

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

E.H., Appellant)
and)
DEPARTMENT OF DEFENSE, DEFENSE)
LOGISTICS AGENCY, Stockton, CA, Employer)

)
)

Docket No. 25-0858
Issued: December 2, 2025

Appearances:

Appellant, pro se

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 5, 2025 appellant filed a timely appeal from a July 17, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether OWCP properly denied authorization for a residential elevator.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that OWCP received additional evidence following the July 17, 2025 decision. 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 at the time of its final decision 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 was previously before the Board on different issues.³ The facts and circumstances as set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are as follows.

On July 21, 1997 appellant, then a 51-year-old supply management officer, filed a traumatic injury claim (Form CA-1) alleging that on July 16, 1997 he sustained injuries when his right leg below his prosthesis caught on a floor covering and he tripped while in the performance of duty.⁴ He stopped work in July 1997 and has not returned to work. OWCP initially accepted the claim for lumbar strain and right hip strain. It subsequently expanded acceptance of the claim to include lumbar spondylolisthesis; displacement of a lumbar intervertebral disc without myelopathy; pain due to internal orthopedic prosthetic devices, implants and grafts; and mechanical complication of internal orthopedic device, implant, and graft on the right side. On March 29, 1999 appellant underwent OWCP-authorized revision of right hip arthroplasty for aseptic loosening and dislocation. On December 14, 2017 he underwent OWCP-authorized right hip arthroplasty with acetabular bone grafting. On June 17, 2020 appellant underwent anterior spine fusion at levels L5- S1.

On January 27, 2020 OWCP authorized modifications to appellant's home in the amount of \$121,992.00. These modifications included conversion of existing office space into new accessible bathroom and finishing all areas; installation of new bathroom windows, refinishing exterior finishes and repainting to match; reconstruction of bedroom/bathroom wall for bathroom access way and barn door; installation of new front 3.0 door set with new threshold ramp, painting and finishing; installation of new rear 3.0 door set, widening interior doorway and repairing floor, painting and finishing; installation of new front and rear automatic door openers (2); installation of new plumbing service for new accessible master bathroom; installation of new electrical service panel, service to home and for new door openers; removal of rear steps and installation of new concrete landing and ramp with railing at rear doorway; installation of new touchless faucet and threshold ramps in kitchen, dining room, and office; relocation of floor return vent to wall and refinishing; reconstruction of second bathroom to provide space and utilities for new laundry area; provision of waste dumpster, cartage, and disposal; and municipal permits, architectural plans, and drawings.

In a letter dated April 5, 2022, appellant requested authorization for the installation of an elevator in his home due to his accepted employment-related conditions. He noted that his home was undergoing OWCP-approved renovations due to his accepted employment-related conditions and use of a wheelchair and other mechanical transport devices. Appellant contended that installation of an elevator would allow him to spend more time with his grandchildren when

³ Docket No. 99-1572 (issued April 17, 2001); Docket No. 10-241 (issued October 4, 2010); Docket No. 23-1011 (issued January 24, 2024).

⁴ OWCP assigned the present claim OWCP File No. xxxxxx025. Appellant has a prior claim before OWCP under OWCP File No. xxxxxx402. OWCP, by decisions dated August 11, 2008, and August 14, 2009, denied appellant's traumatic injury claim for an exacerbation of his preexisting avascular necrosis sustained on August 20, 1993. By decision dated October 4, 2010, the Board affirmed the August 14, 2009 decision. OWCP has administratively combined OWCP File Nos. xxxxxx025 and xxxxxx402, with the former serving as the master file.

they stayed with him and give him access to more than 50 percent of his home, which included use of a home office on the second level.

