

³ The Board notes that, following the July 23, 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.*

ISSUES

The issues are: (1) whether appellant has met his burden of proof to expand the acceptance of his claim to include post-traumatic stress disorder (PTSD) causally related or consequential to the accepted June 17, 2023 employment injury; and (2) whether appellant has met his burden of proof to establish disability from work for the period August 2 through November 5, 2023, causally related to the accepted June 17, 2023 employment injury.

FACTUAL HISTORY

On July 11, 2023 appellant, then a 69-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 17, 2023 he injured his face and right hand while in the performance of duty. He noted that he was attacked by three dogs while delivering the mail, which tore skin on his lip and face and punctured and wounded the area between his right thumb and forefinger.⁴ Appellant stopped work on the date of injury and received continuation of pay from June 17 through August 1, 2023. OWCP accepted the claim for laceration without foreign body of the lip and right hand.

In emergency room records dated June 17 and 18, 2023, Dr. Michelle Myles, a Board-certified emergency medicine specialist, performed a physical examination, which revealed an extensive deep complex laceration of the lateral lower lip extending down to the chin and vertically across the chin and a deep laceration over the dorsal snuff box with exposed muscle. She indicated that appellant's mood and affect were normal.

In a report dated July 27, 2023, Dr. Christian A. Petruccio, a Board-certified hand surgeon, noted that appellant related complaints of stiffness in the right thumb and minimal pain and numbness. He performed a physical examination, which revealed a well-healed wound on the dorsum of the right hand. Dr. Petruccio diagnosed open wound of finger of right hand due to dog bite.

In an August 2, 2023 report, Dr. Paul Del Guercio, a Board-certified family physician, performed a physical examination, where he observed stiffness of the right thumb, asymmetry and stiffness of the face, and drooling. He diagnosed open facial wound and bite wound of right hand. Dr. Del Guercio recommended that appellant follow up with his surgeon as directed.

On August 16, 2023 appellant began filing claims for compensation (Form CA-7) for disability from work commencing August 2, 2023.

In a development letter dated August 22, 2023, OWCP informed appellant of the deficiencies of his claim for compensation. It advised him of the type of factual and medical evidence needed to establish his claim and afforded him 30 days to submit the necessary evidence.

OWCP thereafter received a report dated August 22, 2023 by Olivia Hobson, a speech and language pathologist, who noted the history of the June 17, 2023 employment. Ms. Hobson performed a motor speech evaluation and documented imprecise consonants with articulation,

⁴ OWCP assigned the present claim OWCP File No. xxxxxx581. Appellant previously filed a Form CA-1 for left forearm wounds due to a dog bite on September 29, 2015, which OWCP processed as a short form closure under OWCP File No. xxxxxx425. OWCP has not administratively combined OWCP File Nos. xxxxxx581 and xxxxxx425.

some imprecise diadochokinetic rates, drooping of the lower right side of the face, asymmetrical movement of the lips, and decreased sensation and limited range of motion of the jaw.

By decision dated September 27, 2023, OWCP denied appellant's claim for compensation, finding that the medical evidence was insufficient to establish disability from work commencing August 2, 2023 due to the accepted June 17, 2023 employment injury.

OWCP continued to receive evidence. In a September 20, 2023 medical report, Dr. Del Guercio noted that appellant related complaints of mild speech difficulties, facial sensitivity, and significant anxiety related to returning to work with phobia regarding dogs. He performed a physical examination, which revealed improved pain in the right hand, stiffness of the right thumb, well-healed wounds to the face and right hand, and mild nervousness/anxiousness. Dr. Del Guercio diagnosed PTSD and indicated that he expected appellant to be able to return to work in four to six weeks.

In a separate narrative report also dated September 20, 2023, Dr. Del Guercio indicated that appellant experienced speech deficits following the June 17, 2023 employment injury which required prolonged speech therapy. He also indicated that he experienced significant post-traumatic stress symptoms and needed an additional four to six weeks off from work to pursue therapy.

In a September 21, 2023 medical report, Dr. Rachel A. Sullivan, a Board-certified plastic surgeon, noted well-healed chin and lip lacerations and good lip movement with no anomalies. She opined that appellant had no limitations and released him to return to work without restrictions. Dr. Sullivan also noted that appellant "asked to wait to return until [November 6, 2023] to prepare himself next week though he does report he has been working on some houses he owns so has been doing well functionally with that." In a separate note of even date, she indicated that he could return to work on November 6, 2023 without restrictions.

