

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

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K.W., Appellant )  
and ) Docket No. 25-0707  
DEPARTMENT OF JUSTICE, FEDERAL )  
BUREAU OF PRISONS, FEDERAL )  
DETENTON CENTER-MIAMI, Miami, FL, )  
Employer )  
Issued: September 10, 2025

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*Appearances:*

*Appellant, pro se*

*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

JANICE B. ASKIN, Judge

**JURISDICTION**

On July 21, 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 Act<sup>1</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 left knee osteophyte, bilateral knee primary osteoarthritis, left knee effusion, and left knee post-traumatic osteoarthritis as causally related to, or consequential to, the accepted March 10, 2000 employment injury.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On March 10, 2000 appellant, then a 26-year-old corrections officer, filed a traumatic injury claim (Form CA-1) alleging that on that date she developed right knee pain when she stepped on a clothing hanger causing her to slip and fall while in the performance of duty. She stopped work on the date of injury and returned to work on March 14, 2000. OWCP accepted the claim for right knee lateral collateral ligament sprain, right knee medial meniscus tear, right knee chondromalacia, right knee osteophyte, and right knee post-traumatic osteoarthritis. Appellant underwent right knee arthroscopy, anterior cruciate ligament (ACL) reconstruction, partial medial and lateral meniscectomies, and extensive synovectomy on June 8, 2000.

In a report dated May 21, 2024, appellant's treating physician, Dr. Brett P. Frykberg, a Board-certified orthopedic surgeon, recounted appellant's history of injury and medical treatment. Dr. Frykberg diagnosed bilateral knee pain, bilateral knee primary osteoarthritis, bilateral knee osteophyte, bilateral knee effusion, and bilateral knee post-traumatic osteoarthritis. He reported left knee physical examination findings of moderate medial patellofemoral joint tenderness and moderate patella crepitus; and range of motion (ROM) of 5 to less than 120 degrees of flexion. Dr. Frykberg opined that appellant's claim should be expanded to include a left knee consequential exacerbation. He explained that appellant's offloading of her right knee when it was painful exacerbated her preexisting left knee conditions.

On June 13, July 23, and September 27, 2024 appellant requested expansion of her claim to include left knee conditions based on Dr. Frykberg's May 21, 2024 report. In the September 27, 2024 request, appellant explained that she had previously injured her left knee in 1991. She underwent surgery and had not experienced left leg symptoms until she sustained her right knee injury, which caused her to overcompensate and rely heavily on her left leg.

On October 31, 2024 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Arnold G. Smith, an orthopedic surgeon, for a second opinion. OWCP requested that Dr. Smith determine the nature and extent of any employment-related disability and to determine whether the acceptance of her claim should be expanded to include left knee primary osteoarthritis, left knee osteophyte, left knee effusion, and bilateral knee post-traumatic osteoarthritis as causally related to the March 10, 2000 employment injury.

In a report dated November 23, 2024, Dr. Smith recounted the history of appellant's March 10, 2000 employment injury, reviewed medical evidence and the SOAF. He noted that she had current left knee findings of tenderness over the medial meniscus and tenderness on palpation of the patella. However, Dr. Smith indicated that he had found no reference to a left knee injury. Regarding appellant's right knee, he related that her employment injury of March 10, 2000 caused permanent injury. Dr. Smith related that due to the employment injury appellant had a right knee anterior cruciate ligament implanted, and a loose part of the medial meniscus was removed, which has resulted in damage to the medial knee compartment. Despite having undergone corrective surgery, appellant still had significant loss of flexion of the right knee. In responding to OWCP's questions, Dr. Smith found that appellant's subjective complaints did correspond with objective findings.

By decision dated December 19, 2024, OWCP denied expansion of the acceptance of the claim to include left knee osteophyte, bilateral knee primary osteoarthritis, left knee effusion, and bilateral knee post-traumatic osteoarthritis as causally related to, or consequential to, the accepted March 10, 2000 employment injury. It relied on Dr. Smith's opinion that the additional diagnosed conditions were not supported by physical examination findings.

On December 30, 2024 appellant requested reconsideration, asserting that the questions posed to the second opinion physician were inappropriate regarding whether her claim should be expanded to include additional conditions.

On December 31, 2024 OWCP prepared a new referral letter. The first question presented asked the physician to address whether the treating physician's examination findings supported the diagnoses of bilateral knee primary osteoarthritis, left knee osteophyte, and left knee effusion. The query also asked that the physician address whether and how the work injury or factors of employment as described in the SOAF, or the accepted work conditions, caused or contributed to the diagnosed conditions. FECA definitions of causation were also made part of the letter.

On January 23, 2025 OWCP again referred appellant, along with the medical record, a SOAF, and a series of questions, to Dr. Smith for an updated second opinion examination regarding whether the accepted employment injury or conditions resulted in the additional diagnosed conditions of left knee osteophyte, left knee primary osteoarthritis, and left knee effusion.

In a February 4, 2025 addendum, Dr. Smith noted that appellant had reinjured her right knee four and a half years earlier, and despite operative treatment, she still complained of pain. He noted that, on physical examination, both of appellant's knees were tender on palpation.

