

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

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<b>J.O., Appellant</b>	)	
	)	
<b>and</b>	)	
	)	<b>Docket No. 26-0086</b>
	)	<b>Issued: April 3, 2026</b>
<b>DEPARTMENT OF DEFENSE, DEFENSE</b>	)	
<b>COMMISSARY AGENCY, KIRTLAND AIR</b>	)	
<b>FORCE BASE, NM, Employer</b>	)	
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*Appearances:*  
*Wayne Johnson, 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 November 14, 2025 appellant, through counsel, filed a timely appeal from a June 13, 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 a lumbar spine condition causally related to the accepted October 18, 2021 employment incident.

## **FACTUAL HISTORY**

On November 9, 2021 appellant, then a 47-year-old meatcutter, filed a traumatic injury claim (Form CA-1) alleging that on October 18, 2021 he injured his lower back when it popped while he was lifting and organizing meat boxes in the performance of duty. He did not stop work. On the reverse side of the claim form, appellant's supervisor indicated that he had a nonwork-related condition.

In an October 18, 2021 note, Dr. Teri Miller, Board-certified in emergency medicine, indicated that appellant had been treated at the emergency department that day. She released appellant to work with restrictions on October 22, 2021.

OWCP also received an October 22, 2021 note by Robert Martin, a certified physician assistant, who noted that appellant had received a trigger point injection and that appellant had a 15-pound lifting restriction.

In a development letter dated November 12, 2021, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and afforded him 30 days to submit the necessary evidence.

OWCP thereafter received an October 27, 2021 note by Kerri Kremer, a certified family nurse practitioner, who noted that appellant had been denied work restrictions recommended by a vascular surgeon, that he had returned to his usual work performing heavy lifting, following which he experienced a low back injury.

In an October 18, 2021 emergency department after-visit summary, Dr. Miller diagnosed low back pain with radiation.

In a duty status report (Form CA-17) dated November 19, 2021, Dr. Athanasios K. Manole, a Board-certified occupational medicine specialist, diagnosed degenerative disc disease, lumbar strain, and varicose veins lower extremity. He released appellant to return to light-duty work as of November 19, 2021.

In a November 24, 2021 attending physician's report (Form CA-20), Dr. Manole diagnosed lumbar radiculopathy and degenerative disc disease. He related appellant's history of an October 18, 2021 employment injury and checked a box marked "Yes" to indicate that the diagnosed conditions were work related. Dr. Manole explained the activity of lifting boxes reinjured appellant's degenerative disc disease.

By decision dated December 30, 2021, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a lumbar spine condition causally related to the accepted October 18, 2021 employment incident.

On January 18, 2022 appellant requested reconsideration.

Thereafter, OWCP received December 1 and 13, 2021 progress reports, wherein Dr. Manole related a history of appellant lifting boxes on October 18, 2021 followed by a flare up of pain, and a history of a low back injury in 2017 with pain on and off for the prior four years, with the pain intensifying since the lifting injury. Dr. Manole noted examination findings and his interpretation of an October 21, 2021 x-ray of appellant's lumbar spine and a November 3, 2021 lumbar spine magnetic resonance imaging (MRI) scan. He assessed small superimposed posteriorly directed disc extrusion in the central zone and left subarticular zone at L5-S1, with left-sided radicular pain. Dr. Malone opined that appellant could return to light-duty work. He opined that the left L5-S1 disc extrusion with left-sided radicular pain was related to the October 18, 2021 employment incident. In January 21 and February 1, 2022 Form CA-17s, Dr. Malone diagnosed lumbar strain and lumbar radiculopathy and released appellant to light-duty work.

By decision dated April 18, 2022, OWCP denied modification.

On April 18, 2023 appellant, through counsel, requested reconsideration.

OWCP received medical reports from Dr. Terry Hansen, a Board-certified physiatrist. In May 3, July 7 and 15, August 3, 9, and 12, September 8 and 22, and October 17, 2022 progress reports, Dr. Hansen related appellant's history of lifting boxes on October 18, 2021 and flare up of pain. He noted that appellant had a history of a low back injury in 2017 with pain on and off for the last four years, but the pain has intensified since the lifting injury. Dr. Hansen reviewed diagnostic testing and provided examination findings. He assessed lumbar radiculopathy with chronic pain syndrome, noting corresponding diagnoses of intervertebral disc disorders with radiculopathy, lumbar region; other low back pain; chronic pain syndrome; and spondylosis without myelopathy or radiculopathy, lumbar region. Dr. Hansen opined that the diagnoses were related to the October 18, 2021 employment incident.

