

<sup>3</sup> The Board notes that, following the August 9, 2024 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **ISSUE**

The issue is whether appellant has met his burden of proof to establish disability from work for the period January 25 through February 9, 2023 and for the period commencing April 26, 2024 causally related to his accepted December 17, 2022 employment injury.

## **FACTUAL HISTORY**

On January 17, 2023 appellant, then a 58-year-old mail handler assistant, filed a traumatic injury claim (Form CA-1) alleging that on December 17, 2022 he injured his left foot, heel, and calf muscle due to being on his feet on hard surfaces while in the performance of duty. OWCP accepted the claim for plantar fascial fibromatosis.<sup>4</sup> Appellant stopped work on December 22, 2022.

In a medical report dated January 9, 2023, Dr. Jacob Hanlon, a podiatrist, noted that appellant related complaints of left heel pain due to working on his feet. He performed a physical examination of the left foot, which revealed heel pain with stressing of the plantar fascia at the insertion into the calcaneus, pain along the entire course of the plantar fascia, and difficulty placing weight on the heel. Dr. Hanlon diagnosed left plantar fasciitis with posterior tibial tendinitis. He recommended that appellant remain out of work until his next appointment on January 23, 2023.

In a follow-up report dated January 23, 2023, Dr. Hanlon noted that appellant related that his symptoms had improved by 40 percent. He released him to return to light-duty work six to eight hours per day with no lifting greater than 20 pounds, effective January 25, 2023.

In a January 25, 2023 request for temporary light-duty assignment form, Dr. Hanlon requested that the employing establishment provide appellant a temporary light-duty assignment for six to eight hours per day to accommodate his left plantar fasciitis, with no lifting greater than 20 pounds and all other physical activities, including lifting, pushing, pulling, sitting, standing, walking, climbing, kneeling, bending, stooping, twisting, simple grasping, keying, reaching, working outdoors, driving, and fine manipulation limited to one to two hours at a time.

In a follow-up report dated February 7, 2023, Dr. Hanlon noted that appellant related 60 percent improvement in his condition. He released him to light-duty work.

In an attending physician's report (Form CA-20) dated March 1, 2023, Dr. Hanlon diagnosed left plantar fasciitis and indicated that appellant was partially disabled from February 7, 2023 to the present.

In a Form CA-20 dated March 7, 2023, Dr. Theodore Tan, a primary care physician, diagnosed left plantar fasciitis. He indicated that appellant was totally disabled from work from December 18, 2022 through January 9, 2023, was discharged from treatment on January 9, 2023, and was able to return to regular-duty work on February 9, 2023.

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<sup>4</sup> OWCP assigned the present claim OWCP File No. xxxxxx468. Appellant subsequently filed a January 20, 2023 Form CA-2 for plantar fasciitis of the left foot which OWCP denied under OWCP File No. xxxxxx920. OWCP administratively combined OWCP File Nos. xxxxxx920 and xxxxxx468, with the latter serving as the master file.

On December 14, 2023 appellant filed a claim for compensation (Form CA-7) for disability from work for the period December 17, 2022 through February 9, 2023. On May 2, 2024 he began filing Forms CA-7 for disability from work, effective April 26, 2024.

A March 26, 2024 report by an unknown medical provider indicated that appellant related complaints of painful toenails and calluses and had a history of diabetes. The diagnoses included onychomycosis with peripheral vascular disease, diabetes mellitus with neuropathy, and bunion deformity.

In a duty status report (Form CA-17) dated April 24, 2024 and a request for temporary light-duty assignment dated May 2, 2024, Dr. Hanlon diagnosed left foot plantar fasciitis and released appellant to return to work eight hours per day with continuous lifting and carrying up to 30 pounds and intermittently up to 40 pounds, with additional restrictions on sitting, standing, walking, climbing, kneeling, pulling, simple grasping, and reaching above shoulder height. He also noted that he needed a rubber mat to stand on and two 30-minute periods of work from a seated position during each shift.

In a development letter dated May 15, 2024, OWCP informed appellant of the deficiencies of his claims for compensation. It advised him of the type of factual and medical evidence needed to establish his claims and afforded him 30 days to submit the necessary evidence.

In a May 17, 2024 report of work status (Form CA-3), the employing establishment indicated that appellant stopped work on December 17, 2022, was thereafter in and out of work, and then returned to full-duty work on February 9, 2023.

In a May 29, 2024 medical report, Dr. Hanlon indicated that appellant related complaints of left heel pain. He documented physical examination findings and recommended conservative treatment.

In a letter dated June 10, 2024, Dr. Tan indicated that he treated appellant on December 19 and 30, 2022 and March 7, 2023 for left foot pain. He indicated that he referred appellant to a podiatrist. Dr. Tan also noted that he placed appellant off work on January 3, 2023, until he was able to see a podiatrist on January 9, 2023.

