



## ISSUE

The issue is whether appellant has met her burden of proof to establish disability from work for the period August 3, 2021 through April 11, 2022, causally related to her accepted August 3, 2021 employment injury.

## FACTUAL HISTORY

On August 9, 2021 appellant, then a 39-year-old medical clerk, filed a traumatic injury claim (Form CA-1) alleging that on August 3, 2021 she injured her right shoulder, arm, elbow, back, fingers and wrist; left shoulder, upper arm, fingers, and great toe; and both ankles and legs when she slipped on water and fell down a flight of stairs while in the performance of duty. She stopped work on August 4, 2021.

An unsigned work status note from an urgent care provider dated August 15, 2021 provided diagnoses of bilateral ankle pain status post fall, and pain in unspecified shoulder and right wrist. The note also indicated that appellant was off work and that she may return to work on August 18, 2021 pending x-ray results.

OWCP also received diagnostic reports of x-rays of the right and left ankles, right and left shoulders, and right wrist dated August 16, 2021 read by Dr. Jason Hoover, a diagnostic radiologist, which related essentially normal findings.

In August 19, 2021 reports, Danny Perry, a physician assistant, diagnosed contusions of unspecified shoulder; unspecified sprain of right wrist; contusion of unspecified knee; contusion of unspecified ankle; sprain of unspecified parts of lumbar spine and pelvis; and unspecified sprain of unspecified finger. He opined that appellant could return to duty with the restriction of sit-down work only on August 20, 2021.

By decision dated October 4, 2021, OWCP accepted that the August 3, 2021 employment incident occurred, as alleged. However, it denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted August 3, 2021 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP continued to receive medical evidence. In a September 21, 2021 report and clinic chart note, Dr. Trenton J. Wilson, a Board-certified orthopedic surgeon, recounted appellant's history of injury. He related appellant's physical examination findings and diagnosed other specified injuries of right and left shoulder and upper arm; other specified injuries of right and left lower leg; other specified injuries of right and left ankle; other specified injuries of right wrist, hand and finger(s); other specified injuries of left foot; and multiple body pain status post fall. In a patient work capacity evaluation dated September 21, 2021, Dr. Wilson advised that appellant could return to work with no restrictions as of that date. In the clinic chart note of even date, he related that appellant had no acute issues since the injury was six or seven weeks prior. Dr. Wilson recommended that appellant be referred to an occupational medicine specialist and concluded that her work status would not be modified.

On November 1, 2021 appellant requested reconsideration of the October 4, 2021 decision.

By decision dated November 8, 2021, OWCP denied modification of the October 4, 2021 decision, again finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted August 3, 2021 employment incident.

On December 22, 2021 appellant requested reconsideration and submitted medical evidence, including reports dated August 4 through December 14, 2021 from Dr. R. Jason Newsom, a public health and general preventive medicine specialist. Dr. Newsom noted a history of the August 3, 2021 employment incident and provided his examination findings. He diagnosed bruises/hematoma of the right and left shin and left upper arm causally related to the August 3, 2021 employment injury. Dr. Newsom cleared appellant to return to work as of August 16, 2021.

OWCP also received reports dated January 6 and February 16, 2022 from Dr. Stephen W. Samelson, a Board-certified orthopedic surgeon. Dr. Samelson noted that appellant had fallen down a set of stairs on August 3, 2021. He related diagnoses of bilateral knee unilateral osteoarthritis, right knee peripheral tear of the medial and lateral meniscus, and bilateral shoulder bursitis. In his February 16, 2022 report, Dr. Samelson related that appellant was now ready to consider right knee surgery.

In an undated certificate to return to work, Dr. Kenneth R. Taylor, an orthopedic surgeon, indicated that appellant had an appointment on February 3, 2022 and advised that she was unable to return to work.

By decision dated March 16, 2022, OWCP vacated the November 8, 2021 decision and accepted appellant's claim for contusion of the right and left shins and left upper arm.<sup>4</sup>

On April 1, 2022 appellant filed a claim for compensation (Form CA-7) for disability from work during the period February 2 through March 31, 2022.

Diagnostic reports of the right and left knees, lumbar spine, left ankle, and right and left shoulders dated January 9, 2020 and December 4, 2021 were received by OWCP. OWCP also received diagnostic reports of the sacrum, coccyx, and left shoulder dated August 16, 2021.

In a December 4, 2021 report, Dr. Paula A. Shelton, a Board-certified family practitioner, noted a history of appellant's August 3, 2021 employment injury and appellant's complaint of knee, ankle, and shoulder pain. She provided examination findings and diagnostic test results. Dr. Shelton diagnosed joint pain.

Physical therapy daily notes dated from January 25 through March 8, 2022 addressed the treatment of appellant's lumbar, pelvis, back, and bilateral ankle conditions.

