

² The Board notes that, following the February 12, 2025 decision, a appellant submitted additional evidence to OWCP and on appeal to the Board. However, the Board’s *Rules of Procedures* 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 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 has previously been before the Board.³ The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On September 23, 2019, appellant, then a 59-year-old automotive technician, filed a traumatic injury claim (Form CA-1) alleging that on September 19, 2019 he felt pain in the lower left abdomen when pushing a vehicle out of a stall while in the performance of duty. He stopped work on September 23, 2019 and worked intermittently thereafter.

Thereafter, OWCP received a September 20, 2019 chart note, wherein Dr. Mitzi T. Jimenez, a family practitioner, diagnosed a left inguinal hernia and referred appellant to a surgeon. In a work slip of the same date, Dr. Jimenez returned appellant to light duty with restrictions.

In an October 11, 2019 work slip, Dr. Jimenez held appellant off work.

In an October 31, 2019 duty status report (Form CA-17), Dr. Jimenez diagnosed a left inguinal hernia. She opined that appellant's condition was caused or aggravated by his employment activity.

By decision dated November 15, 2019, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed condition and the accepted September 19, 2019 employment incident.

Thereafter, OWCP received an October 31, 2019 report, wherein Dr. Jorge Guerrero, a family practitioner, held appellant off work pending hernia surgery.

On December 2, 2019, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on February 11, 2020.

Thereafter, OWCP received a November 29, 2019 report, wherein Dr. Guerrero related that appellant was at work on September 19, 2019, "when he bent forward and pushed on a bumper of an automobile with increased force and felt a pop to left inguinal area. [Appellant] noticed a large bulge [one-and-a-half] hours after incident." An October 31, 2019 examination revealed a "large left inguinal bulging mass, a widened left inguinal canal," and a traumatic hernia. On examination, Dr. Guerrero observed an unchanged left inguinal hernia. He opined that appellant needed "inguinal evaluation for possible hernia repair." In work slips dated October 31 and November 29, 2019, Dr. Guerrero held appellant off work pending hernia surgery.

In a January 27, 2020 report, Dr. Paul E. Kobza, an osteopath Board-certified in orthopedic surgery, treated appellant for an injury sustained at work when appellant pushed a vehicle and felt severe pain and a pulling sensation in his groin. He diagnosed left unilateral inguinal hernia without obstruction or gangrene. Dr. Kobza recommended left inguinal hernia repair with mesh

³ Docket No. 23-1027 (issued April 3, 2024); Docket No. 20-1602 (issued May 26, 2021).

reinforcement. In physician's preoperative orders he diagnosed left inguinal hernia. In an accompanying Form CA-17 dated January 27, 2020, Dr. Kobza noted that the diagnosis due to injury was left inguinal hernia and advised that appellant could return to work with restrictions on January 28, 2020. In a note dated January 27, 2020, he determined that appellant was incapacitated from doing his regular work duties.

In a March 2, 2020 report, Dr. Kobza noted that appellant would have a 10-pound lifting restriction pending surgery. In a Form CA-17 of even date, he diagnosed a left inguinal hernia.

By decision dated March 20, 2020, the hearing representative affirmed the November 15, 2019 decision.

OWCP subsequently received a January 2, 2020 Form CA-17, wherein Dr. Guerrero diagnosed a tender left inguinal hernia and opined that the diagnosis was due to the September 19, 2019 employment incident.

In a March 2, 2020 report, Dr. Kobza noted his treatment of appellant for a left inguinal hernia that developed after pushing a vehicle at work on September 19, 2019, with the immediate onset of pain and a pulling sensation. He diagnosed left unilateral inguinal hernia without obstruction or gangrene and recommended a left inguinal hernia repair.

OWCP received additional reports and Forms CA-17 dated May 7, 2020 wherein Dr. Kobza found appellant's condition unchanged. He recounted that appellant was injured at work on September 19, 2019 after pushing a car with the brakes engaged, with the immediate onset of severe pain and a pulling sensation. Dr. Kobza diagnosed left inguinal hernia. He opined that appellant "sustained pain in the left groin due to strain that was placed while pushing" the car, which "caused the tear causing the left groin hernia."

