

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

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<b>R.B., Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 23-1027</b>
	)	<b>Issued: April 3, 2024</b>
<b>U.S. POSTAL SERVICE, PARK PLACE POST</b>	)	
<b>OFFICE, Park Place, TX, Employer</b>	)	
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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On July 28, 2023 appellant filed a timely appeal from a February 27, 2023 merit decision 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 over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met his burden of proof to establish a left inguinal hernia condition causally related to the accepted September 19, 2019 employment incident.

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

<sup>2</sup> The Board notes that, following the February 27, 2023 decision, appellant submitted additional evidence to OWCP. However, 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.*

## **FACTUAL HISTORY**

This case has previously been before the Board.<sup>3</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On September 23, 2019 appellant, then a 59-year-old automotive technician, filed a traumatic injury claim (Form CA-1) alleging that on September 19, 2019 he felt pain in the lower left abdomen when pushing a truck out of a stall while in the performance of duty. He stopped work on September 23, 2019 and worked intermittently thereafter.

By decision dated November 15, 2019, OWCP denied appellant's traumatic injury claim finding that the medical evidence submitted was insufficient to establish causal relationship between his diagnosed condition and the accepted September 19, 2019 employment incident.

On December 2, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on February 11, 2020.

In a January 27, 2020 report, Dr. Paul E. Kobza, an osteopath, treated appellant for an injury sustained at work when appellant was pushing a car and felt severe pain and a pulling sensation in his groin. He diagnosed left unilateral inguinal hernia without obstruction or gangrene. Dr. Kobza recommended left inguinal hernia repair with mesh reinforcement. In physician's preoperative orders he diagnosed left inguinal hernia. In accompanying duty status reports (Form CA-17) dated January 27 and March 2, 2020, Dr. Kobza noted that the diagnosis due to injury was left inguinal hernia and advised that appellant could return to work with restrictions on January 28, 2020. In notes dated January 27 and March 2, 2020, he determined that appellant was incapacitated from doing his regular work duties and would have a 10-pound lifting restriction until surgery.

By decision dated March 20, 2020, the hearing representative affirmed the November 15, 2019 decision.

OWCP subsequently received a March 2, 2020 report, wherein Dr. Kobza noted his treatment of appellant for a left inguinal hernia that developed after pushing a car at work. Dr. Kobza diagnosed left unilateral inguinal hernia without obstruction or gangrene and recommended a left inguinal hernia repair. He evaluated appellant again on April 6 and May 7, 2020 and reported no change in appellant's symptoms. Dr. Kobza reported that appellant was injured at work after pushing a car with the brakes engaged. He diagnosed left inguinal hernia. In a July 9, 2020 report, Dr. Kobza diagnosed left inguinal hernia and advised that appellant was awaiting authorization for surgery. He returned appellant to light-duty work. In Form CA-17 reports dated April 6 and May 7, 2020, Dr. Kobza noted clinical findings and diagnosis of left inguinal hernia due to injury. Similarly, a Form CA-17 report dated August 10, 2020, he noted clinical findings of left inguinal hernia and advised that appellant could not work. In notes dated

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<sup>3</sup> Docket No. 20-1602 (issued May 26, 2021).

May 7 and August 10, 2020, Dr. Kobza opined that appellant was incapacitated from performing his regular work duties and would have a 10-pound lifting restriction until surgery.

On May 19, 2020 appellant requested reconsideration.

By decision dated August 17, 2020, OWCP denied modification of the March 20, 2020 decision.

On September 8, 2020 appellant appealed to the Board.<sup>4</sup> By decision dated May 26, 2021, the Board affirmed the March 20 and August 17, 2020 OWCP decisions.

OWCP subsequently received additional evidence. Appellant submitted a December 17, 2020 report from Dr. Kobza who treated him in follow up for a left inguinal hernia. Physical examination revealed left groin protrusion and tenderness to palpation over the left testicle. Appellant diagnosed left inguinal hernia and noted a date of injury of September 19, 2019. In a note of the same date, Dr. Kobza determined that appellant was incapacitated from performing his regular work duties and would have a 10-pound lifting restriction until he had surgery. On April 22, 2021 he related that appellant was pushing a long life vehicle (LLV) with the brakes engaged when he experienced left groin pain and a tear of the left groin hernia. Dr. Kobza addressed causal relationship, noting that appellant was manually pushing an LLV that was in high water with the brakes engaged. He reported that appellant used additional force and felt left groin pain and burning that radiated to the left testicle. Dr. Kobza noted a bulge and no feeling in appellant's left groin. He diagnosed left inguinal hernia and opined that this injury was work related. In notes dated July 19 and October 18, 2021, and February 24 and June 23, 2022, Dr. Kobza noted that appellant was incapacitated from his regular duties and would have a 10-pound lifting restriction until surgery. In Form CA-17 reports dated February 24 and June 23, 2022, he noted clinical findings and diagnosis of left inguinal hernia due to injury and returned appellant to work with restrictions.

