

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

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<b>D.K., Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 25-0795</b>
<b>DEPARTMENT OF HOMELAND SECURITY, CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY, Philadelphia, PA, Employer</b>	)	<b>Issued: December 16, 2025</b>
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*Appearances:*

*Michael D. Overman, Esq.*, for the appellant<sup>1</sup>  
*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 August 22, 2025 appellant, through counsel, filed a timely appeal from a March 3, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUE**

The issue is whether appellant has met his burden of proof to establish a left eye condition causally related to the accepted September 17, 2019 employment incident.

## **FACTUAL HISTORY**

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

On September 23, 2019 appellant, then a 52-year-old chief of regulatory compliance, filed a traumatic injury claim (Form CA-1) alleging that on September 17, 2019 he sustained a left eye condition while in the performance of duty. He explained that, while enroute to his destination, his eye became blurry. Appellant asserted that it was caused by loading suitcases in his car or when he rubbed his eyes. He indicated that he was diagnosed with a hemorrhage of the left eye and that his vision remained cloudy. Appellant stopped work on September 18, 2019.

In a medical report dated September 18, 2019, Dr. Arunan Sivalingam, a Board-certified ophthalmologist, noted that appellant related a history of blurred vision, fogginess, and light sensitivity in his left eye. He performed an examination and noted retinal elevation consistent with sub-retinal fluid, subretinal hemorrhage, and late hyper fluorescence consistent with macular degeneration. Dr. Sivalingam diagnosed myopic choroidal neovascularization (CNV); subretinal hemorrhage; posterior vitreous detachment (PVD) in the left eye; and high myopia and nuclear sclerosis in both eyes.

In a development letter dated October 31, 2019, 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. OWCP afforded appellant 30 days to respond.

In a November 16, 2019 narrative, Dr. Doray Gurkaynak, an optometrist, noted that appellant came under his care on September 17, 2019 due to sudden onset subretinal hemorrhage in his left eye with macular edema, which occurred while appellant was traveling for work. He indicated that acuity in the left eye had been reduced to 20/400, which was being treated with a series of injections. Dr. Gurkaynak further noted that appellant had seen his family physician to rule out systemic causes of subretinal hemorrhage, and that blood tests conducted on October 4, 2019 were inconclusive in finding a cause for the condition.

In a November 19, 2019 response to OWCP's development questionnaire, appellant indicated that he was driving to attend and deliver closing remarks at an employing establishment workshop when he rubbed his left eye and noticed his vision was blurry. He stopped and changed his contact lens, but the appearance of a grey cloud blocking his vision persisted. Appellant contacted Dr. Gurkaynak, who instructed him to seek emergency eye care. On that basis, he immediately went to a medical facility specializing in eye care, where he was diagnosed with a

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<sup>3</sup> Docket No. 22-0994 (issued March 3, 2023); Docket No. 21-0214 (issued September 29, 2021).

subretinal hemorrhage. In a follow-up visit, Dr. Sivalingam recommended a series of injections. Appellant indicated that he had no similar prior issues in the left eye but did have a history of floaters in both eyes for the past five years.

By decision dated December 3, 2019, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish causal relationship between his diagnosed left eye condition and the accepted September 17, 2019 employment incident.

On December 13, 2019 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on April 9, 2020.

Appellant submitted additional medical evidence, including October 16, November 13, and December 20, 2019 follow-up reports of Dr. Sivalingam, who continued to diagnose myopic CNV, subretinal hemorrhage, and PVD in the left eye.

By decision dated June 23, 2020, OWCP's hearing representative affirmed the December 3, 2019 decision.

On December 8, 2020 appellant, through counsel, appealed the June 23, 2020 decision to the Board.

By decision dated September 29, 2021,<sup>4</sup> the Board affirmed OWCP's June 23, 2020 decision.

On October 21, 2021 appellant, through counsel, requested reconsideration. In support thereof, he submitted a March 18, 2020 narrative report, wherein Dr. Gurkaynak noted that, on the morning of September 17, 2019, appellant was preparing to travel to a work event. Appellant placed his 48-pound suitcase into his work vehicle and immediately felt lightheaded and then, while driving, he noticed that his vision was substantially reduced. Dr. Gurkaynak explained that lifting the heavy suitcase into the vehicle and the stress of attending the event elevated appellant's blood pressure and aggravated his retinal vasculature, which caused the retinal vasculature to burst and leak in the left eye. He opined that "job[-]related stress together with the suitcase elevated his retinal vasculature pressure and contributed to the subretinal hemorrhage [of the left eye] with macular edema," which reduced the acuity in the left eye from 20/30 to 20/400.

By decision dated December 20, 2021, OWCP denied modification of its prior decision.

