



Physician vs. nurse practitioner

What difference does it make if I am treated by a physician or by a nurse practitioner? Good question, and with the recent changes in the medical field, that is a very rational question. Some might argue that they would trust a nurse practitioner more than they would trust a physician. Many people might also subscribe to the false notion that since their health benefit plan will accept a certain health care professional, OWCP will also accept them.

When it comes to on-the-job injuries or work-related illnesses, it matters who makes the diagnosis, it matters who orders the treatment, it matters who completes the medical reports, and it matters how the medical report is completed.

The Federal Employees' Compensation Act (FECA) says that there is a difference between a physician and a nurse practitioner when it comes to adjudicating compensation claims. The FECA draws very clear distinctions when defining a "physician." The FECA states that physicians include surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners acting within the scope of their practice as defined by state law.¹

As you can see, chiropractors are included in the list of physicians, *but* they are limited to a certain type of treatment for a specific diagnosis. Chiropractors are considered physicians for purposes of the FECA *only* to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist and subject to regulation by OWCP.

If you are receiving treatment from an individual whose main diagnosis involves waving a chicken foot over an injured part of your body, you may want to find a real physician before you submit a compensation claim. That is because the FECA has specifically identified certain individuals who are *not* considered physicians. It states that naturopaths, faith healers and other practitioners of the healing arts are not recognized as physicians within the meaning of the FECA. The Employee Compensation Appeals Board (ECAB) has also found that the following list of professionals do not fall within the definition of a physician under the FECA: audiologists, physical thera-


pists, physicians assistants, social workers, nurses, counselors or toxicologists.

The law gives the employee the right to select a physician to provide medical services.² Choosing a good physician who has experience with OWCP claims can be the difference between a claim's acceptance or denial. In all OWCP claims, the claimant has the burden of proof and that proof must consist of medical evidence, which must be prepared by a physician.

The proof needed to support a claim is also referred to as rationalized medical opinion evidence. Simply put, it is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The physician's opinion 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 diagnosed condition and the specific employment factors identified by the claimant. In one case, ECAB ruled that the medical evidence was not probative because a physician did not sign it.³

A claimant's reliance upon a medical report or opinion prepared by a person who does not meet the definition of a physician under the FECA can be fatal to their claim. The ECAB has consistently held that such opinions are not competent, probative medical evidence. A medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 USC 8101 (2).⁴

In another case, ECAB held that, when a physician's opinion on causal relationship consists only of checking "yes" on a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.⁵

Your choice of physician matters. 

1. FECA 5USC Section 8101(2).
2. 5 USC 8103 (a)(3), *ELM* 543.3.
3. G.R. and Department of Veterans Affairs, 107 LRP 27730 (ECAB 2007).
4. K.P. and Department of Veterans Affairs, 107 LRP 20461 (ECAB 2007).
5. D.F. and Department of the Army, 107 LRP 34654 (ECAB 2007).