In support of his request, appellant submitted an April 4, 2022 note, wherein Dr. Jackie Chan, an attending podiatrist, noted that appellant was in the process of modifying his home to include a handicapped bathroom, various handicapped access points, and other modifications to assist him with his extremely limited mobility due to his serious work-related injuries. He further noted that appellant's medical conditions included right below the knee amputation, bilateral total hip replacements, bilateral rotator cuff repairs, multiple surgeries to the left knee, bilateral inguinal hernias, and lumbar spondylolisthesis status post L4-5 fusion with instrumentation. Dr. Chan related that appellant had an older style three level home that included a basement and a second level that had a number of bedrooms, an office, and a large playroom for his grandchildren. Access to the basement and top level of the home was through a narrow, steep, and angled stairwell. Dr. Chan indicated that appellant used a four-wheeled walker to ambulate short distances and a wheelchair or electric scooter in other circumstances due to his work-related injuries. He noted that appellant was unable to climb stairs, which prevented him from accessing the basement and second level living spaces of his home. Dr. Chan opined that a residential elevator in appellant's home along with other home modifications, were reasonable and necessary accommodations due to appellant's work-related injuries. He maintained that the accommodations would provide appellant with access to the upstairs office and playroom.

On May 12, 2022 OWCP referred a statement of accepted facts (SOAF) along with the medical record, including Dr. Chan's April 5, 2022 report, to Dr. Taisha S. Williams, a Board-certified orthopedic surgeon serving as an OWCP district medical adviser (DMA), for review and an opinion on whether the prescribed treatment was medically warranted and causally related to the accepted July 16, 1997 employment-related conditions.

In a May 31, 2022 medical report, Dr. Williams reviewed the SOAF and medical record. She noted appellant's history of injury and medical treatment. Dr. Williams opined that a residential elevator was not medically necessary due to the accepted July 16, 1997 employment injury. She explained that while appellant and Dr. Chan contended that a residential elevator would allow appellant access to an office and playroom for his grandchildren on the second level of his home, appellant's home was already being modified so that he could have access to a bedroom, bathroom, exit, and presumably a kitchen on the first level. Dr. Williams further explained that the current home renovation would allow appellant to perform all of his activities of daily living (ADLs) and instrumental activities of daily living (IADLs), such as bathing, dressing, and eating, on the first level. She concluded that there was no medical indication that an elevator was necessary to provide him with access to the second floor of his home.

By decision dated June 8, 2022, OWCP denied authorization for a residential elevator. It explained that the evidence of record, as represented by Dr. Williams, the OWCP DMA, did not support that the requested residential elevator was medically necessary to address the effects of appellant's work-related conditions under FECA.

On June 28, 2022 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. In support thereof, he submitted a June 27, 2022 letter, wherein

Dr. Chan noted a history of the July 16, 1997 employment injury and appellant's accepted conditions. Dr. Chan reviewed Dr. Williams' May 31, 2022 report and disagreed with her opinion that a residential elevator was not medically necessary. He contended that appellant's inability to climb stairs (especially after his last lumbar surgery) was caused by his accepted employment injury. Dr. Chan further contended that Dr. Williams' opinion was insufficient to carry the weight of the medical evidence because she neither examined appellant, nor conducted a telephone conversation with him. He reiterated his prior opinion that a residential elevator was medically necessary due to appellant's accepted employment injury.

In a progress note dated June 14, 2022, Dr. Alexander A. Theologis, a Board-certified orthopedic surgeon, indicated that appellant presented with back and leg pain and left leg weakness. He further noted that appellant had limited mobility and used a motorized scooter. Dr. Theologis related appellant's medical history, reviewed medical records, and reported examination findings. He diagnosed status post lumbar spinal fusion, lumbar radiculopathy, difficulty walking, isthmic spondylolisthesis, amputation below knee, and peripheral polyneuropathy.

By decision dated January 25, 2023, OWCP's hearing representative set aside the June 8, 2024 decision, finding that further development of the medical evidence was necessary. On remand the hearing representative directed OWCP to prepare a SOAF, and refer the medical record, including Dr. Chan's June 27, 2022 report, to its DMA for review and an opinion as to whether the requested residential elevator was medically necessary due to appellant's accepted July 16, 1997 employment injury.