On October 5, 2023 appellant requested review of the written record by a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated October 18, 2023, an OWCP hearing representative set aside OWCP's September 27, 2023 decision and remanded the case to OWCP for further development of the medical record, including referring appellant for a second opinion evaluation with a psychiatrist.

Appellant returned to full-time regular-duty work without restrictions on November 6, 2023.

On November 9, 2023 OWCP referred the case record, a statement of accepted facts (SOAF), and a series of questions to Dr. Tahir Tellioglu, a Board-certified psychiatrist, for a second opinion evaluation.

In a December 1, 2023 report, Dr. Tellioglu reviewed the SOAF and medical record. He noted that appellant related complaints of trouble drinking and chewing due to stiffness and numbness in his face, sensitivity and weakness of his lower lip, and discomfort, which he attributed to the June 17, 2023 employment injury. Dr. Tellioglu also noted that he denied any psychiatric problems, depression, anxiety, sleep disturbances, nightmares, or issues with alcohol or drugs since the incident, that he had not undergone any psychologist counseling or psychiatric care, and that

he stated he was “more cautious and aware of dogs but still likes them.” He performed a mental status examination, which revealed no abnormalities. Dr. Tellioglu opined that appellant “does not currently exhibit symptoms of PTSD” and that “there were no psychiatric conditions causally related to the work injury on June 17, 2023 as described in the SOAF causing any disability from his date-of-injury job during or any or all periods from August 2, 2023 to present.”

By decision dated February 7, 2024, OWCP denied expansion of the acceptance of appellant’s claim to include PTSD causally related or consequential to the accepted June 17, 2023 employment injury. In a separate decision of even date, it denied his claim for wage-loss compensation due to disability from work for the period August 2 through November 5, 2023.

On February 22, 2024 appellant requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review.

On March 4, 2024 appellant submitted a statement which described the June 17, 2023 incident and his subsequent medical treatment.

A hearing was conducted on May 9, 2024. He indicated that he was unable to work following the June 17, 2023 incident because he could not speak and had excruciating pain in his right hand.

By decision dated July 23, 2024, OWCP’s hearing representative affirmed the February 7, 2024 decisions.

LEGAL PRECEDENT -- ISSUE 1

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.⁵ When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the claimant’s own intentional misconduct.⁶ Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.⁷

To establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, an employee must submit rationalized medical evidence.⁸ 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

⁵ *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

⁶ *See J.M.*, Docket No. 19-1926 (issued March 19, 2021); *I.S.*, Docket No. 19-1461 (issued April 30, 2020); *see also Charles W. Downey*, 54 ECAB 421 (2003).

⁷ *J.M.*, *id.*; *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

⁸ *See V.A.*, Docket No. 21-1023 (issued March 6, 2023); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include PTSD causally related or consequential to his accepted June 17, 2023 employment injury.

OWCP received a September 20, 2023 medical report and narrative by Dr. Del Guercio, who indicated that appellant related complaints of significant anxiety about returning to work due to a phobia of dogs. Dr. Del Guercio diagnosed PTSD. He did not, however, explain with sufficient rationale how the accepted June 17, 2023 employment injury caused PTSD.¹⁰ A medical report is of limited probative value on the issue of causal relationship if it contains an opinion regarding causal relationship which is unsupported by medical rationale.¹¹ For this reason, Dr. Del Guercio's September 20, 2023 report and narrative are insufficient to establish expansion of the claim.¹²

In a December 1, 2023 second opinion evaluation report, Dr. Tellioglu reviewed the SOAF and medical record. He noted that appellant denied any psychiatric problems, depression, anxiety, changes in sleep patterns, nightmares, or issues with alcohol or drugs since the June 17, 2023 employment injury, and that he stated he was "more cautious and aware of dogs but still likes them." Dr. Tellioglu performed a mental status examination, which revealed no abnormalities. He opined that appellant "does not currently exhibit symptoms of PTSD" and that "there were no psychiatric conditions causally related to the work injury on June 17, 2023 as described in the SOAF causing any disability from his date-of-injury job during or any or all periods from August 2, 2023 to present." The Board finds the opinion of Dr. Tellioglu to be well reasoned and based on a complete and accurate history and, therefore, constitutes the weight of the medical evidence.¹³

As the medical evidence of record is insufficient to establish expansion of the acceptance of the claim to include PTSD as causally related or consequential to appellant's accepted employment injury, the Board finds that he 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.

