

Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

ISSUES

The issues are: (1) whether appellant has met her burden of proof to expand the acceptance of her claim to include additional conditions causally related to, or consequential to, her accepted October 13, 2022 employment injury (2) whether appellant has met her burden of proof to establish disability from work commencing October 13, 2022, causally related to her accepted October 13, 2022 employment injury.

FACTUAL HISTORY

On February 21, 2023 appellant, then a 62-year-old health systems specialist, filed a notice of recurrence (Form CA-2a) alleging that she sustained a recurrence of disability on October 13, 2022 causally related to her accepted March 28, 2022 employment injury.⁴ She alleged that on October 13, 2022, while walking outdoors over uneven surfaces in cold, rainy weather to attend a meeting held in another building, she experienced severe low back and right knee pain. Appellant stopped work on October 13, 2022.

OWCP received an October 18, 2022 report by Dr. Edward C. Rabbitt, a Board-certified orthopedic surgeon, wherein he recounted a history of the October 13, 2022 employment incident. On examination, Dr. Rabbitt found tenderness to palpation of the lumbosacral region with limited motion. He diagnosed lumbar strain and right knee pain.⁵

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the June 4, 2025 decision, OWCP received additional evidence. The Board's *Rules of Procedure* 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.*

⁴ OWCP adjudicated appellant's recurrence claim as a claim for a new traumatic injury, as appellant identified a new traumatic employment event. It assigned the present claim OWCP File No. xxxxxx661. Appellant has prior claims before OWCP. Under OWCP File No. xxxxxx883, OWCP accepted appellant's traumatic injury claim (Form CA-1) for a March 27, 2019 sprain of ligaments of lumbar spine, initial encounter, and sprain of ligaments of cervical spine, initial encounter, sustained when appellant was struck by a vehicle. Under OWCP File No. xxxxxx950, OWCP accepted appellant's traumatic injury claim (Form CA-1) for a March 28, 2022 right knee sprain, initial encounter, right knee sprain, subsequent encounter, sprain of unspecified site of right knee, initial encounter, and right knee contusion, sustained when she twisted her back and right knee while bracing herself to prevent a fall down stairs.

⁵ A November 2, 2022 magnetic resonance imaging (MRI) scan of the right knee revealed a horizontal medial meniscal tear, degenerative fraying of the lateral meniscus, and mild cartilage loss in the medial and lateral compartments. A November 2, 2022 MRI scan of the lumbar spine revealed multilevel degenerative changes, most prominent at L5-S1, where there was a posterior disc protrusion impressing the traversing left S1 nerve root, with mild right neural foraminal narrowing and moderate left neural foraminal narrowing.

In reports dated November 14, 2022 through February 27, 2023, Dr. Rabbitt diagnosed lumbosacral degenerative disc disease, lumbar strain, lumbar disc herniation, whiplash injury to neck in a 2018 nonoccupational motor vehicle accident, and right knee medial meniscal tear. He held appellant off work.

In a December 15, 2022 report and a work slip of even date, Dr. Chee-Hahn Hung, a Board-certified physiatrist, held appellant off work due to lumbar degenerative disc disease, cervical spine sprain, and a herniated disc.

On April 17, 2023, OWCP accepted the claim for lumbar strain.

In a development letter dated April 17, 2023, OWCP informed appellant of the deficiencies of her claim for consequential degenerative lumbosacral disease, and right knee medial meniscus tear. It advised her of the type of factual and medical evidence necessary to establish her claim and afforded her 30 days to respond.

OWCP subsequently received an April 21, 2022 report by Dr. Sharda Katyal, Board-certified in preventive medicine, wherein she diagnosed a right knee sprain.

By decision dated July 11, 2023, OWCP denied expansion of the acceptance of the claim to include lumbosacral degenerative disc disease and a right medial meniscal tear as causally related to, or consequential to, the accepted October 13, 2022 employment injury.

OWCP subsequently received work slips dated February 13 through April 12, 2023, wherein Dr. Rabbitt found appellant disabled from work due to a right knee medial meniscal tear.

In a May 8, 2023 work slip, Dr. Alan G. Schreiber, a Board-certified orthopedic surgeon, held appellant off work for the period March 8 through June 9, 2023 due to a torn right knee medial meniscus.