On remand OWCP referred a SOAF and the medical record to Dr. Williams, serving as the DMA for OWCP. In a February 13, 2023 report, Dr. Williams reviewed the SOAF and medical record, including Dr. Chan's June 27, 2022 report and Dr. Theologis' June 14, 2022 report. She noted that while Dr. Chan originally maintained in his April 4, 2022 report that a residential elevator was medically necessary for appellant to use a home office and have access to his grandchildren's playroom on the second level of his home, Dr. Theologis' report revealed that appellant was not wheelchair-bound as he used a motorized scooter and had full power in his lower extremities. Dr. Williams further noted that other documents showed that he had an antalgic gait and occasionally used a walker or a cane. Based on this information, she advised that appellant was more than likely able to perform transfers. As such, Dr. Williams questioned why an elevator was requested instead of a stairlift, which could be installed quickly and provide appellant access to the other levels of his home in a timelier fashion. Additionally, she indicated that the records indicated that he had an antalgic gait and chronic back, knee, and hip pain. Dr. Williams did not disagree that these symptoms were causally related to the accepted work injury. As such, she agreed that these symptoms indicated that durable medical equipment may be necessary to help appellant access other levels of his home. Dr. Williams also did not disagree that there was a medical need for appellant to access other floors of his home, especially if his bedroom was on one of those floors but, she requested clarification of the indication for an elevator over other durable medical equipment, such as a stairlift.

On March 16, 2023 OWCP requested that Dr. Chan review Dr. Williams' February 13, 2023 report and provide a supplemental report clarifying the medical indication for an elevator over a stairlift.

In a March 27, 2023 report, Dr. Chan described appellant's home. He noted that appellant lived in a three-level home built in the 1920's with two separate staircases in different parts of the home. One staircase connected the middle and top levels and the second staircase connected the middle to lower level. Dr. Chan indicated that both staircases were extremely steep and narrow based on custom for construction in the 1920's. He advised that use of a stairlift would require a wheelchair on each of the three levels and personnel to assist in transfer. Dr. Chan further advised that use of a stairlift would necessitate installing two stairlifts, one for each staircase. He opined that a residential elevator was required based on appellant's work-related injuries resulting in his disability and confinement to a wheelchair and the above-mentioned structural home challenges. Dr. Chan concluded that this was the most practical approach as it would provide appellant access to all three levels of his home without the need for assistance from others.

On April 20, 2023 OWCP requested that Dr. Williams review Dr. Chan's March 27, 2023 report and provide an opinion on the medical necessity of a residential elevator.

In a May 17, 2023 report, Dr. Williams reviewed appellant's medical history in detail, as well as Dr. Chan's March 27, 2023 report. She agreed with his opinion that an elevator was medically warranted due to appellant's accepted employment injury. Dr. Williams explained that based on appellant's current symptoms and need for a wheelchair, medical equipment was necessary to assist appellant to assess other levels of his home.

By decision dated March 12, 2024, OWCP again denied authorization for a residential elevator. It explained that the evidence of record was insufficient to establish that the requested residential elevator was medically necessary to address the effects of appellant's work-related conditions under FECA. OWCP noted that it had previously made modifications to appellant's house to accommodate his limited mobility. It also noted that in 2016 when appellant bought his current home, which was after his July 16, 1997 employment injury, he was already ambulating using a combination of a wheelchair, cane, walker, and scooter.

On April 3, 2024 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

By decision dated August 7, 2024, an OWCP hearing representative affirmed the March 12, 2024 decision. The hearing representative explained that appellant's house had been modified to allow for single-level living and that it was purchased well after he was injured and when he was already incapable of accessing stairs.

On December 19, 2024 appellant requested reconsideration and submitted additional evidence. In a December 15, 2024 statement, he contended that without an elevator, he was being denied the ability to know whether maintenance or upkeep was required to keep himself and his family safe. Appellant noted that his upper-level master bedroom contained his exercise equipment. He asserted that the medical evidence established the benefits he would realize from having a residential elevator. Appellant noted that on the date of injury, he lived on the second level without an elevator.

In a September 25, 2024 letter, a general contractor advised that an elevator was the only solution that would provide appellant access to all levels of his home.

Dr. Theologis, in an October 15, 2024 report, noted that appellant was scheduled to undergo lumbar decompression at L3-4 with revision T10 pelvis posterior instrumented fusion and L4 pedicle subtraction osteotomy on March 23, 2025. He explained that installation of an elevator in appellant's home was necessary to provide him with access to his second-level master bedroom. Dr. Theologis maintained that this was highly recommended for his spine condition postoperative recovery. He noted that appellant would have postoperative restrictions and limited mobility. Dr. Theologis further maintained that an elevator would allow him to access his bedroom in a safe manner and avoid falls and injuries that may be detrimental to his postoperative recovery.

