment of compensation.<sup>9</sup>

### ANALYSIS -- ISSUE 1

The Board finds that OWCP improperly determined that appellant received an overpayment of compensation in the amount of \$3,330.78 for the period April 15, 2021 through November 1, 2022.

The evidence of record reflects that appellant received compensation at the augmented rate from April 15, 2021 through November 1, 2022, because she claimed her niece T.F., born December 5, 2005 as a dependent. Although appellant was the legal guardian of T.F., T.F. is not considered a “child” as defined under section 8101(9) of FECA and, thus she was not an eligible dependent as defined under section 8110 of FECA. As noted, pursuant to section 8101(9) of FECA, the term child may include stepchildren, adopted children, or posthumous children. The Board has held that, when a claimant has legal guardianship over a nephew or niece, this does not qualify the child as a dependent if the recipient of compensation has not adopted the child.<sup>10</sup> Although appellant’s niece may have been living with her and she may be her legal guardian, appellant has not legally adopted her niece. Therefore, she does not qualify as an eligible dependent.<sup>11</sup>

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<sup>6</sup> *A.A.*, Docket No. 22-0751 (issued December 12, 2022); *E.B.*, Docket No. 19-1571 (issued December 31, 2020); *R.G.*, Docket No. 18-1251 (issued November 26, 2019); *O.R.*, 59 ECAB 432, 436 (2008); *id.* at §§ 8105(a) and 8110(b).

<sup>7</sup> *Id.* at § 8110(a).

<sup>8</sup> *G.E.*, Docket No. 21-0515 (issued August 24, 2021); *R.G.*, Docket No. 18-1251 (issued November 26, 2019); *see also E.G.*, 59 ECAB 599, 603 n.10 (2008).

<sup>9</sup> *A.A.*, *supra* note 6; *S.D.*, Docket No. 17-0309 (issued August 7, 2018); *Ralph P. Beachum, Sr.*, 55 ECAB 442, 445 (2004).

<sup>10</sup> *G.E.*, *supra* note 8; *Aretha Hudson*, 28 ECAB 423 (1988).

<sup>11</sup> *See G.E., id.*; *C.V.*, Docket No. 13-2108 (issued June 17, 2014).

The Board notes, however, that appellant has also presented evidence that she supported her daughter, born in 2007, during the period in question. In a February 22, 2023 CA-110 form, appellant reported that she had a daughter, A.C., born February 19, 2007, who lived with her stepmother, while appellant provided financial support. OWCP requested the birth certificate of the minor child, her Social Security number, and documentation of financial support. Appellant provided A.C.'s birth record from the Cook County Clerk, her Social Security number, and a statement from S.C., who asserted that, while A.C. lived with her, appellant provided financial support. OWCP found this documentation illegible, did not address this evidence, and did not request clarification when determining if appellant had an eligible dependent during the period in question.<sup>12</sup> OWCP has not documented that appellant did not have an eligible dependent during the period April 15, 2021 through November 1, 2022. As it has not factually established that appellant had no eligible dependents, it has not met its burden of proof to establish that appellant received an overpayment of compensation during the period April 15, 2021 through November 1, 2022 as she was incorrectly paid at the augmented rate.<sup>13</sup>

Therefore, the Board finds that OWCP has not met its burden of proof to establish fact of overpayment.<sup>14</sup>

### **LEGAL PRECEDENT -- ISSUE 3**

An employee seeking benefits under FECA<sup>15</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>16</sup> The term disability is defined as the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of the injury.<sup>17</sup> For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.<sup>18</sup> Whether a particular injury causes an employee to become disabled from

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<sup>12</sup> See *W.B.*, Docket No. 14-1842 (issued January 21, 2015) (appellant was under a court order to pay child support, and was therefore entitled to augmented compensation); *Charles M. Edgar*, Docket No. 01-0027 (issued May 24, 2002); *Compare S.B.*, Docket No. 20-1496 (issued July 14, 2021); *D.P.*, Docket No. 20-0546 (issued November 19, 2020) (where the Board found that OWCP did not provide the necessary documentation to establish when appellant had elected postretirement basic life insurance).

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

<sup>14</sup> In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

<sup>15</sup> *Supra* note 1.

<sup>16</sup> *L.S.*, Docket No. 23-0778 (issued December 27, 2023); *L.S.*, Docket No. 22-0821 (issued March 20, 2023); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>17</sup> 20 C.F.R. § 10.5(f); *C.L.*, Docket No. 20-0520 (issued July 7, 2022); *S.T.*, Docket No. 18-412 (issued October 22, 2018); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

<sup>18</sup> *L.S.*, *supra* note 16; *K.F.*, Docket No. 19-0324 (issued January 2, 2020); *T.L.*, Docket No. 18-0934 (issued May 8, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

work, and the duration of that disability, are medical issues that must be proven by a preponderance of the reliable, probative, and substantial medical evidence.<sup>19</sup>

When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, prevent the employee from continuing in his or her employment, he or she is entitled to compensation for any loss of wages.<sup>20</sup>

To establish causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such causal relationship.<sup>21</sup> The opinion of the physician 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>22</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 his or her disability and entitlement to compensation.<sup>23</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that appellant has not met her burden of proof to establish disability from work for the period July 12 through 14, 2023 causally related to the accepted January 28, 2021 employment injury.