⁹ *E.P.*, Docket No. 20-0272 (issued December 19, 2022); *I.J.*, 59 ECAB 408 (2008).

¹⁰ *See C.B.*, (*S.B.*) Docket No. 19-1629 (issued April 7, 2020); *V.T.*, Docket No. 18-0881 (issued November 19, 2018); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

¹¹ *J.H.*, Docket No. 24-0415 (issued May 23, 2024); *C.C.*, Docket No. 15-1056 (issued April 4, 2016); *see T.M.*, *id.*; *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *William C. Thomas*, 45 ECAB 591 (1994).

¹² *B.W.*, Docket No. 21-0536 (issued March 6, 2023); *M.M.*, Docket No. 20-1557 (issued November 3, 2021).

¹³ *See P.N.*, Docket No. 22-0794 (issued October 20, 2023).

LEGAL PRECEDENT -- ISSUE 2

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.¹⁴ 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.¹⁵ Disability is, thus, not synonymous with physical impairment, which may or may not result in an incapacity to earn wages.¹⁶ 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.¹⁷ 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.¹⁸

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.¹⁹

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.²⁰

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met his burden of proof to establish disability from work for the period August 2 through November 5, 2023, causally related to the accepted June 17, 2023 employment injury.

In support of his claim for compensation, appellant submitted a report dated July 27, 2023 by Dr. Petruccio, who documented a well-healed wound on the dorsum of the right hand and diagnosed an open wound of finger of right hand due to dog bite. Similarly, in an August 2, 2023

¹⁴ *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).

¹⁵ 20 C.F.R. § 10.5(f).

¹⁶ *See H.B.*, Docket No. 20-0587 (issued June 28, 2021); *L.W.*, Docket No. 17-1685 (issued October 9, 2018).

¹⁷ *See H.B., id.*; *K.H.*, Docket No. 19-1635 (issued March 5, 2020).

¹⁸ *See D.R.*, Docket No. 18-0323 (issued October 2, 2018).

¹⁹ *M.R.*, Docket No. 24-0846 (issued October 29, 2024); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

²⁰ *M.R., id.*; *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

report, Dr. Del Guercio diagnosed open facial wound and bite wound of right hand. Neither physician, however, offered an opinion that appellant was disabled from work due to the accepted June 17, 2023 employment injuries. The Board has held that a report which does not address appellant's disability status during the specific dates of disability for which compensation was claimed is of no probative value.²¹ Therefore, the July 27, 2023 report of Dr. Petruccio and the August 2, 2023 report of Dr. Del Guercio are insufficient to establish appellant's disability claim.

In a medical report and narrative letter dated September 20, 2023, Dr. Del Guercio recommended that appellant remain out of work for an additional four to six weeks to pursue therapy for PTSD. He did not, however, offer an opinion that appellant was disabled during the claimed period due to his accepted June 17, 2023 employment injury. Therefore, Dr. Del Guercio's September 20, 2023 report and letter are also insufficient to establish appellant's claim.²²

In a September 21, 2023 medical report, Dr. Sullivan noted well-healed chin and lip lacerations and good lip movement with no anomalies. She opined that appellant had no limitations from her standpoint and released him to return to work. As Dr. Sullivan did not offer an opinion that appellant was disabled from work due to the accepted June 17, 2023 employment injuries, her September 21, 2023 report does not establish appellant's wage-loss claim.²³

OWCP also received a report by Ms. Hobson, a speech and language pathologist. The Board has held that certain healthcare providers such as speech pathologists are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion. Therefore, this evidence is of no probative value and is insufficient to establish appellant's claim for wage-loss compensation.²⁴

As the medical evidence of record is insufficient to establish disability from work for the period August 2 through November 5, 2023, causally related to the accepted June 17, 2023 employment injury, the Board finds that 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.

²¹ *Id.* See also *A.E.*, Docket No. 23-0470 (issued September 5, 2023); *C.S.*, Docket No. 17-1686 (issued February 5, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

²² *Id.*

²³ *Id.*

²⁴ Section 8101(2) of FECA provides that the term 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). 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); *P.Y.*, Docket No. 16-1324 (issued July 24, 2017) (a speech pathologist is not considered a physician under FECA).

CONCLUSION

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include PTSD as causally related or consequential to his accepted June 17, 2023 employment injury. The Board further finds that appellant has not met his burden of proof to establish disability from work for the period August 2 through November 5, 2023, causally related to the accepted June 17, 2023 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the July 23, 2024 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2025
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