On May 19, 2020, appellant requested reconsideration.

Thereafter, OWCP received reports dated April 6 through August 10, 2020 wherein Dr. Kobza diagnosed a left inguinal hernia and noted work restrictions pending surgery.

By decision dated August 17, 2020, OWCP denied modification of the March 20, 2020 decision.

On September 8, 2020, appellant appealed to the Board.⁴

OWCP received work slips and Form CA-17 reports dated September 17, 2020 through April 22, 2021 wherein Dr. Kobza found appellant's condition unchanged. Dr. Kobza noted work restrictions pending surgery.

⁴ Docket No. 20-1602 (issued May 26, 2021).

By decision dated May 26, 2021, the Board affirmed the March 20 and August 17, 2020 OWCP decisions.

OWCP subsequently received a December 17, 2020 chart note, and work slips dated July 19 and October 18, 2021, wherein Dr. Kobza found appellant's left inguinal hernia unchanged. Dr. Kobza noted work restrictions.

On January 19, 2022, appellant requested reconsideration.

In Form CA-17 reports and work slips dated February 24 and June 23, 2022, Dr. Kobza diagnosed a left inguinal hernia and noted a 10-pound lifting restriction.

By decision dated September 30, 2022, OWCP denied modification.

On December 1, 2022, appellant requested reconsideration.

Thereafter, OWCP received a November 22, 2022 report wherein Dr. Kobza opined that appellant's injury was sustained at work due to the nature of his job duties. Dr. Kobza asserted that the left inguinal hernia "was an outcome of [appellant] pushing a [long life vehicle (LLV)] car with activated brakes."

By decision dated February 27, 2023, OWCP denied modification.

Appellant appealed to the Board. By decision dated April 3, 2024, the Board affirmed OWCP's February 27, 2023 decision.⁵

On February 6, 2025, appellant requested reconsideration.

In a January 27, 2020 report, Dr. Kobza recommended left inguinal hernia repair with mesh reinforcement.

In chart notes dated March 2, April 6, May 7, and August 10, 2020, and July 19, 2021, Dr. Kobza recounted that appellant experienced left inguinal pain at work after he pushed a vehicle that was not working. He opined that the "strain that was placed while pushing LLV car" caused left groin pain and "caused the tear causing the left groin hernia."

In an October 19, 2020 report, Dr. Kobza noted that appellant sustained a left inguinal injury at work after he pushed a nonfunctional LLV and immediately experienced "severe pain and a pulling sensation." Dr. Jimenez thereafter diagnosed an inguinal hernia. Dr. Kobza opined that after appellant pushed the LLV, "he sustained pain in the left groin due to strain that was placed while pushing LLV car at that time I believe caused the tear causing the left groin hernia."

⁵ Docket No. 23-1027 (issued April 3, 2024).

In reports dated December 17, 2020, and October 18, 2021, Dr. Kobza found appellant's examination unchanged.

In reports dated April 22, 2021, February 24, 2022, and June 23, 2022, Dr. Kobza noted that appellant was in front of an LLV vehicle that no longer ran as it had been in high water. As appellant tried to push the vehicle manually out of the shop, the brakes locked up. "Due to locked brakes and using much force," appellant felt burning left groin pain radiating to the left testicle, developed a bulge, and had no feeling in his left groin later that evening. Dr. Kobza opined that "this is a work-related injury."

By decision dated February 12, 2025, OWCP denied modification.⁶

LEGAL PRECEDENT

An employee seeking benefits under FECA⁷ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed with the applicable time limitation, that an injury was sustained while in the performance of duty, as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁸ These are the essential elements of every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁹

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, OWCP must first determine whether fact of injury has been established.¹⁰ There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the

⁶ Although appellant requested reconsideration from the Board's April 3, 2024 decision, OWCP is not authorized to review Board decisions. The decisions and orders of the Board are final as to the subject matter appealed and such decisions and orders are not subject to review, except by the Board. See 20 C.F.R. § 501.6(d). Accordingly, OWCP's February 27, 2023 decision is the appropriate subject of possible modification.

⁷ *Supra* note 1.

