

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

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<p>R.G., Appellant ) and ) <b>U.S. POSTAL SERVICE, DOMINICK V.</b> ) <b>DANIELS PROCESSING &amp; DISTRIBUTION</b> ) <b>CENTER, Kearny, NJ, Employer</b> ) _____ )</p>	<p>) Docket No. 25-0637 Issued: July 21, 2025</p>
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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 June 23, 2025 appellant, through counsel, filed a timely appeal from a January 23, 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 continuing disability or residuals on or after September 13, 2021, causally related to his accepted February 8, 2004 employment injury.

## 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 February 8, 2004 appellant, then a 34-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on that date he sustained a right-sided lower back injury when using a manual jack to remove heavy boxes from a bundle sorter while in the performance of duty. He then began working in a limited-duty position as a full-time modified mail handler. OWCP accepted appellant's claim for lumbosacral sprain/strain. Appellant intermittently stopped work thereafter, and OWCP paid him wage-loss compensation on the supplemental rolls, effective March 25, 2004, and on the periodic rolls, effective June 13, 2004.

In early-2004, appellant came under the care of Dr. Juluru P. Rao, a Board-certified orthopedic surgeon. In a January 6, 2020 report, Dr. Rao diagnosed herniated nucleus pulposus (HNP) at L4-5 and L5-S1 and opined that appellant's condition was a direct result of the accepted February 8, 2004 employment injury. In a January 7, 2020 attending physician's report (Form CA-20), he diagnosed HNP at L4-5 and L5-S1 due to the reported employment activity and indicated that appellant was totally disabled from work from February 8, 2004 to "lifetime."

On April 2, 2021 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF) and a series of questions, to Dr. Frank Corrigan, a Board-certified orthopedic surgeon, for a second opinion examination regarding whether he had continuing work-related disability/residuals.

In an April 29, 2021 report, Dr. Corrigan reported findings of his physical examination, and opined that appellant had fully recovered from the accepted February 8, 2004 employment injury, and had no residuals of the accepted lumbosacral sprain. He opined that appellant continued to suffer from symptoms unrelated to the accepted February 8, 2004 soft-tissue injury of lumbosacral sprain, in that he suffered from a degenerative disc pathology, which was unrelated to the accepted February 8, 2004 employment injury. In an April 29, 2021 work capacity evaluation (Form OWCP-5c), Dr. Corrigan advised that appellant could work on a full-time basis, and noted that, due to his nonwork-related condition, he was restricted from lifting/pushing/pulling more than 20 pounds.

OWCP requested that Dr. Corrigan provide a supplemental report clarifying the cause of appellant's need for work restrictions. In a June 24, 2021 supplemental report, Dr. Corrigan indicated that the work restrictions he provided on April 29, 2021 were necessitated by appellant's chronic and degenerative pathology, and were not necessitated by the accepted condition of lumbosacral sprain.

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<sup>3</sup> Docket No. 22-0165 (issued August 11, 2022); Docket No. 23-0754 (issued November 27, 2023), Docket No. 24-0735 (issued September 3, 2024).

In a July 23, 2021 notice, OWCP advised appellant that it proposed to terminate his wage-loss compensation and medical benefits because he no longer had disability, or residuals causally related to his accepted February 8, 2004 employment injury. It found that the weight of the medical opinion evidence regarding work-related disability and residuals rested with the well-rationalized opinion of Dr. Corrigan. OWCP afforded appellant 30 days to submit additional evidence or argument. Appellant did not respond.

By decision dated September 13, 2021, OWCP finalized the notice of proposed termination of appellant's wage-loss compensation and medical benefits, effective that date, as he no longer had disability or residuals causally related to his accepted February 8, 2004 employment injury.

On September 14, 2021 OWCP received an August 21, 2021 report, wherein Dr. Rao opined that appellant was totally disabled and diagnosed HNP at L4-5 and L5-S1. He further opined that appellant's medical condition was a direct result of the accepted February 8, 2004 employment injury.

On October 5, 2021 appellant requested reconsideration of the September 13, 2021 decision.

By decision dated October 19, 2021, OWCP denied modification of its September 13, 2021 decision. It found that appellant failed to submit sufficient medical evidence to establish that he had continuing disability and residuals on or after September 13, 2021, causally related to the accepted February 8, 2004 employment injury.

Appellant appealed to the Board. By decision dated August 11, 2022,<sup>4</sup> the Board affirmed OWCP's September 13 and October 19, 2021 decisions. It found that OWCP properly terminated appellant's wage-loss compensation and medical benefits, effective September 13, 2021, and that appellant had not met his burden of proof to establish continuing disability or residuals on or after September 13, 2021, causally related to his accepted February 8, 2004 employment injury.

On November 17, 2022 appellant, through counsel, requested reconsideration.