Dr. Hanlon, in June 12 and July 10, 2024 Forms CA-17, continued to release appellant to return to work with restrictions for a diagnosis of left plantar fasciitis.

OWCP also received physical therapy reports.

By decision dated July 31, 2024, OWCP denied appellant's claim for compensation finding that the medical evidence of record was insufficient to establish disability from work commencing April 26, 2024, due to the accepted December 17, 2022 employment injury.

OWCP continued to receive evidence including a July 2, 2024 grievance worksheet.

By decision dated August 9, 2024, OWCP granted appellant's claim for compensation for the period December 31, 2022 through January 24, 2023. It denied his claim for compensation for the period January 25 through February 9, 2023, finding that the medical evidence of record was insufficient to establish disability from work due to the accepted December 17, 2022 employment injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA 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>5</sup> Under FECA, the term “disability” means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.<sup>6</sup> Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.<sup>7</sup> An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in FECA.<sup>8</sup> 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 loss of wages.<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 the claimant, 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 his burden of proof to establish disability from work for the period January 25 through February 9, 2023 or for the period commencing April 26, 2024 causally related to his accepted December 17, 2022 employment injury.

In support of his claims for compensation, appellant submitted reports and forms by Dr. Hanlon dated January 23 through March 1, 2023 and April 24 through July 10, 2024. Dr. Hanlon diagnosed left plantar fibromatosis/fasciitis and released appellant to return to work

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<sup>5</sup> *S.F.*, Docket No. 20-0347 (issued March 31, 2023); *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> 20 C.F.R. § 10.5(f).

<sup>7</sup> *See H.B.*, Docket No. 20-0587 (issued June 28, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

<sup>8</sup> *See H.B.*, *id.*; *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

<sup>9</sup> *See D.R.*, Docket No. 18-0323 (issued October 2, 2018).

<sup>10</sup> *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

<sup>11</sup> *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

with various restrictions. He did not, however, explain how the restrictions were related to the December 17, 2022 employment injury, or why appellant could only work with specific restrictions.<sup>12</sup> In addition, although Dr. Hanlon outlined work restrictions, he did not indicate that appellant was totally disabled from work due to his December 17, 2022 employment injury, for the period January 25 through February 9, 2023 or effective April 26, 2024.<sup>13</sup> As such, Dr. Hanlon's reports are insufficient to establish appellant's claim.

Dr. Tan, in his March 7, 2023 Form CA-20, indicated that appellant was totally disabled from December 18, 2022 through January 9, 2023, at which time he was discharged from treatment. In a June 10, 2024 letter, he noted that he took appellant off from work on January 3, 2023 until he could be evaluated by a podiatrist on January 9, 2023. Dr. Tan did not indicate that appellant was totally disabled from work due to his December 17, 2022 employment injury for the period January 25 through February 9, 2023 or effective April 26, 2024.<sup>14</sup> As he did not address appellant's disability status during the specific dates of disability for which compensation was claimed, Dr. Tan's reports are of no probative value, and are insufficient to establish appellant's claim.<sup>15</sup>

The record also contains an unsigned medical report dated March 26, 2024. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.<sup>16</sup>

Appellant also submitted physical therapy reports. However, certain healthcare providers such as physical therapists are not considered physicians as defined under FECA, and their reports do not constitute competent medical evidence.<sup>17</sup> Consequently, these medical findings or opinions are insufficient to meet appellant's burden of proof.

As the medical evidence of record is insufficient to establish disability from work for the period January 25 through February 9, 2023 or commencing April 26, 2024 causally related to the accepted December 17, 2022 employment injury, the Board finds that appellant has not met his burden of proof.

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<sup>12</sup> See *M.B.*, Docket No. 22-0422 (issued April 3, 2023); *D.V.*, Docket No. 19-0868 (issued March 21, 2022); *M.M.*, Docket No. 18-0817 (issued May 17, 2019).

<sup>13</sup> *C.B.*, Docket No. 18-0400 (issued May 7, 2019).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* See *C.S.*, Docket No. 17-1686 (issued February 5, 2019).

<sup>16</sup> See *D.F.*, Docket No. 22-0904 (issued October 31, 2022); see also *R.C.*, Docket No. 19-0376 (issued July 15, 2019); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

<sup>17</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. § 8102(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).

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 disability from work for the period January 25 through February 9, 2023 or commencing April 26, 2024 causally related to his accepted December 17, 2022 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 31 and August 9, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.<sup>18</sup>

Issued: January 31, 2025  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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<sup>18</sup> James D. McGinley, Alternate Judge, participated in the preparation of this decision, but was no longer a member of the Board effective January 12, 2025.