Appellant, through counsel, appealed to the Board. By decision dated March 3, 2023,<sup>5</sup> the Board set aside OWCP's December 20, 2021 decision and remanded the case to OWCP to refer appellant, along with a statement of accepted facts (SOAF) and the case record, to a specialist in the appropriate field of medicine for a reasoned opinion regarding whether appellant's diagnosed left eye condition was causally related to the accepted September 17, 2019 employment incident.

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<sup>4</sup> Docket No. 21-0214 (issued September 29, 2021).

<sup>5</sup> Docket No. 22-0994 (issued March 3, 2023).

On May 24, 2023 OWCP referred appellant along with the medical record and a SOAF to Dr. Michael J. Yaros, a Board-certified ophthalmologist, for a second opinion evaluation.

In a report dated June 28, 2023, Dr. Yaros reviewed the history of injury and medical record and documented his ocular examination findings. He diagnosed submacular hemorrhage and high myopia in the left eye, PVD in the right eye, and bilateral keratoconus, dry eye, and preexisting floaters. Dr. Yaros noted that the preexisting high myopia in the left eye predisposed appellant to the development of a hemorrhage due to elongation and thinning that resulted in CNV. He indicated that he could not state within a reasonable degree of medical certainty that driving, lifting a heavy suitcase, rubbing the eye, or any other work-related activity was a direct precipitant of the left submacular hemorrhage.

By *de novo* decision dated August 2, 2023, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish causal relationship between his diagnosed left eye condition and the accepted September 17, 2019 employment incident.

On August 8, 2023 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 October 13, 2023, OWCP's hearing representative vacated the August 2, 2023 decision, and remanded the case for further development.

OWCP thereafter received an unsigned medical report dated September 17, 2019, which noted that appellant related a sudden onset of decreased vision and floaters in his left eye. The report also noted ocular examination findings and listed diagnoses of myopic CNV and superior rectus hemorrhage of the left eye.

In a December 17, 2019 narrative report, Dr. Gurkaynak opined that job-related stress and lifting a heavy suitcase elevated appellant's blood pressure and triggered a subretinal hemorrhage with macular edema in his left eye.

In a supplemental report dated February 2, 2024, Dr. Yaros noted his review of an updated SOAF and additional medical records, including the March 18, 2020 narrative report of Dr. Gurkaynak. He indicated that his prior opinions remained unchanged. Dr. Yaros explained that, during development, the retina forms as the inner lining adjacent to the vitreous cavity. He noted that "in highly myopic eyes, the size of the posterior segment of the eye is enlarged" and "the retina, choroid, and sclera become biomechanically stretched out and thinned in order to accommodate to the larger size," which often leads to CNV. Dr. Yaros also indicated that although appellant had previously undergone corneal laser ablation to reduce his myopic prescription, the procedure did not affect the anatomical features of his posterior segment that were present in association with high myopia and were responsible for his risk of CNV. He cited medical literature which indicated that high blood pressure was not a risk factor for CNV and noted that neither optometrists, general ophthalmologists, nor retinologists considered elevated blood pressure, stress, or heavy lifting to be risk factors for the development of a submacular hemorrhage in high myopia cases. Dr. Yaros noted that Dr. Gurkaynak incorrectly stated that the act of lifting a heavy suitcase elevated appellant's blood pressure and led to rupture of retinal vessels, as it was the

choroidal vessels, not the retinal vessels, that were involved in appellant's diagnosed CNV condition. He opined that "there is no evidence that the onset of the submacular hemorrhage in the left eye was related to [appellant's] work activities." Dr. Yaros also opined that neither lifting a heavy suitcase nor stress caused, aggravated, accelerated, or precipitated appellant's left submacular hemorrhage. He explained that the left submacular hemorrhage could have become manifest at any time, and that it was only by chance that the condition occurred during his work hours.

By *de novo* decision dated February 12, 2024, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish causal relationship between his diagnosed left eye condition and the accepted September 17, 2019 employment incident.

On February 28, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on May 1, 2024.

By decision dated June 10, 2024, OWCP's hearing representative vacated the February 12, 2024 decision and remanded the case to OWCP for further development. The hearing representative instructed OWCP to request specific medical evidence from appellant. The hearing representative also instructed OWCP to provide the additional records to Dr. Yaros and request a supplemental opinion as to whether appellant's left eye hemorrhage was causally related to the accepted September 17, 2019 employment incident, whether by direct cause, aggravation, acceleration, or precipitation.