Appellant submitted an October 22, 2022 report from Dr. Rao, who discussed the physical examination findings obtained on that date and opined that appellant's injuries were causally related to the accepted February 8, 2004 employment injury. Dr. Rao indicated that appellant was a healthy individual prior to February 8, 2004, with no preexisting back problems, and maintained that all symptoms of the lower back and lower extremities started after February 8, 2004.

By decision dated February 7, 2023, OWCP denied modification.

Appellant appealed to the Board. By decision dated November 27, 2023,<sup>5</sup> the Board affirmed OWCP's February 7, 2023 decision, finding that appellant had not met his burden of proof to establish continuing disability or residuals on or after September 13, 2021 causally related to his accepted February 8, 2004 employment injury.

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<sup>4</sup> Docket No. 22-0165 (issued August 11, 2022).

<sup>5</sup> Docket No. 23-0754 (issued November 27, 2023).

On January 26, 2024 appellant, through counsel, requested reconsideration.

Appellant submitted a January 15, 2024 report wherein Dr. Rao discussed the February 8, 2004 employment injury and noted that intervertebral disc degeneration, including rupture of the annulus fibrosus and herniation of the nucleus pulposus, starts in the fourth and fifth decades, and mostly is precipitated by a traumatic event. Dr. Rao stated that “a severe traumatic event, as sustained by [appellant] on February 8, 2004, can cause herniation of the disc to occur in a young person as [appellant], who was 34 years at the time of the incident.” He advised that a March 12, 2004 lumbar spine magnetic resonance imaging (MRI) scan demonstrated a disc herniation at L5-S1, and that a March 9, 2009 lumbar spine MRI scan demonstrated a disc herniation at L4-5. Dr. Rao maintained that, since appellant sustained a herniated disc at L5-S1 from the February 8, 2004 traumatic event, there was loss of mobility at L5-S1, causing more stress and mobility at L4-5, which led to a herniated disc at L4-5. He noted that this was “a natural progression of the disc where stresses are transferred to a higher level, causing herniation at L4-5 level as it happened with [appellant].” Dr. Rao indicated that appellant had a severe traumatic incident, which caused his herniated disc when he was trying to lift a 200-pound box with a hand jack. He stated that it was “quite clear from the biomechanical standpoint” that the herniated disc at L5-S1 happened secondary to the severe traumatic event in 2004, and “had led to progression of herniated disc at L4-5 level due to stress transfer to a higher level, leading to advanced multilevel disc disease.” Dr. Rao advised that appellant continued to experience severe pain radiating to both lower extremities, along with lower extremity weakness, and was disabled from performing any occupation.

By decision dated January 31, 2024, OWCP denied modification.

On February 12, 2024 appellant requested reconsideration and resubmitted a copy of Dr. Rao’s January 15, 2024 report. He also submitted a February 7, 2024 lumbar spine MRI scan, which contained an impression of disc bulges at multiple levels associated with an annular tear at L4-5, mild lateral recess stenoses at L2-3, L4-5, and L5-S1, and multilevel neural foraminal stenoses at L2-3, L4-5, and L5-S1.

By decision dated May 14, 2024, OWCP denied modification of its January 31, 2024 decision.

Appellant, through counsel, appealed to the Board. By decision dated September 3, 2024,<sup>6</sup> the Board affirmed the May 14, 2024 decision.

On January 17, 2025 appellant, through counsel, requested reconsideration.

Appellant submitted a December 4, 2024 report, wherein Dr. Rao discussed the February 8, 2004 employment injury and the subsequent medical treatment for that injury. Dr. Rao detailed the findings of lumbar spine MRI scans from March 12, 2004 and March 9, 2009, which demonstrated disc changes from L2-3 through L5-S1, and stated that appellant had been developing degenerative disc disease of the lumbar spine, which had been “progressing since his injury in 2004.” He noted that an MRI scan in 2009 revealed a disc herniation at L4-5. Dr. Rao stated, “[t]here is altered biomechanics of the spine due to disc herniation through the rupture of the annulus fibrosus and causing pressure on the nerve roots. Currently, he has evidence of a degenerative disc disease of the lumbar spine at L4-5 and L5-S1 levels due to

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<sup>6</sup> Docket No. 24-0735 (issued September 3, 2024).

altered biomechanics of the spine.” Dr. Rao maintained that the stresses of these altered biomechanics caused a progression of disc disease, which started at L5-S1 in 2004 and currently had progressed to the L3-4 level. He opined that appellant developed irreversible damage to the L4, L5, and S1 nerve roots due to the constant pressure of the herniated discs pressing on the nerve roots during the last 21 years. Dr. Rao noted that, therefore, appellant developed painful limitation of lumbar spine range of motion, sacroiliac joint arthritis, paresthesia, and sensory deficit in the lower extremities. He opined that appellant would not be able to perform any work that involved sitting more than 5 minutes, standing more than 10 minutes, or engaging in bending, kneeling, or squatting. Dr. Rao further opined that appellant was totally disabled and stated, “[b]ased on reasonable degree of medical certainty [appellant’s] current condition of progressive degenerative disease of the lumbar spine is a direct result of the accident he sustained to the lower back” on February 8, 2004.