On March 19, 2025 OWCP referred appellant, along with a SOAF, medical record, and a series of questions, for a second opinion examination with Dr. Brian C. Leung, a Board-certified orthopedic surgeon.

In a report dated April 3, 2025, Dr. Leung recounted the history of appellant's March 10, 2000 employment injury and noted that appellant had undergone a left knee ACL reconstruction in 1991. He noted the accepted diagnoses of right knee collateral ligament sprain, right knee medial meniscus tear, right knee osteophyte, right knee chondromalacia, and right knee unilateral post-traumatic osteoarthritis. On examination of the left knee, Dr. Leung reported tenderness over the medial joint space. Review of appellant's left knee x-ray revealed severe tricompartmental knee osteoarthritis, joint space narrowing, subchondral sclerosis, and interference screws present on tibia and femur consistent with prior ACL reconstruction. Dr. Leung related that appellant's subjective complaints of bilateral knee pain, swelling, clicking and catching, as well as bilateral knee medial joint space tenderness corresponded with her objective findings. He opined that the work injury directly caused the right knee osteoarthritis, but found no evidence that her left knee osteoarthritis had been caused by her accepted employment injury. Rather, appellant's prior left knee surgery might have contributed to her left knee osteoarthritis.

By decision dated July 17, 2025, OWCP denied modification.

## **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>2</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 misconduct.<sup>3</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>4</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>5</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>6</sup>

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.<sup>7</sup>

## **ANALYSIS**

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

In an April 3, 2025 report, Dr. Leung, OWCP's second opinion physician, noted the accepted diagnoses of right knee collateral ligament sprain, right knee medial meniscus tear, right knee osteophyte, right knee chondromalacia, and right knee unilateral post-traumatic osteoarthritis. He opined that the accepted work injury directly caused appellant's right knee osteoarthritis, but found no evidence that her left knee osteoarthritis had been caused by her accepted employment injury. The Board finds that Dr. Leung's opinion regarding claim expansion

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<sup>2</sup> *D.F.*, Docket No. 25-0528 (issued June 9, 2025); *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

<sup>3</sup> See *D.F.*, *id.*; *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>4</sup> *D.F.*, *id.*; *J.M.*, *id.*; *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

<sup>5</sup> See *D.F.*, *id.*; *V.A.*, Docket No. 21-1023 (issued March 6, 2023); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>6</sup> *D.F.*, *id.*; *E.P.*, Docket No. 20-0272 (issued December 19, 2022); *I.J.*, 59 ECAB 408 (2008).

<sup>7</sup> *D.F.*, *id.*; Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); see *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

was conclusory in nature. A conclusory opinion provided by a physician, without sufficient rationale, is of diminished probative value.<sup>8</sup>

Proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. The claimant has the burden of proof to establish entitlement to compensation, but OWCP shares responsibility in the development of the evidence to see that justice is done.<sup>9</sup> Once OWCP undertakes development of the medical evidence, it must produce medical evidence that will resolve the relevant issues in the case.<sup>10</sup> In a situation where OWCP secures an opinion from a second opinion physician and the opinion from such second opinion physician requires clarification or elaboration, it has the responsibility to secure a supplemental report from the physician for the purpose of correcting the defect in the original opinion.<sup>11</sup>

The case must therefore be remanded for further development. On remand, OWCP shall obtain a rationalized supplemental opinion from Dr. Leung sufficiently explaining whether appellant's left knee conditions were causally related to, or consequential to, the accepted employment injury. If Dr. Leung is unavailable or unwilling to provide such clarification, OWCP must refer the case to a new second opinion physician for a rationalized medical opinion on the issue in question.<sup>12</sup> Following 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.

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<sup>8</sup> See *C.P.*, Docket No. 21-1120 (issued January 27, 2023); *C.W.*, Docket No. 20-1339 (issued September 15, 2021); *J.A.*, Docket No. 20-1258 (issued August 4, 2021); *G.Y.*, Docket No. 19-1683 (issued March 16, 2021); *A.C.*, Docket No. 19-1522 (issued July 27, 2020); *J.O.*, Docket No. 19-0326 (issued July 16, 2019); *J.D.*, Docket No. 14-2061 (issued February 27, 2015).

<sup>9</sup> *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *S.S.*, Docket No. 18-0397 (issued January 15, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

<sup>10</sup> See *L.C.*, Docket No. 25-0304 (issued May 5, 2025); *K.A.*, Docket No. 23-0773 (issued November 1, 2024); *S.A.*, Docket No. 18-1024 (issued March 12, 2020); *L.B.*, Docket No. 19-0432 (issued July 23, 2019); *William J. Cantrell, id.*

<sup>11</sup> See *I.S.*, Docket No. 25-0093 (issued March 14, 2025); *L.C.*, *id.*; *G.L.*, Docket No. 23-0584 (issued April 1, 2024); *M.F.*, Docket No. 23-0881 (issued December 6, 2023); *G.T.*, Docket No. 21-0170 (issued September 29, 2021); *Ayanle A. Hashi*, 56 ECAB 234 (2004).

<sup>12</sup> *L.C.*, *id.*; *G.L.*, *id.*; *S.F.*, Docket No. 23-0509 (issued January 24, 2024); *D.W.*, Docket No. 20-0674 (issued September 29, 2020).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 17, 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: September 10, 2025  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board