A May 3, 2022 bilateral electromyography (EMG) study indicated chronic L5 *versus* S1 radiculopathy on the left.

In progress reports dated January 21 and 27, February 1 and 25, March 8, April 13, and May 17, 2022, Dr. Manole opined that the disc extrusion at L5-S1 with left-sided radicular pain was related to the October 18, 2021 employment incident. OWCP also received January 21, February 22, April 13, and May 17, 2022 return to work notes from Dr. Manole.

By decision dated July 13, 2023, OWCP denied modification.

On July 13, 2024 appellant, through counsel, requested reconsideration.

OWCP received reports dated October 3, 2023 through January 30, 2024, wherein Dr. Martin diagnosed lumbar radiculopathy with chronic pain syndrome, and lumbar spondylosis without myelopathy or radiculopathy.

In September 1, 2023 and March 20, 2024 progress reports, Dr. Manole assessed lumbar radiculopathy with chronic pain syndrome, and status post spinal cord stimulator placement. He opined that appellant's corresponding diagnoses of intervertebral disc disorders with

radiculopathy, lumbar region; other low back pain; chronic pain syndrome; and spondylosis without myelopathy or radiculopathy, lumbar region were related to the October 18, 2021 employment incident.

By decision dated August 12, 2024, OWCP denied modification.

On May 22, 2025 appellant, through counsel, requested reconsideration.

OWCP received a May 2, 2025 narrative report, wherein Dr. Manole noted appellant's history of October 18, 2021 flare up of pain while lifting boxes, and his prior injury in 2017. Dr. Malone also summarized appellant's medical treatment. He opined that the diagnoses directly caused by the October 18, 2021 employment incident were: intervertebral disc disorder with radiculopathy, lumbar region; other low back pain; chronic pain syndrome; and spondylosis without myelopathy or radiculopathy, lumbar region. Dr. Malone explained that although appellant had characterized the October 18, 2021 employment incident as a flare up, from a medical standpoint, it was a clear, distinct new injury. He stated that appellant described a pop in his back while lifting and he developed pain radiating down his left leg, a symptom he did not have with prior injuries. Dr. Malone also noted that appellant had returned to full-duty activities after a short period of time with prior back injuries; however, the current injury incapacitated him from his regular work. He further stated that diagnostic testing showed disc extrusion with clinical correlation. Thus, Dr. Malone concluded that the above diagnoses were caused by the October 18, 2021 employment incident.

By decision dated June 13, 2025, OWCP denied modification.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,<sup>4</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether the

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<sup>3</sup> *Id.*

<sup>4</sup> *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>5</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>6</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

employee actually experienced the employment incident at the time, place and in the manner alleged. The second component is whether the employment incident caused an injury.<sup>7</sup>

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, 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 specific employment incident identified by the employee.<sup>9</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>10</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a lumbar spine condition causally related to the accepted October 18, 2021 employment incident.

In an October 18, 2021 note, Dr. Miller indicated that appellant had been treated at the emergency department that day and released appellant to work with restrictions on October 22, 2021. In an October 18, 2021 after-visit summary, she diagnosed low back pain with radiation. Dr. Miller did not, however, provide an opinion as to the cause of appellant's conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>11</sup> Therefore, this evidence is insufficient to establish the claim.

In a November 24, 2021 CA-20 form report, Dr. Manole related appellant's history of an October 18, 2021 employment injury and checked a box marked "Yes" to indicate that the diagnosed conditions were work related. The Board has held that form reports which contain a box checked "Yes" in support of causal relationship, without further explanation or rationale, are

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<sup>7</sup> *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>8</sup> *See C.M.*, Docket No. 25-0408 (issued April 16, 2025); *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>9</sup> *See B.D.*, Docket No. 25-0852 (issued December 1, 2025); *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>10</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *K.M.*, Docket No. 25-0649 (issued August 19, 2025); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *M.S.*, Docket No. 19-0913 (issued November 25, 2019).

<sup>11</sup> *S.E.*, Docket No. 26-0036 (issued January 29, 2026); *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

insufficient to establish the claim.<sup>12</sup> Dr. Manole also noted in his November 24, 2021 form report that the activity of lifting boxes reinjured appellant's degenerative disc disease. However, the Board, has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is not supported by medical rationale. This evidence is therefore insufficient to establish the claim.