In a June 4, 2023 work capacity evaluation (Form OWCP-5c), Dr. Hung held appellant off work due to pain. He noted that appellant was awaiting approval for lumbar epidural injections and a right knee arthroscopy.

On July 19, 2023 appellant filed a series of claims for compensation (Form CA-7) for disability from work for the period October 13, 2022 through July 14, 2023.

OWCP subsequently received a February 15, 2023 report, wherein Dr. Rabbitt held appellant off work for the period January 18 through March 1, 2023, due to a right knee medial meniscal tear and lumbar disc herniation. Dr. Rabbitt opined that appellant's conditions were directly due to her October 13, 2022 employment injury.

In a development letter dated July 25, 2023, OWCP informed appellant of the deficiencies of her claim for disability from work commencing October 13, 2022. It advised her of the type of medical evidence needed to establish her claim and afforded her 30 days to submit the necessary evidence.

On August 10, 2023 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review of the July 11, 2023 OWCP denial of expansion.

By decision dated October 17, 2023, OWCP denied appellant's claim for wage-loss compensation for disability from work commencing October 13, 2022, causally related to her accepted October 13, 2022 employment injury.

Following a preliminary review, by decision dated November 2, 2023, OWCP's hearing representative set aside the July 11, 2023 denial of expansion, finding that Dr. Rabbitt should be asked to provide a well-rationalized report as to how the October 13, 2022 employment injury caused, aggravated, accelerated, or precipitated appellant's lumbar degenerative disc disease and right knee medial meniscal tear. Upon receipt of the supplemental report and other necessary development, OWCP was directed to issue a *de novo* decision regarding expansion of the acceptance of the claim.

On November 9, 2023 OWCP administratively combined appellant's claims under OWCP File Nos. xxxxxx883, xxxxxx661, and xxxxxx950, with the latter serving as the master file.

In a November 9, 2023 letter, OWCP requested that Dr. Rabbitt review an enclosed statement of accepted facts (SOAF) and provide a supplemental report regarding whether the accepted October 13, 2022 employment injury directly caused, aggravated, accelerated, or precipitated appellant's lumbar degenerative disc disease and right medial meniscal tear. It afforded him 30 days to respond. No response was received within the time allotted.

On November 16, 2023 appellant, through counsel requested an oral hearing before a representative of OWCP's Branch of Hearings and Review of OWCP's October 17, 2023 denial of disability decision.

By *de novo* decision dated December 13, 2023, OWCP denied expansion of the acceptance of the claim to include lumbosacral degenerative disc disease and a right medial meniscal tear as causally related to, or consequential to, the accepted October 13, 2022 employment injury.

On January 12, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review from OWCP's December 13, 2023 denial of expansion. A hearing was held on February 13, 2024. During the hearing, appellant explained that Dr. Rabbitt had been unable to provide the requested supplemental report.

By decision dated April 24, 2024, OWCP's hearing representative affirmed OWCP's October 17 and December 13, 2023 decisions. The hearing representative found that the medical evidence of record was insufficient to establish total disability from work commencing October 13, 2022, or that the acceptance of the claim should be expanded to include lumbosacral degenerative disc disease and a right knee medial meniscal tear, causally related to the accepted October 13, 2022 employment injury.

OWCP subsequently received reports dated April 26 through June 27, 2024 by Dr. Janelle Snoddy, Board-certified in anesthesiology, wherein she reviewed appellant's history of injury and medical treatment. On examination, Dr. Snoddy found reduced lumbar motion in all planes due to pain, severe pain with palpation from L2 through S1, hypertonic paraspinal muscles, a bilaterally positive Kemp's and Bechterew's tests, lower extremity strength at 4/5 bilaterally, moderate swelling of the right knee, diffuse tenderness to palpation of the right knee, a positive grind test of the right knee, reduced extension and flexion of the right knee, and a severely antalgic gait. She diagnosed a right medial meniscal tear causally related to the accepted March 28, 2022 employment injury where appellant twisted her knee to prevent herself from falling down steps. Dr. Snoddy explained that the rotational and compressive forces caused the initial meniscal tear, aggravated by walking at work. She also diagnosed lumbosacral intervertebral disc degeneration caused by the March 28, 2022 employment injury, which created compression on the discs and shear forces within the discs, causing them to shift or bulge out of place, particularly at L5-S1. Dr. Snoddy opined that walking while at work aggravated and potentially accelerated appellant's lumbar condition. She found appellant totally disabled from work.