In a letter dated December 10, 2024, Dr. Derek Ward, a Board-certified orthopedic surgeon, noted appellant's medical conditions, which included right below the knee amputation, bilateral total hip replacements, bilateral rotator cuff repairs, multiple surgeries to left knee, bilateral inguinal hernias, spondylolisthesis lumbar region, and fusions at L4 and L5. He further noted that appellant was scheduled to undergo right shoulder replacement and a third spinal revision. Dr. Ward indicated that his medical history revealed that he had to use a four-wheeled walker to move short distances and a wheelchair or electric scooter to move about in other circumstances. Appellant was unable to climb stairs which prevented access to the lower level and upper-level master bedroom in his home. Dr. Ward related that he currently sleeping in an old-attached office which restricted his access to his clothing closet for shoes, shirts, and coats located upstairs in the master bedroom. He noted that modifications were made to appellant's home due to his serious employment-related injuries and resulting extremely limited mobility. Dr. Ward related that the home was an older three-level house with a large basement and two levels above. The upper-most levels had a number of bedrooms, an office, and a large playroom for appellant's grandchildren. Access to the basement and to the top level of the home was through two narrow, steep, and angled stairwells. Dr. Ward highly recommended that a residential elevator be placed in appellant's home as a reasonable accommodation due to his work-related injuries. He reasoned that this would provide him with access to the upstairs office, his grandchildren's playroom, and master bedroom. Dr. Ward reasoned that he would have full use of his home if not for his employment injury.

By decision dated July 17, 2025, OWCP denied modification of the August 7, 2024 decision. It concluded that the home modifications which were previously approved represented appellant's preinjury standard of living.

LEGAL PRECEDENT

Section 8103(a) of FECA⁵ provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed by or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly

⁵ 5 U.S.C. § 8103(a).

compensation.⁶ While OWCP is obligated to pay for treatment of employment-related conditions, the employee has the burden of proof to establish that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.⁷ Causal relationship requires supporting rationalized medical evidence.⁸ Therefore, in order to prove that, a service is warranted, a claimant must establish that the service was for a condition causally related to the employment injury and that the service was medically warranted. Both of these criteria must be met in order for OWCP to authorize payment.⁹

Section 10.310(a) of OWCP's implementing regulations provide that an employee is entitled to receive all medical services, appliances, or supplies which a qualified physician prescribes or recommends and which OWCP considers necessary to treat the work-related injury.¹⁰

In interpreting section 8103 of FECA, the Board has recognized that OWCP has broad discretion in approving services provided, with the only limitation on OWCP's authority being that of reasonableness.¹¹ OWCP has the general objective of ensuring that an employee recovers from his or her injury to the fullest extent possible, in the shortest amount of time. It therefore has broad administrative discretion in choosing means to achieve this goal.¹²

Abuse of discretion is shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.¹³

ANALYSIS

The Board finds that OWCP abused its discretion by denying authorization for a residential elevator.

⁶ *Id.*; see *V.A.*, Docket No. 21-1023 (issued March 6, 2023); *D.S.*, Docket No. 18-0853 (issued May 18, 2020); *L.D.*, 59 ECAB 648 (2008); *Thomas W. Stevens*, 50 ECAB 288 (1999).

⁷ *V.A.*, *id.*; *M.P.*, Docket No. 19-1557 (issued February 24, 2020); *M.B.*, 58 ECAB 588 (2007); *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981).

⁸ See *A.E.*, Docket No. 23-0470 (issued September 5, 2023); *R.C.*, Docket No. 21-1018 (issued September 1, 2023); *L.R.*, Docket No. 21-0018 (issued February 17, 2023); *A.N.*, Docket No. 20-0320 (issued March 31, 2021); *M.M.*, Docket No. 19-0491 (issued August 14, 2019); *K.W.*, Docket No. 18-1523 (issued May 22, 2019).

