

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

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**S.W., Appellant**

**and**

**U.S. POSTAL SERVICE, EAST ST. LOUIS  
POST OFFICE, East St. Louis, MO, Employer**  
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**Docket No. 25-0473  
Issued: May 15, 2025**

*Appearances:*

*Alan J. Shapiro, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On April 11, 2025 appellant, through counsel, filed a timely appeal from a March 28, 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.

**ISSUE**

The issue is whether appellant has met her burden of proof to expand the acceptance of her claim to include a right hip condition as causally related to, or as a consequence of, the accepted January 31, 2012 employment injury.

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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.*

## **FACTUAL HISTORY**

On January 31, 2012 appellant, then a 52-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed a left knee condition due to factors of her federal employment. She noted that she had previously injured her right knee at work and was favoring her right leg during prolonged walking, standing, and bending.<sup>3</sup> Appellant indicated that she first became aware of her condition and realized its relationship to her federal employment on January 31, 2012. She stopped work on April 20, 2012, returned to full-time modified-duty work on September 26, 2012, and retired from federal service on December 10, 2012. OWCP accepted the claim for sprain of medial collateral ligament (MCL) of left knee.

Appellant underwent arthroscopic partial medial meniscectomy of the left knee on June 13, 2012, left compartmental arthroplasty on February 19, 2015 and revision left total knee replacement (TKR) on May 3, 2017. On July 31, 2020 she underwent left total knee arthroplasty explant, left knee temporary antibiotic spacer placement, and bone biopsies of the distal femur, proximal tibia, and patella due to an infected implant.

On December 29, 2022 appellant, through counsel, requested expansion of the acceptance of her claim to include right hip osteoarthritis and trochanteric bursitis. In support of her expansion claim, she submitted an October 17, 2022 x-ray of the right hip, which revealed mild degenerative changes and noted a history of right hip pain for two to four weeks with “no known injury.”

In an October 26, 2022 medical report, Jamaine Thomas, a physician assistant, noted that appellant related complaints of worsening right hip pain for the past two to three years, which she attributed to feeling “off balance as if one leg is longer than the other.” He noted her history of left knee TKR, explant, and revision. Mr. Thomas documented physical examination findings and diagnosed trochanteric bursitis of the right hip and gluteal tendinitis of the right buttock.

OWCP also received a physical therapy report dated November 2, 2022.

In a development letter dated January 27, 2023, OWCP informed appellant of the deficiencies of her claim for expansion. It advised her of the type of medical evidence necessary and afforded her 30 days to respond.

OWCP thereafter received an October 13, 2022 medical report by Dr. Amardeep Shrestha, a Board-certified internist, who noted appellant’s history of a right hip injection in December 2021. Dr. Shrestha performed a physical examination and observed right trochanteric tenderness. He diagnosed right trochanteric bursitis.

In a December 13, 2022 follow-up report, Dr. Shrestha noted appellant’s history of left TKR and revision. He performed a physical examination and observed right trochanteric

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<sup>3</sup> OWCP assigned the present claim OWCP File No. xxxxxx230. Appellant has two previously accepted occupational disease claims for injuries involving her lower extremities, including September 18, 2000 bilateral bunion and hallux valgus deformities and bilateral plantar fasciitis under OWCP File No. xxxxxx128 and December 23, 2004 bilateral plantar fascial fibromatosis, bilateral stress fractures, and bilateral calcaneal spurs under OWCP File No. xxxxxx233. She also has a prior October 26, 2009 traumatic injury claim (Form CA-1), which OWCP accepted for sprain, tears of medial meniscus, and primary osteoarthritis of the right knee under OWCP File No. xxxxxx040. OWCP administratively combined OWCP File Nos. xxxxxx128, xxxxxx233, xxxxxx040, and xxxxxx230, with the latter serving as the master file.

tenderness. Dr. Shrestha diagnosed right hip trochanteric bursitis and acquired leg length discrepancy, which he indicated was “likely a risk factor for trochanteric bursitis, right shorter than left.”

On November 7, 2023, OWCP referred appellant’s case to Dr. Arthur S. Harris, a Board-certified orthopedic surgeon serving as an OWCP district medical adviser (DMA), for review and comment on appellant’s expansion claim.

In a November 9, 2023 report, Dr. Harris opined that the record was insufficient to expand the January 31, 2012 claim to include a right hip condition.

On August 6, 2024, OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Michael Ralph, a Board-certified orthopedic surgeon, for a second opinion examination.

In an August 24, 2024 report, Dr. Ralph reviewed the medical record and SOAF and noted that appellant walked with a normal gait and had no obvious swelling or deformity of either knee. On physical examination he observed good muscle strength of the lower extremities, slightly reduced range of motion (ROM) of the left knee compared to the right, no significant instability, and complaints of pain when he “simply [touched] her skin.” Dr. Ralph obtained leg length measurements and noted that appellant’s right lower extremity was approximately two centimeters shorter than her left lower extremity. He also noted that the Allis test, which measures femoral lengths, was negative. Dr. Ralph opined that “there is no way” that the implant choices would explain a two-centimeter leg length discrepancy. He indicated that his “only conclusion is that the vast majority of this had been present all along and is just simply a normal variant.” Dr. Ralph also explained that there were “no accepted objective clinical studies in the orthopedic literature to suggest that leg length discrepancies create other problems in and of themselves.”