Appellant thereafter submitted a statement dated June 26, 2024, in which he noted that he underwent a Lasik procedure in 1996, had eye examinations between 2017 and 2019; and had received treatment for hypertension. He indicated that none of the associated medical records were available due to passage of time and retirement of his treating physician. Appellant attached medical reports by Dr. Zeba Syed, a Board-certified ophthalmologist, who performed corneal cross-linking (CXL) surgery to appellant's right and left eyes on May 25 and July 20, 2022, respectively. He also attached duplicate copies of the unsigned September 17, 2019 medical report and Dr. Gurkaynak's March 18, 2020 narrative report; a March 12, 2024 clinical profile by Dr. Hal Ganzman, an osteopathic family physician, which listed his blood pressure medications; and a pharmacy patient history report which documented his refills of blood pressure medication between December 27, 2016 and March 15, 2019.

In a supplemental report dated August 28, 2024, Dr. Yaros reviewed the additional medical records and indicated that his opinion remained unchanged.

By *de novo* decision dated September 30, 2024, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish causal relationship between his diagnosed left eye condition and the accepted September 17, 2019 employment incident.

On October 8, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. He later requested a review of the written record in lieu of an oral hearing.

By decision dated March 3, 2025, OWCP's hearing representative affirmed the September 30, 2024 decision, finding that the June 28, 2023, and February 2 and August 28, 2024 reports of Dr. Yaros represented the weight of the medical opinion evidence.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>6</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>7</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>8</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>9</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. There are two components involved in establishing fact of injury. The first component is that 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. The second component is that the employee must submit sufficient evidence to establish whether the employment incident caused a personal injury.<sup>10</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>11</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>12</sup>

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration or precipitation,

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<sup>6</sup> *Supra* note 2.

<sup>7</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>8</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>9</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>10</sup> *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Caralone*, 41 ECAB 354 (1989).

<sup>11</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>12</sup> *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.<sup>13</sup>

Section 8123(a) of FECA provides, in pertinent part: “If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician (known as a referee physician or an impartial medical examiner (IME)) who shall make an examination.”<sup>14</sup> This is called an impartial medical examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.<sup>15</sup> When there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an IME for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.<sup>16</sup>

### ANALYSIS

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

In December 17, 2019 and March 18, 2020 narrative reports, Dr. Gurkaynak diagnosed a subretinal hemorrhage with macular edema in the left eye. He opined that job-related stress and lifting a heavy suitcase elevated appellant’s blood pressure and aggravated his retinal vasculature, which caused the retinal vasculature to burst and leak in the left eye.

The second opinion physician, Dr. Yaros, in his reports dated June 28, 2023, and February 2 and August 28, 2024, opined that there was insufficient evidence to support a causal relationship between appellant’s left eye condition and the accepted September 17, 2019 employment incident. He explained that the left eye condition was the result of preexisting high myopia and that it was only by chance that it occurred during his work hours.

As noted above, if there is a disagreement between an employee’s physician and an OWCP referral physician, OWCP will appoint an IME who shall make an examination.<sup>17</sup> The Board finds that a conflict in medical opinion exists between Dr. Gurkaynak and Dr. Yaros regarding whether

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<sup>13</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *M.B.*, Docket No. 20-1275 (issued January 29, 2021).

<sup>14</sup> 5 U.S.C. § 8123(a).

<sup>15</sup> 20 C.F.R. § 10.321; *P.B.*, Docket No. 20-0984 (issued November 25, 2020); *R.C.*, 58 ECAB 238 (2006).

<sup>16</sup> See *W.N.*, Docket No. 21-0123 (issued December 29, 2021); *A.G.*, Docket No. 21-0315 (issued December 29, 2021); *R.R.*, Docket No. 19-0086 (issued February 10, 2021); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts*, 31 ECAB 1010 (1980).

<sup>17</sup> See *E.B.*, Docket No. 23-0169 (issued August 24, 2023); *S.S.*, Docket No. 19-1658 (issued November 12, 2020); *C.S.*, Docket No. 19-0731 (issued August 22, 2019).

appellant sustained a left eye condition causally related to the accepted September 17, 2019 employment incident.<sup>18</sup>

The case shall, therefore, be remanded for further development. On remand, OWCP shall refer appellant, along with the case record, an updated SOAF, and a series of questions, to an IME for resolution of the conflict in medical opinion evidence in accordance with 5 U.S.C. § 8123(a).<sup>19</sup> After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision regarding appellant's claim for compensation.

**CONCLUSION**

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

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 3, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: December 16, 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

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<sup>18</sup> See *D.W.*, Docket No. 24-0157 (issued March 26, 2024); *S.T.*, Docket No. 21-0906 (issued September 2, 2022); *S.M.*, Docket No. 19-0397 (issued August 7, 2019).

<sup>19</sup> *Y.M.*, Docket No. 23-0091 (issued August 4, 2023); *V.B.*, Docket No. 19-1745 (issued February 25, 2021).