Dr. Manole, in progress reports dated December 1, 2021 through March 20, 2024, opined that appellant's diagnoses were related to the October 18, 2021 employment incident. Similarly, Dr. Hansen, in progress reports dated May 3 through October 17, 2022, opined that appellant's diagnoses were related to the October 18, 2021 employment incident. However, neither Dr. Manole, nor Dr. Hansen, explained with supporting medical rationale how the accepted October 18, 2021 employment incident caused or aggravated appellant's diagnosed conditions.<sup>13</sup> The Board has held that medical opinion evidence must offer a medically-sound explanation of how the specific employment incident physiologically caused injury.<sup>14</sup> As Dr. Manole and Dr. Hansen did not explain how the October 18, 2021 employment incident physiologically caused the diagnosed conditions, the Board finds that this evidence is insufficient to establish appellant's claim.

In CA-17 form reports and return to work notes dated November 19, 2021 through May 17, 2022, Dr. Manole did not provide an opinion as to the cause of appellant's conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>15</sup> Therefore, this evidence is insufficient to establish the claim.

In a May 2, 2025 narrative report, Dr. Manole noted appellant's history of October 18, 2021 flare up of pain while lifting boxes, and his prior injury in 2017. He also summarized appellant's medical treatment. Dr. Manole opined that the diagnoses directly caused by the October 18, 2021 employment incident were: intervertebral disc disorder with radiculopathy, lumbar region; other low back pain; chronic pain syndrome; and spondylosis without myelopathy or radiculopathy, lumbar region. He explained that although appellant had characterized the October 18, 2021 employment incident as a flare up, from a medical standpoint, it was a clear, distinct new injury. Dr. Manole stated that appellant described a pop in his back while lifting and he developed pain radiating down his left leg, a symptom he did not have with prior injuries. He also noted that appellant had returned to full duty activities after a short period of time with prior back injuries; however, the current injury incapacitated him from his regular work. Dr. Manole

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<sup>12</sup> *S.M.*, Docket No. 17-1727 (issued July 9, 2018); *see R.S.*, Docket No. 15-1834 (issued December 23, 2015); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

<sup>13</sup> *S.C.*, Docket No. 25-0898 (issued January 21, 2026); *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>14</sup> *C.L.*, Docket No. 25-0593 (issued July 15, 2025); *K.J.*, Docket No. 21-0020 (issued October 22, 2021); *L.R.*, Docket No. 16-0736 (issued September 2, 2016); *J.R.*, Docket No. 12-1099 (issued November 7, 2012); *Douglas M. McQuaid*, 52 ECAB 382 (2001).

<sup>15</sup> *S.E.*, Docket No. 26-0036 (issued January 29, 2026); *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

further stated that diagnostic testing showed disc extrusion with clinical correlation. Thus, he concluded that the above diagnoses were caused by the October 18, 2021 employment incident. The Board has held, however, that medical evidence that states a conclusion but does not offer a rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>16</sup> Thus, this evidence is insufficient to establish the claim.

OWCP also received evidence signed by a physician assistant and a family nurse practitioner. However, certain healthcare providers such as nurse practitioners, and physician assistants are not considered physicians as defined under FECA.<sup>17</sup> Thus, this evidence is of no probative value and is insufficient to establish appellant's claim.

The remaining evidence of record consists of diagnostic study reports. However, diagnostic studies, standing alone, lack probative value on causal relationship as they do not address whether employment factors caused the diagnosed condition.<sup>18</sup>

As the medical evidence of record is insufficient to establish a lumbar spine condition causally related to the accepted October 18, 2021 employment incident, 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.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a lumbar spine condition causally related to the accepted October 18, 2021 employment incident.

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<sup>16</sup> See *S.M.*, Docket No. 21-0149 (issued June 21, 2021); *J.W.*, Docket No. 18-0678 (issued March 3, 2020); see *V.T.*, Docket No. 18-0881 (issued November 19, 2018); *T.M.*, *supra* note 13; *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

<sup>17</sup> Section 8101(2) of FECA provides that medical opinions can only be given by a qualified physician. This section defines a physician as 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); see also *A.C.*, Docket No. 24-0661 (issued September 11, 2024) (medical reports signed solely by a nurse, physician assistant, or physical therapist are of no probative value, as such healthcare providers are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion); *M.F.*, Docket No. 19-1573 (issued March 16, 2020) (medical reports signed solely by a physician assistant or a nurse practitioner are of no probative value as these care providers are not considered physicians as defined under FECA).

<sup>18</sup> See *A.J.*, Docket No. 25-0250 (issued May 27, 2025); *T.Y.*, Docket No. 25-0255 (issued April 2, 2025); *B.O.*, Docket No. 25-0049 (issued January 10, 2025); *A.D.*, Docket No. 24-0770 (issued October 22, 2024); *T.L.*, Docket No. 22-0881 (issued July 17, 2024); *C.S.*, Docket No. 19-1279 (issued December 30, 2019).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 13, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 3, 2026  
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