

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

B.D., Appellant)	
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)	
and)	Docket No. 25-0852
U.S. POSTAL SERVICE, CHAMPLAIN POST OFFICE, Champlain, NY, Employer)	Issued: December 1, 2025
)	
)	

Appearances:

Paul Kalker, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 7, 2025 appellant, through counsel, filed a timely appeal from an August 29, 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.

ISSUE

The issue is whether appellant has met her burden of proof to establish a medical condition causally related to the accepted August 28, 2023 employment incident.

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.*

FACTUAL HISTORY

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

On August 30, 2023 appellant, then a 58-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on August 28, 2023, she injured her neck, back, and upper extremities when pushing a cart into a double door that was unexpectedly locked on one side, while in the performance of duty.⁴ She stopped work on August 28, 2023.

OWCP received an August 28, 2023 emergency department report and visit summary by Elizabeth Izzo, a certified physician assistant, wherein she recounted appellant's employment incident of that day. Ms. Izzo diagnosed bilateral wrist pain and pain in right lumbar region of the back. She returned appellant to work effective August 30, 2023 "with activities as tolerated."

OWCP received a completed authorization for examination and/or treatment (Form CA-16) authorizing treatment for the August 28, 2023 back injury.

In reports dated September 6, 2023, Michael Figliomeni, a physician assistant, diagnosed strain of muscle, fascia, and tendon of lower back, initial encounter and returned appellant to work with restrictions.

In reports dated September 13, 2023, Nia Phillips, a physician assistant, diagnosed a "[s]prain of unspecified parts of lumbar spine and pelvis, subsequent encounter."

In reports and a patient history form dated October 9, 2023, Dr. Eric King, a physician in family medicine, acknowledged a history of low back pain with an onset date of March 18, 2021, with treatment for lumbar radiculopathy on July 14, 2023 by Dr. Stephen M. Winfield, Board-certified in family practice. He diagnosed low back pain and lumbar radiculopathy. Dr. King held appellant off work through April 9, 2024.

In reports dated October 20, 2023, Sarah R. Stacey, a nurse practitioner, indicated that appellant had been treated for a back injury in 2019, prior to the claimed August 28, 2023 employment injury. She noted that Dr. King held appellant off work "for [six] months prior due to previous lumbar issues." Ms. Stacey prescribed physical therapy.

In a development letter dated November 1, 2023, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 60 days to provide the requested evidence.

³ *Order Remanding Case*, Docket No. 25-0405 (issued June 2, 2025).

⁴ OWCP assigned the present claim OWCP File No. xxxxxx089. Appellant has a previously-accepted occupational disease claim (Form CA-2) under OWCP File No. xxxxxx334 for other lumbar intervertebral disc displacement sustained on or before March 29, 2019.

Thereafter, OWCP received an additional October 20, 2023 report by Ms. Stacey.⁵

In a November 14, 2023 attending physician's report (Form CA-20), Dr. King indicated that appellant's injury occurred due to “[c]hronic work lifting and walking. Exacerbated by cart incident on [August 28, 20]23.” Dr. King diagnosed degenerative disease of the spine, and preexisting intervertebral disc degeneration. He noted that appellant's conditions were “aggravated by employment activity including the August 28, 2023 incident.”

In a November 21, 2023 report, Dr. Jacob Mihalkovic, a chiropractor, diagnosed lumbar radiculopathy caused by two bulging discs “confirmed through imaging studies.” He opined that the August 28, 2023 work incident where appellant pushed a heavy mail cart into locked doors exacerbated her symptoms, with increased right lumbar pain radiating into the right hip, gluteal, and posterior thigh regions. Appellant also reported left arm and shoulder injuries sustained in the August 28, 2023 incident. Dr. Mihalkovic further opined that the August 28, 2023 employment injury could “be directly connected to her previous history of low back conditions as it has caused previous symptoms to return and worsen since the injury occurred.”

In a November 28, 2023 work slip, Dr. King held appellant off work through April 1, 2024.

In a follow-up letter dated November 30, 2023, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the November 1, 2023 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

Thereafter, OWCP received a November 20, 2023 report by Pat Parker, a licensed clinical social worker, wherein she opined that appellant's employment injuries aggravated a preexisting post-traumatic stress disorder.

In reports dated December 8, 2023, Dr. Aaron Esterson, Board-certified in family practice, recounted a history of the August 28, 2023 employment incident and diagnosed cervical radiculopathy. He related that appellant did not want to return to work, pending an evaluation by a spine specialist. Dr. Esterson found appellant disabled from work commencing August 28, 2023.