A March 23, 2022 medical excuse for work from Dr. Matthew Berke, a Board-certified psychiatrist, indicated that appellant could return to work with restrictions on March 28, 2022.

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<sup>4</sup> On April 2, 2022 appellant requested reconsideration of the March 16, 2022 decision. By decision dated April 4, 2022, OWCP denied her request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a). On April 19, 2022 appellant appealed the March 16 and April 4, 2022 OWCP decisions to the Board. By decision dated November 29, 2022, the Board affirmed the March 16 and April 4, 2022 decisions. *See supra* note 1.

In an undated certificate to return to work, Dr. Taylor indicated that appellant underwent surgery on March 30, 2022. He advised that she could return to regular-duty work without restriction on April 1, 2022.

In a development letter dated April 4, 2022, OWCP informed appellant of the deficiencies of her claim for wage-loss compensation for the period February 7 through March 31, 2022. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

OWCP subsequently received an April 6, 2022 medical excuse for work by Dr. Robert Agee, a Board-certified family practitioner, who indicated that appellant could return to work with restrictions on April 11, 2022.

By decision dated May 9, 2022, OWCP denied appellant's claim for wage-loss compensation for disability from work during the period February 7 through March 31, 2022.

Thereafter, OWCP continued to receive medical evidence. In a patient work capacity evaluation of September 21, 2021, Dr. Wilson reiterated appellant's diagnoses. He advised that she had no restrictions and reiterated his recommendation that she be referred to an occupational medicine specialist.

On June 8, 2022 appellant filed an additional Form CA-7 claiming compensation for disability from work for the period August 3, 2021 through April 11, 2022.

OWCP, in a development letter dated June 13, 2022, informed appellant that no evidence was submitted in support of her claim. It advised her of the type of medical evidence needed and afforded her 30 days to respond.

OWCP received a June 29, 2022 diagnostic report of the left shoulder report from Dr. Samuelson. In a June 30, 2022 narrative report, Dr. Samuelson examined appellant and reviewed diagnostic test results. He diagnosed bursitis and impingement syndrome of the left shoulder. Dr. Samuelson also provided an impression of left shoulder pain possible glenoid labrum articular cartilage tear. He concluded that appellant could return to work on July 6, 2022.

By decision dated July 27, 2022, OWCP denied appellant's claim for wage-loss compensation for disability from work during the period August 3, 2021 through April 11, 2022. It found that the medical evidence of record was insufficient to establish disability from work during the claimed period causally related to the accepted employment injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>5</sup> has the burden of proof to establish the essential elements of his or her claim,<sup>6</sup> including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>7</sup> For each period of

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<sup>5</sup> *Supra* note 2.

<sup>6</sup> *See L.S.*, Docket No. 18-0264 (issued January 28, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019).

<sup>7</sup> *See S.F.*, Docket No. 20-0347 (issued March 31, 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).

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>8</sup> Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.<sup>9</sup>

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of appellant, 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>10</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>11</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to establish disability from work for the period August 3, 2021 through April 11, 2022, causally related to her accepted August 3, 2021 employment injury.

In support of her claims for compensation, appellant submitted reports dated August 4 through December 14, 2021 from Dr. Newsom. Dr. Newsom noted a history of appellant's August 3, 2021 employment incident and diagnosed bruises/hematoma of the right and left shin and left upper arm causally related to the August 3, 2021 employment injury. He cleared her return to work as of August 16, 2021. Dr. Newsom, however, did not provide any medical rationale addressing why appellant was disabled from work. The Board has held that findings on examination are needed to support a physician's opinion that an employee is disabled from work, along with medical rationale explaining why work cannot be performed due to the accepted employment injury.<sup>12</sup> Dr. Newsom's reports are therefore insufficient to establish that appellant was disabled from work from August 3 to 16, 2021.

OWCP also received reports from Dr. Wilson. In multiple reports dated September 21, 2021, Dr. Wilson related appellant's history of injury and diagnoses, including other specified injuries of right and left shoulder and upper arm; other specified injuries of right and left lower leg; other specified injuries of right and left ankle; other specified injuries of right wrist, hand and finger(s); other specified injuries of left foot; and multiple body pain status post fall. He

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<sup>8</sup> *T.W.*, Docket No. 19-1286 (issued January 13, 2020).

<sup>9</sup> *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291-92 (2001).

<sup>10</sup> *See B.P.*, Docket No. 23-0909 (issued December 27, 2023); *D.W.*, Docket No. 20-1363 (issued September 14, 2021); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

<sup>11</sup> *See M.J.*, Docket No. 19-1287 (issued January 13, 2020); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, *supra* note 9 at 293.