On January 19, 2022 appellant requested reconsideration.

By decision dated September 30, 2022, OWCP denied modification.

On December 1, 2022 appellant requested reconsideration and submitted additional evidence. In a report dated November 22, 2022, Dr. Kobza noted treating appellant for an injury sustained at work due to his job duties. He opined that the left inguinal hernia was the result of pushing an LLV car with the brakes engaged. Dr. Kobza concluded that the injury was work related.

By decision dated February 27, 2023, OWCP denied modification.

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<sup>4</sup> *Id.*

## 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, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,<sup>6</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>7</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>8</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient evidence to establish that the employment incident caused an injury.<sup>9</sup>

The medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>10</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment incident identified by the employee.<sup>11</sup>

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a left inguinal hernia condition causally related to the accepted September 19, 2019 employment incident.

Initially, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's August 17, 2020 decision, which was considered by the Board in

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<sup>5</sup> *Supra* note 1.

<sup>6</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>8</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>9</sup> *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>11</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

its May 26, 2021 decision. Findings made in prior Board decisions are *res judicata* absent further merit review by OWCP under section 8128 of FECA.<sup>12</sup>

Appellant submitted a December 17, 2020 report from Dr. Kobza, who treated him in follow up for a left inguinal hernia. Dr. Kobza noted physical findings and diagnosed left inguinal hernia with a date of injury of September 19, 2019. In notes dated December 17, 2020, July 18 and October 18, 2021, and February 24 and June 23, 2022, he noted that appellant was incapacitated from performing his regular work duties, and would have a 10-pound lifting restriction until he had surgery. As these notes do not address causation, they are of no probative value and insufficient to meet appellant's burden of proof.<sup>13</sup>

On April 22, 2021 Dr. Kobza related that appellant was pushing an LLV with the brakes engaged when he experienced left groin pain and a tear of the left groin hernia. He addressed causal relationship noting that appellant was manually pushing an LLV that was in high water with the brakes engaged. Dr. Kobza related that appellant used additional force and felt left groin pain and burning that radiated to the left testicle. He reported a bulge and no feeling in appellant's left groin. Dr. Kobza diagnosed left inguinal hernia and opined that this injury was work related. In a report dated November 22, 2022, he opined that appellant sustained a work-related left inguinal hernia while pushing an LLV with the brakes engaged. While he provided affirmative opinions, which supported causal relationship, Dr. Kobza did not offer a rationalized medical explanation in any of these reports to support his opinion. He did not explain the physiological process which pushing an LLV with the brakes engaged resulted in a left inguinal hernia.<sup>14</sup> The Board has held that medical evidence should offer a medically-sound and rationalized explanation by the physician of how a specific employment incident physiologically caused or aggravated the diagnosed conditions.<sup>15</sup> Therefore, this evidence is insufficient to meet appellant's burden of proof.

In Form CA-17 reports dated February 24 and June 23, 2022, Dr. Kobza noted clinical findings and diagnosis of left inguinal hernia due to injury and returned appellant to work with restrictions. However, he did not specifically relate the diagnosed conditions to the accepted September 19, 2019 employment incident. The Board has held that medical evidence that does not offer an opinion regarding the cause of a diagnosed condition is of no probative value on the issue of causal relationship.<sup>16</sup> Therefore, the Board finds that these reports are insufficient to establish appellant's burden of proof.

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<sup>12</sup> *C.M.*, Docket No. 19-1211 (issued August 5, 2020); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

<sup>13</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>14</sup> *See S.B.*, Docket No. 24-0064 (issued February 28, 2024); *S.C.*, Docket No. 21-0929 (issued April 28, 2023); *J.D.*, Docket No. 19-1953 (issued January 11, 2021); *M.W.*, Docket No. 14-1664 (issued December 5, 2014).

<sup>15</sup> *See S.B., id.; T.L.*, Docket No. 23-0073 (issued January 9, 2023); *V.D.*, Docket No. 20-0884 (issued February 12, 2021); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

<sup>16</sup> *See supra* note 13.

As the medical evidence of record is insufficient to establish a left inguinal hernia condition causally related to the accepted September 19, 2019 employment incident, 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.

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a left inguinal hernia condition causally related to the accepted September 19, 2019 employment incident.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 27, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 3, 2024  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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

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