

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

B.C., Appellant)	
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)	
and)	
)	Docket No. 25-0643
DEPARTMENT OF THE ARMY, U.S. ARMY MEDICAL RESEARCH INSTITUTE OF INFECTIOUS DISEASES, Fort Detrick, MD, Employer)	Issued: August 20, 2025
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Appearances:

Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 25, 2025 appellant, through counsel, filed a timely appeal from a June 16, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted employment exposure.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances of the case as set forth in the Board's prior decisions and prior order are incorporated herein by reference. The relevant facts are as follows.

On November 16, 2011 appellant, then a 29-year-old animal caretaker, filed an occupational disease claim (Form CA-2) alleging that he contracted systematic *entamoeba polecki* infection due to factors of his federal employment while working with host animals associated with parasitic infection. He noted that he first became aware of his condition and realized its relationship to factors of his federal employment on October 19, 2011. Appellant stopped work on October 19, 2011, and returned to work on November 7, 2011.

In a development letter dated November 29, 2011, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. In a separate letter of even date, OWCP also requested additional information from the employing establishment, including information regarding appellant's employment duties. It afforded both parties 30 days to respond.

Thereafter, OWCP received an October 19, 2011 report, wherein Dr. Alexander Ambroz, Board-certified in occupational medicine, related appellant's gastrointestinal complaints and noted his work as an animal caretaker for "exotic monkeys." Laboratory testing completed on October 20, 2011 revealed *entamoeba polecki* trophozoites in appellant's stool.

In a November 2, 2011 memorandum, Dr. Larry Shelton, deputy director of the veterinary medicine division at the employing establishment, informed Dr. Roger McIntosh, the employing establishment's biological surety medical director, that appellant, an animal caretaker who worked with nonhuman primates (NHP), recently missed work due to a diagnosis and treatment of symptomatic *entamoebapolecki* infection. He indicated that NHPs were quarantined and screened upon arrival at the employing establishment, and that animal caretakers were provided with protective equipment. Dr. Shelton opined that it was highly unlikely that this case of *entamoeba polecki* was a result of contact with the NHP at the employing establishment.

In a November 2, 2011 e-mail, Dr. Ronald Reisler, an employing establishment physician, indicated that 25 percent of the NHP infections that were detected and subtyped contained *polecki* and that some of the NHP had multiple types of *entamoeba* subtypes. He also submitted a 1998 journal article about *entamoeba histolytica* that was contracted by humans from well water in the Republic of Georgia.

³ Docket No. 20-0011 (issued March 9, 2021); *Order Granting Remand*, Docket No. 17-1305 (issued October 4, 2017); Docket No. 13-81 (issued August 23, 2013).

In a November 22, 2011 report, Dr. Benjamin Palmer, Board-certified in preventive medicine, recounted that during the week of October 12, 2011 appellant began to feel ill and experienced worsening gastrointestinal symptoms. Stool testing was positive for *entamoeba polecki*. Dr. Palmer described appellant's work duties as an animal caretaker and noted that he used protective equipment while at work. He diagnosed parasitic infestation. Dr. Palmer reported that appellant clearly experienced a case of *entamoeba polecki* gastroenteritis, but explained that the cause and route of this infection could not be positively identified. He concluded that there was no clear evidence that the infection was a result of an exposure at the employing establishment.

By decision dated February 15, 2012, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed condition and the accepted employment exposure.

On March 12, 2012 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on June 15, 2012.

By decision dated September 13, 2012, OWCP's hearing representative affirmed OWCP's February 15, 2012 decision.

Appellant, through counsel, filed an appeal to the Board. By decision dated August 23, 2013,⁴ the Board set aside the September 13, 2012 OWCP decision and remanded the case for further development. The Board specifically requested that OWCP develop whether the employing establishment performed testing on certain NHP that would have been in quarantine at the same time that appellant worked with them and clarify the meaning of Dr. Reisler's e-mail regarding the detection of NHP infections.

On October 30, 2013 OWCP requested that the employing establishment provide additional factual information regarding appellant's claim, including whether any of the primates at the employing establishment's facility had tested positive for the *entamoeba polecki* organism and any relative records relevant thereto, such as the results of bacterial testing on the laboratory animals.

On December 16, 2013 Dr. Pedro L. Rico, a veterinarian and director of the veterinary medicine division for the employing establishment, informed OWCP that fecal samplings performed on the employing establishment's laboratory HNPs were "negative."

⁴ Docket No. 13-81 (issued August 23, 2013).

By *de novo* decision dated December 16, 2013, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that his *entamoeba polecki* infection was causally related to the accepted employment exposure.⁵

By *de novo* decision dated December 6, 2017, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between the *entamoeba polecki* infection and the accepted employment exposure.

On December 15, 2017 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on May 31, 2018.

By decision dated August 14, 2018, OWCP's hearing representative vacated the December 6, 2017 decision and remanded the case for OWCP to obtain specific records about the bacterial testing of the animals to which appellant was exposed, and to provide context for Dr. Reisler's November 2011 e-mail regarding positive results from the testing of primates.