⁹ *Id.*

¹⁰ 20 C.F.R. § 10.310(a); see *V.A.*, *id.*; *D.W.*, Docket No. 19-0402 (issued November 13, 2019).

¹¹ *V.A.*, *id.*; *B.I.*, Docket No. 18-0988 (issued March 13, 2020); see also *Daniel J. Perea*, 42 ECAB 214, 221 (1990) (Thomas, Alternate Member, dissenting).

¹² *E.F.*, Docket No. 20-1680 (issued November 10, 2021); *D.S.*, *supra* note 6.

¹³ *Id.*; *P.L.*, Docket No. 18-0260 (issued April 14, 2020); *L.W.*, 59 ECAB 471 (2008); *Daniel J. Perea*, *supra* note 11.

OWCP accepted that on July 16, 1997 appellant sustained work-related lumbar, hip and thigh sprains; lumbar spondylolisthesis; pain due to internal orthopedic prosthetic devices, implants and grafts; displacement of a lumbar intervertebral disc without myelopathy; and mechanical complication of internal orthopedic device, implant, and graft on the right side. On March 29, 1999 appellant underwent OWCP-authorized revision of right hip arthroplasty for aseptic loosening and dislocation; on December 14, 2017, he underwent OWCP-authorized right hip arthroplasty with acetabular bone grafting; on June 17, 2020, appellant underwent anterior spine fusion at levels L5- S1.

OWCP granted authorization for indoor and outdoor modifications to appellant's home but, denied authorization for a residential elevator.

OWCP received a number of medical reports from appellant's treating physicians which concluded that appellant's accepted medical conditions required installation of a residential elevator. In reports dated April 4 and June 27, 2022 and March 27, 2023, Dr. Chan opined that a residential elevator in appellant's home was medically warranted due to the accepted July 16, 1997 employment-related conditions. He explained that appellant was unable to climb stairs, which prevented him from accessing the basement and second level living spaces in his home.

In a subsequent report dated March 27, 2023, Dr. Chan explained why an elevator rather than a stairlift was medically warranted. He noted that appellant's three-level home had structural challenges as it was built in the 1920's and had two separate extremely steep and narrow staircases in different parts of the home. Dr. Chan maintained that a stairlift would require a wheelchair on each of the three levels and personnel to assist in transfer from any durable medical equipment. He further maintained that the home would require the installation of two stairlifts, one for each staircase. Dr. Chan concluded that an elevator was the most practical approach because it would provide access to all three levels of the home without the need for assistance from others.

Similarly, in reports dated June 14, 2022 and October 15, 2024, Dr. Theologis supported authorization of a residential elevator. In his October 15, 2024 report, he noted that appellant was scheduled to undergo lumbar decompression at L3-4 with revision T10 pelvis posterior instrumented fusion and L4 pedicle subtraction osteotomy on March 23, 2025. Dr. Theologis explained that appellant would have postoperative restrictions and limited mobility and that an elevator was medically necessary to provide him with safe access to the second-level master bedroom in his home and avoid falls and injuries that may be detrimental to his postoperative recovery. In his December 10, 2024 report, Dr. Ward also related that a residential elevator should be provided to accommodate appellant's extremely limited mobility resulting from his accepted employment injury.

In her initial report dated May 31, 2022, Dr. Williams, OWCP's DMA, reviewed Dr. Chan's opinion that a residential elevator was not medically necessary due to the accepted employment injury. In a supplemental report dated February 13, 2023, she reviewed additional medical evidence of record and agreed that appellant's symptoms indicated that durable medical equipment may be necessary to help him access other levels of his home but requested an explanation for why an elevator was medically indicated over a stairlift.

While Dr. Williams, an OWCP DMA, initially questioned the need for a residential elevator, in a May 17, 2023 report, she reviewed Dr. Chan's March 27, 2023 report, along with appellant's medical record and agreed that an elevator was medically warranted due to appellant's accepted employment injury based on his current symptoms and the structural challenges in his home.

As the medical evidence of record fully supports appellant's medical need for a residential elevator, the Board finds that OWCP has abused its discretion.

CONCLUSION

The Board finds that OWCP improperly denied authorization for a residential elevator.

ORDER

IT IS HEREBY ORDERED THAT the July 17, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: December 2, 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