In his May 6, 2023 report, Dr. Abed described a fall that appellant had experienced at work resulting in bilateral knee contusions and abrasions, and a bony contusion to the right hand with a superficial abrasion. On June 23, 2023 Dr. Rana performed a left knee arthrocentesis. However, neither of these reports contains an opinion that appellant sustained disability during the period July 12 through 14, 2023 due to the accepted January 28, 2021 employment injury. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's disability is of no probative value on the issue of causal relationship.<sup>24</sup> Therefore, this evidence is insufficient to establish appellant's claim.

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<sup>19</sup> *C.L.*, *supra* note 17; *M.T.*, Docket No. 21-0783 (issued December 27, 2021).

<sup>20</sup> *L.S.*, *supra* note 16; *G.T.*, Docket No. 18-1369 (issued March 13, 2019); *Merle J. Marceau*, 53 ECAB 197 (2001).

<sup>21</sup> *See L.S.*, *id.*; *S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

<sup>22</sup> *L.S.*, *id.*; *T.S.*, Docket Nos. 20-1177 and 20-1296 (issued May 28, 2021); *V.A.*, Docket No. 19-1123 (issued October 29, 2019).

<sup>23</sup> *M.W.*, Docket No. 23-1059 (issued January 26, 2024); *D.P.*, Docket No. 18-1439 (issued April 30, 2020); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

<sup>24</sup> *See N.A.*, Docket No. 23-0532 (issued January 24, 2024); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

In July 12, 2023 notes, Dr. Kusuma examined appellant due to her January 18, 2021 left knee injury and neck, head, and right shoulder pain. He determined that she could return to work on July 17, 2023 with restrictions on lifting and carrying more than 10 pounds, and on continuously climbing or ascending or descending stairs. Although Dr. Kusuma opined that appellant was disabled from work during the claimed period, he failed to explain how the period of disability was due to her January 28, 2021 employment injury, or why she was unable to perform the duties of her position during the claimed period. A mere conclusion without medical rationale supporting a period of disability due to the accepted employment condition is insufficient to meet a claimant's burden of proof.<sup>25</sup> Thus, this evidence is insufficient to establish appellant's disability claim.<sup>26</sup>

The record also contains diagnostic reports. However, the Board has long held, that diagnostic studies, standing alone, lack probative value because they do not address whether the employment injury caused any of the diagnosed conditions or associated disability.<sup>27</sup> For this reason, the Board finds that the diagnostic reports of record are insufficient to establish appellant's disability claims.

Appellant also submitted a report from Ms. Golden, an advanced practice nurse. The Board has held, however, that certain healthcare providers such as nurses are not considered physicians as defined under FECA.<sup>28</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

As the medical evidence of record is insufficient to establish disability from work for the period July 12 through 14, 2023 causally related to the accepted January 28, 2021 employment injury, the Board finds that appellant has not met her burden of proof to establish her claim.

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.

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<sup>25</sup> *M.P.*, Docket No. 23-0759 (issued January 23, 2024); *A.L.*, Docket No. 21-0151 (issued January 21, 2022); *C.B.*, Docket No. 19-0464 (issued May 22, 2020); *S.H.*, Docket No. 19-1128 (issued December 2, 2019); *Sandra D. Pruitt*, 57 ECAB 126 (2005).

<sup>26</sup> *Id.*

<sup>27</sup> *See L.S.*, *supra* note 16; *M.H.*, Docket No. 22-1178 (issued April 25, 2023); *M.D.*, Docket No. 21-1270 (issued March 21, 2022); *T.W.*, Docket No. 20-1669 (issued May 6, 2021); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

<sup>28</sup> Section 8102(2) of FECA provides as follows: (2) physician includes 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) (January 2013); *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 R.F.*, Docket No. 24-0112 (issued April 15, 2024) (an advanced practice nurse is not a physician as defined under FECA); *J.D.*, Docket No. 16-1752 (issued March 1, 2017) (a nurse is not considered a physician as defined under FECA).

**CONCLUSION**

The Board finds that OWCP improperly determined that appellant received an overpayment of compensation in the amount of \$3,330.78 for the period April 15, 2021 through November 1, 2022. The Board further finds that appellant has not met her burden of proof to establish disability from work for the period July 12 through 14, 2023 causally related to the accepted January 28, 2021 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 13, 2023 disability decision of the Office of Workers' Compensation Programs is affirmed. The January 5, 2024 overpayment decision of the Office of Workers' Compensation Programs is reversed.

Issued: June 14, 2024  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board