OWCP subsequently requested additional information from the employing establishment, including the results of any testing on animals in appellant's work area during the time of his exposure while performing his work activities.

In a November 14, 2018 letter, Dr. Kenneth O. Jacobsen, Deputy Director of Administration and Training for the veterinary medicine division at the employing establishment, related that his division no longer had any relevant animal medical records or test results from the requested time period.

Dr. Rico, in a December 16, 2013 statement, indicated that the safety office evaluated the circumstances of appellant's possible exposure. He reported that as appellant had worn appropriate protective equipment, "there was no way for [appellant] to ingest a cyst while working in the animal rooms." Dr. Rico also indicated that the NHP colony and workplace doorknobs tested negative for cysts. He noted that their final safety investigation was unable to determine whether the incident was work related.

By *de novo* decision dated November 29, 2018, OWCP denied appellant's occupational disease claim, finding that there was insufficient evidence to establish causal relationship between his *entamoeba polecki* infection and the accepted employment exposure.

On December 4, 2018 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on April 10, 2019.

⁵ On December 27, 2016 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. By decision dated January 12, 2017, OWCP denied appellant's request for an oral hearing as it was untimely filed more than 30 days after the most recent OWCP decision. Appellant, through counsel, appealed to the Board. By order dated October 4, 2017, the Board granted OWCP's motion to remand as the Director of OWCP acknowledged that December 16, 2013 and January 12, 2017 decisions were not properly issued as they were mailed to an incorrect address. The Board remanded the case with instructions to issue a *de novo* decision to the proper mailing address. *Order Granting Remand*, Docket No. 17-1305 (issued October 4, 2017).

OWCP subsequently received a medical journal article entitled “Molecular Identification of *Entamoeba* spp. in Captive Nonhuman Primates” dated January 2010.

By decision dated June 20, 2019, OWCP’s hearing representative affirmed the November 29, 2018 decision.

Appellant, through counsel, appealed to the Board.

By decision dated March 9, 2021, the Board set aside OWCP’s June 20, 2019 decision, finding that appellant’s position as an animal caretaker was high-risk employment, as it placed him in contact with animals and potentially hazardous substances. The Board remanded the case for OWCP to follow its established procedures regarding high-risk employment cases, including a referral of appellant, along with the case record and a statement of accepted facts (SOAF), to a specialist in the appropriate field of medicine for a second opinion on causal relationship between appellant’s diagnosed *entamoeba polecki* infection and the accepted employment exposure.⁶

On June 2, 2021 OWCP referred appellant to Dr. Ross S. Myerson, Board-certified in occupational medicine, for a second opinion examination. It provided him with a SOAF and requested that he determine whether appellant sustained a medical condition causally related to the accepted employment exposure.

In a June 15, 2021 report, Dr. Myerson reviewed the medical record and SOAF. He recounted appellant’s history of insulin-dependent diabetes mellitus with diabetic neuropathy, hypertension, and morbid obesity. Dr. Myerson opined that while transmission of *entamoeba polecki* to humans was “most likely from either ingestion of cysts in pig or monkey feces or through contaminated food,” numerous infected individuals “had no contact with any host animal.” While *entamoeba polecki* infection was “almost always asymptomatic in humans” there were reported cases with “bloody stools, diarrhea, nausea, and vomiting.” Dr. Myerson opined that appellant had been disabled from work for the period October 19 through November 7, 2011 due to the *entamoeba polecki* infection.

By *de novo* decision dated August 6, 2021, OWCP denied appellant’s occupational disease claim as the medical evidence of record did not establish that he sustained an *entamoeba polecki* infection causally related to the accepted employment exposure.

On August 18, 2021 appellant, through counsel, requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review. A hearing was held on December 15, 2021.

By decision dated March 2, 2022, OWCP’s hearing representative vacated OWCP’s August 6, 2021 decision and remanded the case for OWCP to obtain a supplemental opinion from Dr. Myerson addressing causal relationship, to be followed by a *de novo* decision.

⁶ Docket No. 20-0011 (issued March 9, 2021).

On March 16, 2022 OWCP requested that Dr. Myerson clarify whether appellant's diagnosed condition was causally related to the accepted employment exposure.

In a May 20, 2022 report, Dr. Myerson opined that there was little evidence that appellant "contracted a parasitic infection related to his work[.]" as appellant had worn protective gear and the employing establishment conducted an investigation.

By *de novo* decision dated June 13, 2022, OWCP denied appellant's occupational disease claim as the medical evidence of record did not establish that he sustained an *entamoeba polecki* infection causally related to the accepted employment exposure.

On June 22, 2022 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated September 2, 2022, OWCP's hearing representative set aside the June 13, 2022 decision, finding that Dr. Myerson's opinion could not represent the weight of the medical evidence as he failed to address causal relationship. The hearing representative remanded the case for OWCP to refer the medical record and an updated SOAF, to a Board-certified infectious disease specialist to obtain a reasoned medical opinion on causal relationship, to be followed by a *de novo* decision.