⁸ *E.S.*, Docket No. 18-1580 (issued January 23, 2020); *M.E.*, Docket No. 18-1135 (issued January 4, 2019); *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁹ *E.S.*, *id.*; *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

¹⁰ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *S.P.*, *id.*

time and place, and in the manner alleged.¹¹ Second, the employee must submit evidence to establish that the employment incident caused an injury.¹²

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹³ A physician's opinion on whether there is a causal relationship between the diagnosed condition and the employment incident must be based on a complete factual and medical background.¹⁴ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the accepted employment incident.¹⁵

ANALYSIS

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

Initially, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's February 27, 2023 decision, which was considered by the Board in its April 3, 2024 decision. Findings made in prior Board decisions are *res judicata* absent further merit review under section 8128 of FECA.¹⁶

Dr. Kobza, in reports dated April 22, 2021, February 24, and June 23, 2022 that as appellant tried to push the vehicle manually out of the shop, the brakes locked up. "Due to locked brakes and using much force," appellant felt burning left groin pain radiating to the left testicle, developed a bulge, and had no feeling in his left groin later that evening. Dr. Kobza emphasized "this is a work-related injury."

The Board finds that Dr. Kobza's opinion, while insufficient to meet appellant's burden of proof to establish the claim, is sufficient to require further development of the medical evidence as to whether appellant has a left inguinal hernia causally related to the accepted September 19,

¹¹ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Bonnie A. Contreras*, *supra* note 8.

¹² *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *David Apgar*, 57 ECAB 137 (2005); *John J. Carlone*, 41 ECAB 354 (1989).

¹³ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

¹⁴ *S.V.*, Docket No. 22-1010 (issued February 21, 2023); *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁵ *Id.*

¹⁶ *C.M.*, Docket No. 19-1211 (issued August 5, 2020); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

2019 employment incident.¹⁷ His reports raise an uncontroverted inference between the diagnosed left inguinal hernia and the accepted employment incident.¹⁸

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹⁹ OWCP has an obligation to see that justice is done.²⁰

The Board shall, therefore, remand the case to OWCP for further development of the medical evidence. On remand, OWCP shall refer appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions to a specialist in the appropriate field of medicine for a rationalized opinion regarding whether appellant sustained a left inguinal hernia causally related to the accepted September 19, 2019 employment incident. If the second opinion physician disagrees with the opinion of Dr. Kobza, he or she must provide a fully rationalized explanation of why the accepted September 19, 2019 employment incident was insufficient to have caused or contributed to appellant's left inguinal hernia. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

¹⁷ *D.L.*, Docket No. 25-0288 (issued March 10, 2025); *Y.B.*, Docket No. 22-0121 (issued November 19, 2024); *B.S.*, Docket No. 22-1289 (issued August 20, 2024); *J.L.*, Docket No. 23-0733 (issued October 12, 2023); *C.S.*, Docket No. 22-1087 (issued May 1, 2023); *D.V.*, Docket No. 21-0383 (issued October 4, 2021); *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.S.*, Docket No. 19-0506 (issued July 23, 2019); *H.T.*, Docket No. 18-0979 (issued February 4, 2019); *D.W.*, Docket No. 17-1884 (issued November 8, 2018); *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone*, *supra* note 12.

¹⁸ *B.S.*, Docket No. 22-1289 (issued August 20, 2024); *D.V.*, *id.*; *K.S.*, *id.*; *H.T.*, *id.*; *D.W.*, *id.*; *John J. Carlone*, *supra* note 12.

¹⁹ *Id.*; *see also S.G.*, Docket No. 22-0330 (issued April 4, 2023); *M.G.*, Docket No. 18-1310 (issued April 16, 2019); *Walter A. Fundinger, Jr.*, 37 ECAB 200, 204 (1985); *Michael Gallo*, 29 ECAB 159, 161 (1978).

²⁰ *B.S.*, *supra* note 18; *see C.M.*, Docket No. 17-1977 (issued January 29, 2019); *A.J.*, Docket No. 18-0905 (issued December 10, 2018); *B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, *supra* note 17; *John J. Carlone*, *supra* note 12.

ORDER

IT IS HEREBY ORDERED THAT the February 12, 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: June 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