By decision dated October 9, 2024, OWCP denied expansion of the acceptance of appellant’s claim to include a right hip condition causally related to, or as a consequence of, the accepted January 31, 2012 employment injury.

On October 15, 2024, appellant, through counsel, requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review, which took place on January 13, 2025.

By decision dated March 28, 2025, OWCP’s hearing representative affirmed the October 9, 2024 decision.

### **LEGAL PRECEDENT**

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>4</sup> When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the claimant’s own intentional

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<sup>4</sup> *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

misconduct.<sup>5</sup> Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.<sup>6</sup>

To establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, an employee must submit rationalized medical evidence.<sup>7</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 the specific employment factors identified by the claimant.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include a right hip condition as causally related to, or as a consequence of, the accepted January 31, 2012 employment injury.

In support of her expansion claim, appellant submitted reports dated October 13 and December 13, 2022 by Dr. Shrestha who diagnosed right trochanteric bursitis, which he indicated was “likely a risk factor for trochanteric bursitis, right shorter than left.” However, Dr. Shrestha did not explain with sufficient rationale how the accepted January 31, 2012 employment injury caused an injury to appellant’s right hip.<sup>9</sup> A medical report is of limited probative value on the issue of causal relationship if it contains an opinion regarding causal relationship which is unsupported by medical rationale.<sup>10</sup> Medical opinions that are speculative or equivocal are of diminished probative value.<sup>11</sup> For these reasons, Dr. Shrestha’s reports are insufficient to establish expansion of the claim.<sup>12</sup>

Appellant also submitted notes by a physician assistant and physical therapy records. The Board has held that certain healthcare providers such as physician assistants and physical therapists are not considered physicians as defined under FECA and, therefore, are not competent to provide

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<sup>5</sup> See *J.M.*, Docket No. 19-1926 (issued March 19, 2021); *I.S.*, Docket No. 19-1461 (issued April 30, 2020); see also *Charles W. Downey*, 54 ECAB 421 (2003).

<sup>6</sup> *J.M., id.*; *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

<sup>7</sup> See *V.A.*, Docket No. 21-1023 (issued March 6, 2023); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>8</sup> *E.P.*, Docket No. 20-0272 (issued December 19, 2022); *I.J.*, 59 ECAB 408 (2008).

<sup>9</sup> 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).

<sup>10</sup> *J.H.*, Docket No. 24-0415 (issued May 23, 2024); *C.C.*, Docket No. 15-1056 (issued April 4, 2016); see *T.M., id.*; *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *William C. Thomas*, 45 ECAB 591 (1994).

<sup>11</sup> See *L.B.*, Docket No. 23-0099 (issued July 26, 2023); *C.C.*, Docket No. 22-0609 (issued October 25, 2022); *H.A.*, Docket No. 18-1455 (issued August 23, 2019); *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

<sup>12</sup> *B.W.*, Docket No. 21-0536 (issued March 6, 2023); *M.M.*, Docket No. 20-1557 (issued November 3, 2021).

a medical opinion. Therefore, this evidence is of no probative value and is insufficient to establish appellant's expansion claim.<sup>13</sup>

OWCP also received an October 17, 2022 x-ray of the right hip. The Board, however, has held that reports of diagnostic tests, standing alone, lack probative value as they do not provide an opinion as to whether the accepted employment factors caused the diagnosed condition.<sup>14</sup> Thus, this evidence is insufficient to establish appellant's expansion claim.

In his August 24, 2024 report, Dr. Ralph, the second opinion physician, opined that there was insufficient evidence to support a causal relationship between appellant's right hip condition and her accepted left knee injury. He explained that "there is no way" that the implant choices would explain a two-centimeter leg length discrepancy and that his "only conclusion is that the vast majority of this had been present all along and is just simply a normal variant." Dr. Ralph also explained that there were "no accepted objective clinical studies in the orthopedic literature to suggest that leg length discrepancies create other problems in and of themselves." The Board has reviewed the opinion of Dr. Ralph and finds that it has reliability, probative value and convincing quality with respect to its conclusions regarding the relevant issue.<sup>15</sup> Accordingly, the Board finds that the weight of the medical evidence is represented by Dr. Ralph's opinion regarding causation with respect to appellant's expansion claim.

As the medical evidence of record is insufficient to establish expansion of the acceptance of the claim to include a right hip condition as causally related to, or as a consequence of, appellant's accepted employment injury, the Board finds that she 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 expand the acceptance of her claim to include a right hip condition as causally related to, or as a consequence of, the accepted January 31, 2012 employment injury.

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<sup>13</sup> 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* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). *See also M.C.*, Docket No. 24-0901 (issued October 22, 2024) (physician assistants are not considered physicians as defined by FECA); *K.D.*, Docket No. 22-0756 (issued November 2022) (a physical therapist is not considered a physician under FECA).

<sup>14</sup> *W.T.*, Docket No. 23-0323 (issued August 15, 2023); *V.Y.*, Docket No. 18-0610 (issued March 6, 2020); *G.S.*, Docket No. 18-1696 (issued March 26, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

<sup>15</sup> *See D.L.*, Docket No. 23-0850 (issued March 8, 2024).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 28, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 15, 2025  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board