By decision dated January 10, 2024, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a medical condition causally related to the accepted August 28, 2023 employment incident.

Thereafter, OWCP received a December 13, 2023 report, wherein Dr. Noah A. Kolb, a Board-certified neurologist, related a history of a 2019 employment injury to the lumbar spine, aggravated by driving, lifting mail, and twisting to retrieve items in her delivery truck. In 2023, her symptoms migrated from the left side to the right side of the lumbar region, with radiation into the right lower extremity.

⁵ OWCP also received physical therapy treatment notes dated October 20 and December 29, 2023.

December 29, 2023 x-rays of the cervical spine revealed Grade 1 spondylolisthesis of C4-5 with otherwise normal alignment, mild C5-6 degenerative disc disease with loss of disc height and posterior spondylitic ridging, and mild multilevel degenerative facet arthropathy.

In a January 8, 2024 report, Dr. James E. Wolf, Board-certified in anesthesiology and pain medicine, recounted a history of lumbar pain commencing in 2019, which had worsened and changed in August 2023. He diagnosed spondylosis of the lumbosacral spine without myelopathy.

In a March 15, 2024 report, Dr. Esterson related that a magnetic resonance imaging (MRI) scan demonstrated left-sided mild L3-4 stenosis, and multilevel degenerative changes. He diagnosed lumbar radiculopathy. Dr. Esterson opined that appellant's "recent and prior injuries while at work [were] certainly related to her job." He held appellant off work indefinitely. In a March 17, 2024 work slip, Dr. Esterson diagnosed cervical radiculopathy and held appellant off work through September 12, 2024.

In a July 31, 2024 report, Dr. Esterson opined that the August 28, 2023 employment incident where appellant pushed a heavy nutting cart into a locked door, jarring both hands and upper extremities, the lumbar region, and the lower extremities, had aggravated and worsened her 2019 occupational injuries.

In an August 6, 2024 report, Dr. Esterson opined that based on imaging studies, clinical findings, and subjective symptoms "highly suggestive of nerve pain originating in both the cervical and lumbar spine[]," it was "likely" that appellant's "cervical and lumbar radiculopathy have been caused by" the August 28, 2023 employment incident.

In a September 27, 2024 report, Dr. Esterson opined that appellant's diagnosed cervical radiculopathy was an "[o]bvious new injury" caused by the August 28, 2023 employment incident. He also opined that appellant's lumbar radiculopathy was occupationally related, with worsening symptoms through 2022 and 2023 prior to the August 28, 2023 employment incident, which increased her symptoms.

On December 17, 2024 appellant, through counsel, requested reconsideration.

By decision dated March 14, 2025, OWCP denied modification of the January 10, 2024 decision.

Appellant, through counsel, appealed to the Board. The Board, by order issued June 2, 2025,⁶ set aside OWCP's March 14, 2025 decision and remanded the case to administratively combine the present claim under OWCP File No. xxxxxx089 with appellant's prior claim, accepted for other lumbar vertebral disc displacement under OWCP File No. xxxxxx334, to be followed by a *de novo* decision.⁷

⁶ *Supra* note 3.

⁷ *Supra* note 4.

On July 17, 2025 OWCP administratively combined appellant's claims under OWCP File Nos. xxxxxx089 and xxxxxx334, with the latter designated as the master file.

By *de novo* decision dated August 29, 2025, OWCP again accepted that the August 28, 2023 employment incident occurred, as alleged. However, it denied appellant's claim, finding that she did not submit sufficient rationalized medical evidence to establish that the diagnosed medical conditions were causally related to the accepted August 28, 2023 employment incident.

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 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 whether the employee actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.¹²

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.¹³ 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.¹⁴

⁸ *Supra* note 2.

⁹ *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *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 *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *R.C.*, 59 ECAB 427 (2008); *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).

¹² *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).

¹³ See *C.M.*, Docket No. 25-0408 (issued April 16, 2025); *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).

¹⁴ *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *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).

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, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹⁵

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted August 28, 2023 employment incident.

Dr. King, in reports dated October 9 through November 28, 2023, diagnosed low back pain, lumbar radiculopathy, degenerative disease of the spine, and preexisting intervertebral disc degeneration. He opined that the August 28, 2023 employment incident aggravated previous lumbar conditions. Dr. King did not, however, provide rationale for his conclusory opinion. The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.¹⁶ As such, this evidence is insufficient to establish appellant's claim.