By decision dated January 23, 2025, OWCP denied modification.

### **LEGAL PRECEDENT**

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee’s benefits.<sup>7</sup> After it has determined that, an employee has a disability causally related to his or her employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.<sup>8</sup> Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>9</sup> When OWCP properly terminates compensation benefits, the burden shifts to appellant to establish continuing residuals or disability after that date causally related to the accepted employment injury.<sup>10</sup> To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such causal relationship.<sup>11</sup>

### **ANALYSIS**

The Board finds that appellant has not met his burden of proof to establish continuing disability or residuals on or after September 13, 2021, causally related to his accepted February 8, 2004 employment injury.

Preliminarily, the Board notes that by decision dated September 3, 2024 it found that appellant had not met his burden of proof to establish continuing disability or residuals on or after September 13, 2021 causally related to his accepted February 8, 2004 employment injury. Findings made in prior Board decisions are res judicata and cannot be considered absent further

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<sup>7</sup> See Z.D., Docket No. 19-0662 (issued December 5, 2019); R.P., Docket No. 17-1133 (issued January 18, 2018); S.F., 59 ECAB 642 (2008); Kelly Y. Simpson, 57 ECAB 197 (2005); Paul L. Stewart, 54 ECAB 824 (2003).

<sup>8</sup> See R.P., *id.*; Jason C. Armstrong, 40 ECAB 907 (1989); Charles E. Minnis, 40 ECAB 708 (1989); Vivien L. Minor, 37 ECAB 541 (1986).

<sup>9</sup> See P.T., Docket No. 21-0328 (issued May 2, 2022); Del K. Rykert, 40 ECAB 284, 295-96 (1988).

<sup>10</sup> See S.M., Docket No. 18-0673 (issued January 25, 2019); C.S., Docket No. 18-0952 (issued October 23, 2018); Manuel Gill, 52 ECAB 282 (2001).

<sup>11</sup> *Id.*

merit review by OWCP under section 8128 of FECA.<sup>12</sup> Therefore, it is unnecessary for the Board to consider the evidence that was already of record prior to OWCP's May 14, 2024 decision.

Appellant subsequently submitted a December 4, 2024 report, wherein Dr. Rao discussed the February 8, 2004 employment injury and stated that appellant had been developing degenerative disc disease of the lumbar spine, which had been "progressing since his injury in 2004." Dr. Rao noted that an MRI scan in 2009 demonstrated a disc herniation at L4-5 and stated, "[t]here is altered biomechanics of the spine due to disc herniation through the rupture of the annulus fibrosus and causing pressure on the nerve roots. Currently, he has evidence of a degenerative disc disease of the lumbar spine at L4-5 and L5-S1 levels due to altered biomechanics of the spine." Dr. Rao maintained that the stresses of these altered biomechanics caused a progression of disc disease, which started at L5-S1 in 2004 and currently had progressed to the L3-4 level. He opined that appellant developed irreversible damage to the L4, L5, and S1 nerve roots due to the constant pressure of the herniated discs pressing on the nerve roots during the last 21 years. Dr. Rao noted that, therefore, appellant developed painful limitation of lumbar spine range of motion, sacroiliac joint arthritis, paresthesia, and sensory deficit in the lower extremities. He found that appellant was totally disabled and stated, "[b]ased on reasonable degree of medical certainty [appellant's] current condition of progressive degenerative disease of the lumbar spine is a direct result of the accident he sustained to the lower back" on February 8, 2004.

The Board finds that Dr. Rao's December 4, 2024 report does not contain sufficient rationale to establish that appellant had continuing disability or residuals on or after September 13, 2021, causally related to his accepted February 8, 2004 employment injury. Appellant's claim has only been accepted for lumbosacral sprain/strain and Dr. Rao's opinion that appellant sustained additional conditions related to the accepted February 8, 2004 employment injury lacks an adequate medical explanation. The Board has held that reports that do not contain medical rationale explaining how the accepted employment injury caused or contributed to the claimed disability/residuals are of limited probative value regarding causal relationship.<sup>13</sup> Therefore, this evidence is insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish continuing disability or residuals on or after September 13, 2021, causally related to the accepted February 8, 2004 employment injury, the Board finds that appellant has not met his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

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<sup>12</sup> See *R.L.*, Docket No. 23-0110 (issued July 28, 2023); *D.M.*, Docket No. 21-1209 (issued March 24, 2022); *T.R.*, Docket No. 20-0588 (issued June 25, 2021); *A.G.*, Docket No. 18-0329 (issued July 26, 2018); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

<sup>13</sup> See *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017). See also *L.G.*, Docket No. 19-0142 (issued August 8, 2019) (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).

**CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish continuing disability or residuals on or after September 13, 2021, causally related to his accepted February 8, 2004 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 23, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 21, 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