OWCP subsequently received reports dated April 12 through October 4, 2023, wherein Dr. Rabbitt diagnosed a right medial meniscal tear and recommended surgery.

OWCP also received reports dated October 10, 2023 through July 16, 2024, wherein Dr. Hung held appellant off work due to lumbar degenerative disc disease and a right knee meniscal tear.

On April 24, 2025 appellant, through counsel, requested reconsideration of the April 24, 2024 decision regarding denial of disability compensation and denial of expansion of the acceptance of the claim.

On May 9, 2025 OWCP referred appellant, together with a SOAF, the case record, and a series of questions, to Dr. David Brian Lumsden, a Board-certified orthopedic surgeon, for a second opinion examination to determine the nature of her condition, whether the accepted employment injury caused or contributed to additional medical conditions, the extent of any disability, and any medical treatment recommendations, causally related to her October 13, 2022 employment injury. It specifically requested that Dr. Lumsden determine whether the additional conditions of lumbosacral degenerative disc disease and right medial meniscal tear were caused or aggravated by the October 13, 2022 employment injury.

In a May 15, 2025 report, Dr. Lumsden noted his review of the history of injury, the SOAF, and the medical record. On examination of appellant's right knee, he observed swelling, a positive McMurray's sign, joint tenderness to palpation, and limited motion with passive flexion and extension. Appellant was unable to heel or toe walk, squat, or perform a single leg stand. Dr. Lumsden also recounted that appellant ambulated with a cane and exhibited a shuffling gait. He noted that although appellant was pleasant, compliant, and cooperative during the examination, he was unable to complete motor or sensory testing as she deferred performing the required active maneuvers due to pain and "[n]ot in direct refusal[.]" Dr. Lumsden opined that the October 13, 2022 employment injury appeared to have aggravated the preexisting condition caused by the March 2022 employment injury and also "appeared to be a benign mechanism and event." He

opined “[t]o the injury in question of October 13, 2022, those issues appear to have resolved to lumbar strain, with the original issues defined to the event of March 28, 2022.” Dr. Lumsden concluded that the October 13, 2022 employment thoracolumbar injury “appeared to have resolved to lumbar strain[.]” He also added “[c]onsidering only the residuals of the work-related condition, the issue of lumbar strain is resolved and exacerbation to the preexisting phenomena is noted but the exacerbation process has resolved. There are prior issues preexisting to the March 28, 2022 event that are ongoing and they are the primary issue to the complaints.” Regarding the issue of whether appellant was totally disabled from work commencing October 13, 2022, Dr. Lumsden explained that appellant was limited to sedentary duty, but that her restrictions were due to the March 28, 2022 event under OWCP File No. xxxxxx950.

By decision dated June 4, 2025, OWCP denied appellant’s claim for disability from work commencing October 13, 2022, and denied expansion of the acceptance of the claim to include additional conditions as causally related to, or consequential to, the accepted October 13, 2022 employment injury. It accorded the weight of the medical evidence to Dr. Lumsden’s May 15, 2025 second opinion report.

LEGAL PRECEDENT -- ISSUES 1 & 2

Where 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.⁶

The medical evidence required to establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, is rationalized medical opinion evidence.⁷ A physician’s opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.⁸ Additionally, the opinion of the physician 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 specific employment factor(s) identified by the claimant.⁹

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.¹⁰ Thus, a subsequent

⁶ *R.J.*, Docket No. 17-1365 (issued May 8, 2019); *W.L.*, Docket No. 17-1965 (issued September 12, 2018); *V.B.*, Docket No. 12-0599 (issued October 2, 2012); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

⁷ *T.C.*, Docket No. 19-1043 (issued November 8, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

⁸ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹⁰ *M.M.*, Docket No. 20-1557 (issued November 3, 2021); *I.S.*, Docket No. 19-1461 (issued April 30, 2020); *Charles W. Downey*, 54 ECAB 421 (2003).