On March 22, 2024 OWCP referred the medical record and an updated SOAF to Dr. Vipul Savaliya, Board-certified in internal medicine and infectious disease, for a second opinion on whether appellant's *entamoeba polecki* infection was causally related to the accepted employment exposure.

In an April 18, 2024 report, Dr. Savaliya noted his review of the medical record and SOAF. He opined that appellant's October 2011 episode of gastroenteritis was unlikely to have been caused by *entamoeba polecki*. Rather, it was more likely to have been caused by bacterial pathogens "which were not tested at that time."

By *de novo* decision dated May 14, 2024, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish that appellant's *entamoeba polecki* infection was causally related to the accepted employment exposure.

On June 4, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated August 2, 2024, OWCP's hearing representative set aside OWCP's May 14, 2024 decision and remanded the case for OWCP to obtain a supplemental opinion from Dr. Savaliya, to be followed by a *de novo* decision.

On November 4, 2024 OWCP requested that Dr. Savaliya submit a supplemental report addressing whether appellant's duties as an animal caretaker at the employing establishment caused or contributed to his diagnosed *entamoeba polecki* infection. It provided an updated SOAF for his review.

In a March 25, 2024 report, Dr. Savaliya reviewed the medical record and SOAF. He opined that appellant was disabled from work for the period October 19 through November 7, 2011 due to acute gastroenteritis of unspecified etiology.

On January 6, 2025 OWCP requested that Dr. Savaliya clarify whether appellant's duties as an animal caretaker at the employing establishment caused or contributed to his diagnosed *entamoeba polecki* infection.⁷

In a May 8, 2025 supplemental report, Dr. Savaliya opined that, based on his review of the medical record, the "employment factors (any) aspect of work environment did not contribute to the [appellant's] gastroenteritis or any other diagnosable condition."

By *de novo* decision dated June 16, 2025, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish that appellant's *entamoeba polecki* infection was causally related to the accepted employment exposure.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁸ 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,⁹ 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.¹⁰ 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.¹¹

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which

⁷ On May 6, 2025 OWCP referred the medical record and a SOAF to a new infectious disease specialist for a second opinion regarding causal relationship. However, a report was not received from a new second opinion physician prior to OWCP's June 16, 2025 denial of the claim.

⁸ *Supra* note 2.

⁹ *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).

¹⁰ See *S.R.*, Docket No. 25-0326 (issued March 11, 2025); *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).

¹¹ *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).

compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.¹²

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹³ The opinion of the physician must be based upon a complete factual and medical background, 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.¹⁴

ANALYSIS

The Board finds that this case is not in posture for decision.

On January 6, 2025 OWCP requested that Dr. Savaliya clarify whether appellant's duties as an animal caretaker at the employing establishment caused or contributed to his diagnosed *entamoeba polecki* infection. In a May 8, 2025 supplemental report, Dr. Savaliya opined that, based on his review of the medical record, the "employment factors (any) aspect of work environment did not contribute to the [appellant's] gastroenteritis or any other diagnosable condition." The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/disability was causally related to the accepted employment factor(s).¹⁵ Dr. Savaliya's May 8, 2025 supplemental report lacks sufficient rationale and is therefore insufficient to carry the weight of the medical evidence.

The Board notes that proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.¹⁶ Once it undertakes development of the record, it has an obligation to do a complete job

¹² See *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett, id.*

¹³ *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁴ See *D.C.*, Docket No. 19-1093 (issued June 25, 2020); see *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

¹⁵ See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale describing the relation between work factors and a diagnosed condition/disability).

¹⁶ *T.N.*, Docket No. 25-0366 (issued April 11, 2025); *S.R.*, Docket No. 24-0880 (issued October 31, 2024); *K.B.*, Docket No. 23-0272 (issued October 26, 2023); see *E.W.*, Docket No. 17-0707 (issued September 18, 2017).

in procuring medical evidence that will resolve the relevant issues in the case.¹⁷ As Dr. Savaliya's May 8, 2025 supplemental report lacks rationale, OWCP failed to resolve the issue in the case.¹⁸

On remand, OWCP shall refer the case record and SOAF to a new specialist in the appropriate field of medicine for a fully-rationalized second opinion of whether appellant's *entamoeba polecki* infection was causally related to the accepted employment exposure. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

ORDER

IT IS HEREBY ORDERED THAT the June 16, 2025 decision of the Office of Workers' Compensation Program is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: August 20, 2025
Washington, DC

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

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

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

¹⁷ See *S.M.*, Docket No. 22-1209 (issued February 27, 2024); *J.M.*, Docket No. 21-0569 (issued December 6, 2021); see *R.L.*, Docket No. 20-1069 (issued April 7, 2021); *B.B.*, Docket No. 18-1321 (issued April 5, 2019); *W.W.*, Docket No. 18-0093 (issued October 9, 2018); *Peter C. Belkind*, 56 ECAB 580 (2005).

¹⁸ *Id.*