<sup>12</sup> *T.S.*, Docket Nos. 20-1177, 20-1296 (issued May 28, 2021); *Dean E. Pierce*, 40 ECAB 1249 (1989).

advised that she could return to work with no restrictions as of that date. In a clinic chart note of even date, Dr. Wilson related that appellant had no acute issues since the injury which was six or seven weeks prior. He recommended that she be referred to an occupational medicine specialist and concluded that her work status would not be modified. The Board finds that the reports from Dr. Wilson did not support a finding that appellant was disabled due to the accepted conditions. The Board has held that medical evidence that does not address whether the claimed disability is causally related to the accepted employment-related conditions is of no probative value.<sup>13</sup>

OWCP also received Dr. Shelton's December 12, 2022 report, and reports dated January 6 and February 16, 2022 from Dr. Samuelson. However, these reports did not address whether appellant was disabled from work during the claimed period. Medical reports are of no probative value regarding appellant's claim for disability during the claimed period if they do not offer an opinion as to whether appellant was disabled.<sup>14</sup>

In an undated certificate to return to work, Dr. Taylor indicated that appellant had an appointment on February 3, 2022 and advised that she was unable to return to work. In an undated certificate to return to work, he indicated that she could return to regular-duty work without restriction on April 1, 2022. A March 23, 2022 medical excuse for work from Dr. Berke indicated that appellant could return to work with restrictions on March 28, 2022. OWCP subsequently received an April 6, 2022 medical excuse for work by Dr. Agee who indicated that appellant could return to work with restrictions on April 11, 2022. These reports did not provide an opinion on causal relationship between appellant's disability from work and the August 3, 2021 employment injury. The Board has held that medical evidence that does not address whether the claimed disability is causally related to the accepted employment-related conditions is of no probative value.<sup>15</sup> For these reasons, the Board finds that these reports are insufficient to establish appellant's disability claim.

Appellant also submitted additional reports from Dr. Samuelson dated June 29 and 30, 2022. While these reports updated appellant's status, they did not provide an opinion regarding the cause of appellant's disability from work during the claimed period. For these reasons, these reports are insufficient to establish appellant's disability claim.

OWCP received diagnostic reports. The Board has held that diagnostic studies, standing alone, lack probative value, because they do not address whether the employment injury caused

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<sup>13</sup> See *A.W.*, Docket No. 24-0382 (issued May 16, 2024); *S.M.*, 22-1209 (issued February 27, 2024); *M.P.*, Docket No. 23-0759 (issued January 23, 2024); *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *A.S.*, Docket No. 21-1263 (issued July 24, 2023); *R.J.*, Docket No. 19-0179 (issued May 26, 2020); *M.A.*, Docket No. 19-1119 (issued November 25, 2019); *S.I.*, Docket No. 18-1582 (issued June 20, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>14</sup> *A.D.*, Docket No. 24-0411 (issued June 20, 2024).

<sup>15</sup> See *A.W.*, Docket No. 24-0382 (issued May 16, 2024); *S.M.*, 22-1209 (issued February 27, 2024); *M.P.*, Docket No. 23-0759 (issued January 23, 2024); *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *A.S.*, Docket No. 21-1263 (issued July 24, 2023); *R.J.*, Docket No. 19-0179 (issued May 26, 2020); *M.A.*, Docket No. 19-1119 (issued November 25, 2019); *S.I.*, Docket No. 18-1582 (issued June 20, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

any of the diagnosed conditions or associated disability.<sup>16</sup> Thus, this evidence is insufficient to establish the disability claim.

Appellant also submitted physical therapy daily notes and reports from a physician assistant. The Board has held that certain healthcare providers such as physical therapists and physician assistants are not considered physicians as defined under FECA.<sup>17</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>18</sup> Thus, this evidence is also insufficient to establish the disability claim.

Lastly, appellant submitted an unsigned August 15, 2021 work status note. However, the Board has held that unsigned reports and reports that bear illegible signatures cannot be considered probative medical evidence because they do not provide an indication that the person completing the report qualifies as a physician under FECA.<sup>19</sup> Therefore, this evidence is insufficient to establish the disability claim.

As the medical evidence of record is insufficient to establish causal relationship between the claimed period of disability and the accepted employment injury, 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(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 disability from work for the period August 3, 2021 through April 11, 2022, causally related to her accepted August 3, 2021 employment injury.

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<sup>16</sup> *Supra* note 14.

<sup>17</sup> Section 8101(2) of FECA provides that 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 D.V.*, Docket No. 21-1393 (issued April 8, 2024) (physical therapists are not considered qualified physicians as defined under FECA); *H.S.*, Docket No. 20-0939 (issued February 12, 2021) (physician assistants are not considered physicians as defined under FECA); *R.L.*, Docket No. 19-0440 (issued July 8, 2019) (physical therapists are not considered physicians as defined under FECA).

<sup>18</sup> *Id.*

<sup>19</sup> *S.M.*, Docket No. 24-0164 (issued May 13, 2024); *B.S.*, Docket No. 22-0918 (issued August 29, 2022); *S.D.*, Docket No. 21-0292 (issued June 29, 2021); *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 27, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 3, 2024  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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