Dr. Esterson, in reports dated December 8, 2023 through September 27, 2024, related a history of the 2019 and August 28, 2023 employment incidents. In his August 6, 2024 report, he opined that the August 28, 2023 incident aggravated and worsened her 2019 occupational injuries, and that it was "likely" that the August 28, 2023 incident caused cervical and lumbar radiculopathy. In his September 27, 2024 report, Dr. Esterson indicated that appellant's diagnosed cervical radiculopathy was an "[o]bvious new injury" caused by the August 28, 2023 employment incident. While he attempted to support that the August 28, 2023 employment incident caused cervical and lumbar radiculopathy, he did not explain with supporting medical rationale how the accepted August 28, 2023 employment incident caused or aggravated appellant's diagnosed conditions.¹⁷ Furthermore, the Board has held that medical opinions couched with the term "likely" are speculative or equivocal in character and have little probative value.¹⁸ Thus, this evidence is insufficient to establish the claim.

Dr. Kolb, in a December 13, 2023 report, and Dr. Wolf, in a January 8, 2024 report, indicated that the 2023 employment injuries worsened appellant's preexisting lumbar pain.

¹⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *K.M.*, Docket No. 25-0649 (issued August 19, 2025); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *M.S.*, Docket No. 19-0913 (issued November 25, 2019).

¹⁶ 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).

¹⁷ *Id.*

¹⁸ See *F.S.*, Docket No. 22-0070 (issued June 14, 2023); *M.L.*, Docket No. 18-0153 (issued January 22, 2020); *N.B.*, Docket No. 19-0221 (issued July 15, 2019); *Z.B.*, Docket No. 17-1336 (issued January 10, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

However, the Board has held that pain is a description of a symptom, not a diagnosis of a medical condition.¹⁹ Therefore, this evidence is insufficient to establish appellant's claim.

OWCP also received reports signed by a physician assistant, nurse practitioner, physical therapist, and licensed clinical social worker. Certain healthcare providers, such as physical therapists, nurses, physician assistants, and social workers are not considered physicians as defined under FECA.²⁰ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.

OWCP received a November 21, 2023 report by Dr. Mihalkovic, a chiropractor, who diagnosed lumbar radiculopathy based on imaging studies. The Board notes that section 8101(2) of FECA provides that the term physician, as used therein, includes chiropractors 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 regulations by the Secretary.²¹ OWCP's implementing federal regulations at 20 C.F.R. § 10.5(bb) defines subluxation as an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae which must be demonstrated on x-ray.²² The Board has reviewed the report from Dr. Mihalkovic and finds that it does not diagnose a spinal subluxation as demonstrated by x-ray. As this report did not diagnose subluxation as demonstrated by x-ray, it does not constitute competent medical evidence.²³

OWCP also received December 29, 2023 x-rays of the cervical spine. The Board has held, however, that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment incident resulted in a medical condition.²⁴

¹⁹ See *K.S.*, Docket No. 19-1433 (issued April 26, 2021); *S.L.*, Docket No. 19-1536 (issued June 26, 2020); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020).

²⁰ Section 8101(2) of FECA provides that 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). See also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *L.C.*, Docket No. 21-0161 (issued January 12, 2022) (as physical therapists, nurses, physicians, and social workers are not considered physicians under FECA, their opinions will not suffice for purposes of establishing entitlement to FECA benefits). *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006); a report from a physician assistant or certified nurse practitioner will be considered medical evidence if countersigned by a qualified physician.

²¹ 5 U.S.C. § 8101(2).

²² *Id.*; 20 C.F.R. § 10.311.

²³ See *A.V.*, Docket No. 25-0682 (issued August 7, 2025); *G.L.*, Docket No. 24-0366 (issued May 17, 2024); see also *J.A.*, Docket No. 22-0869 (issued July 3, 2023); *L.M.*, Docket No. 22-0667 (issued November 1, 2022); *T.H.*, Docket No. 17-0833 (issued September 7, 2017); *George E. Williams*, 44 ECAB 533 (1993); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

²⁴ *K.M.*, *supra* note 15; *L.A.*, Docket No. 22-0463 (issued September 29, 2022); *D.K.*, Docket No. 21-0082 (issued October 26, 2021); *O.C.*, Docket No. 20-0514 (issued October 8, 2020); *R.J.*, Docket No. 19-0179 (issued May 26, 2020).

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted August 28, 2023 employment incident, the Board finds that appellant has not met her 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 her burden of proof to establish a medical condition causally related to the accepted August 28, 2023 employment incident.²⁵

ORDER

IT IS HEREBY ORDERED THAT the August 29, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 1, 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

²⁵ The Board notes that the employing establishment issued a September 1, 2023 Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).