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.¹¹

An employee seeking benefits under FECA¹² has the burden of proof to establish the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.¹³ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.¹⁴ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.¹⁵

Under FECA, the term disability means an incapacity because of an employment injury, to earn the wages the employee was receiving at the time of the injury.¹⁶ When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, prevent the employee from continuing in his or her employment, he or she is entitled to compensation for any loss of wages.¹⁷

To establish causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such causal relationship.¹⁸ The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the claimed disability and the accepted employment injury.¹⁹

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is

¹¹ *J.M.*, Docket No. 19-1926 (issued March 19, 2021); *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

¹² *Supra* note 3.

¹³ *See D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

¹⁴ *See L.F.*, Docket No. 19-0324 (issued January 2, 2020); *T.L.*, Docket No. 18-0934 (issued May 8, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

¹⁵ *See* 20 C.F.R. § 10.5(f); *N.M.*, Docket No. 18-0939 (issued December 6, 2018).

¹⁶ *Id.* at § 10.5(f); *see e.g.*, *G.T.*, Docket No. 18-1369 (issued March 13, 2019); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

¹⁷ *G.T.*, *id.*; *Merle J. Marceau*, 53 ECAB 197 (2001).

¹⁸ *See S.J.*, Docket No. 17-0828 (issued December 20, 2017); *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

¹⁹ *L.R.*, Docket No. 23-0508 (issued January 13, 2026); *T.S.*, Docket Nos. 20-1177 and 20-1296 (issued May 28, 2021); *V.A.*, Docket No. 19-1123 (issued October 29, 2019).

claimed. To do so would essentially allow an employee to self-certify their disability and entitlement to compensation.²⁰

ANALYSIS -- ISSUES 1 & 2

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

In a May 15, 2025 report, Dr. Lumsden noted that he examined appellant that day. He reviewed the SOAF and the medical record. Dr. Lumsden reported appellant's findings on physical examination. He opined that the October 13, 2022 employment injury appeared to have aggravated the preexisting conditions. Dr. Lumsden further opined that the October 13, 2022 employment injury had resolved to lumbar strain, "with the original issues defined to the event of March 28, 2022." With regard to the issue of disability, he concluded that the October 13, 2022 employment injury "appeared to be a benign mechanism and event[,]" which appeared to have aggravated the March 28, 2022 employment injuries, and that appellant had ongoing sequelae of the accepted March 28, 2022 employment injuries. However, as Dr. Lumsden's opinions on expansion and disability are speculative and equivocal in nature, it is of diminished probative value.²¹ The Board thus finds that Dr. Lumsden's opinion is insufficient to constitute the weight of the medical evidence.²²

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter.²³ While the claimant has the responsibility to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.²⁴ Accordingly, once OWCP undertook development of the evidence by referring appellant to Dr. Lumsden, it had an obligation to obtain a proper evaluation that sufficiently addresses the issues in this case.²⁵

The case shall, therefore, be remanded for further development. On remand, OWCP shall refer appellant, along with a SOAF, and the case record to a new second opinion specialist in the appropriate field of medicine for a reasoned opinion on the issues of expansion and disability. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

²⁰ *W.H.*, Docket No. 21-0139 (issued October 26, 2021); *Fereidoon Kharabi*, *supra* note 14.

²¹ *J.M.*, Docket No. 24-0221 (issued June 26, 2024).

²² *J.M.*, *id.*; *T.B.*, Docket No. 22-1170 (issued April 24, 2023); *see also M.W.*, Docket No. 21-1260 (issued September 9, 2022).

²³ *See B.W.*, Docket No. 21-0785 (issued September 1, 2022); *N.L.*, Docket No. 19-1592 (issued March 12, 2020); *M.T.*, Docket No. 19-0373 (issued August 22, 2019); *B.A.*, Docket No. 17-1360 (issued January 10, 2018).

²⁴ *Id.*; *see also Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

²⁵ *L.R.*, *supra* note 19; *see V.P.*, Docket No. 22-0706 (issued November 3, 2022); *E.M.*, Docket No. 20-1153 (issued August 4, 2022).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the June 4, 2025 merit 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: April 24, 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