United States Department of Labor
Employees' Compensation Appeals Board

M.M., Appellant	)	
and	)	**Docket No. 26-0207**
	)	**Issued: August 24, 2026**
DEPARTMENT OF JUSTICE, BUREAU OF PRISONS, FEDERAL DETENTION CENTER MIAMI, Miami, FL, Employer	)	

Appearances:
Debra Hauser, Esq., for the appellant[1]
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 December 3, 2025 appellant, through counsel, filed a timely appeal from a September 9, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] 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.

[2] 5 U.S.C. § 8101 *et seq.*

[3] The Board notes that, following the September 9, 2025 decision, appellant submitted additional evidence to OWCP. 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.*

ISSUE

The issue is whether appellant has met her burden of proof to expand the acceptance of her claim to include additional conditions as causally related to, or consequential to, the accepted May 10, 2022 employment injury.

FACTUAL HISTORY

On May 12, 2022 appellant, then a 42-year-old case worker/corrections officer, filed a traumatic injury claim (Form CA-1) alleging that on May 10, 2022 she sustained a left ankle injury in the performance of duty. She stopped work on May 10, 2022 and returned to work on July 7, 2022. OWCP accepted the claim in February 2024 for sprain of the tibiofibular ligament of the left ankle. It paid appellant wage-loss compensation on the supplemental rolls, effective May 2, 2024.

In a May 2, 2024 report, Dr. Ali Saberi, a Board-certified internist, discussed appellant's May 10, 2022 work injury and documented physical examination findings of tenderness to touch of the left ankle and mildly limited range of motion (ROM) of the left ankle due to pain. He diagnosed sprain of the tibiofibular ligament of the left foot, and other enthesopathy/sinus tarsi syndrome of the left foot. Dr. Saberi opined that these diagnoses were the direct result of the accepted May 10, 2022 employment injury and indicated that the condition of other enthesopathy/sinus tarsi syndrome of the left foot should be accepted as directly related to appellant's job. He noted that sinus tarsi syndrome was an enthesopathy, meaning it was a disorder involving the entheses (the sites where tendons or ligaments insert into the bones). In this condition, damage or injury to the structures within the sinus tarsi leads to persistent pain and instability of the foot which could be due to inflammation, scarring, or fibrosis of these structures following an injury or due to chronic strain. Dr. Saberi stated, "This is exactly what happened in [appellant's] case, as she experienced a significant delay in care for her left foot sprain due to her case not being accepted and was forced to continue to ambulate and perform her required job duties without proper escalation of treatment." In a work capacity evaluation (Form OWCP-5c) dated May 2, 2024, he opined that she could perform her usual job without restriction.

On May 30, 2024 OWCP received a May 16, 2024 report wherein Dr. Daniel Tuckerman, an osteopath and Board-certified internist, provided a discussion of appellant's work duties and noted that on May 4, 9, and 10, 2022 she experienced pain in her left leg at work while engaging in such activities as walking and climbing stairs. He discussed her diagnostic findings and documented the physical examination findings, including pain and slight restriction of left ankle ROM upon eversion. Dr. Tuckerman opined that, based on appellant's history, physical examination findings, and diagnostic testing findings, the work injury she suffered on May 10, 2022 caused the conditions of sprain of tibiofibular ligament of the left ankle; localized swelling, mass, and lump of the left lower extremity; other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of an unspecified lower extremity; and peroneal tendinitis of the left lower extremity. He indicated that a "chain of events" led to her May 10, 2022 employment injury, noting that on May 4, 2022 she strained her left ankle and experienced left ankle pain due to walking up steep stairs at work and that on May 9, 2022 her left ankle pain worsened when she exited her vehicle in the employing establishment parking garage. Dr. Tuckerman indicated that years of walking and climbing while wearing 35 pounds of gear had placed excessive pressure on appellant's left ankle tendons, and that she attempted to return to weight-bearing activities too early following an initial sprain. He stated, "This worsened her left ankle injury which occurred

on May 10, 2022, and led to tenosynovitis of the left ankle which is present on [magnetic resonance imaging (MRI) scan] findings." Dr. Tuckerman opined that the May 10, 2022 employment incident caused appellant's left ankle to move beyond its normal ROM, such that her ligaments were stretched and torn, and she experienced inflammation of the ligaments, tendon sheaths, synovial lining, and other tissues of the left ankle/foot. He stated, "In summary, the patient's ankle sprain led to inflammation and swelling not only to her ligaments but also in the synovium and tendon sheaths of the ankle and foot, which resulted in synovitis and tenosynovitis."

Dr. Tuckerman indicated that on May 10, 2022 appellant felt sharp and burning pain in her left ankle while walking to the bathroom, and the pain progressed throughout the day and worsened with activity. When she walked to the bathroom, she stepped to the left and felt her left ankle extend. Dr. Tuckerman indicated that this occurred on an already-weakened left ankle and advised that the May 10, 2022 sprain produced inflammation and swelling near the tarsal tunnel which resulted in compression of the posterior tibial nerve, thereby causing the tarsal tunnel syndrome. He indicated that to compensate for the pain and instability in the left ankle joint, appellant altered her foot and leg movements, and this in turn led to increased stress and pressure on surrounding structures, including the tarsal tunnel. Dr. Tuckerman further related that, because her ankle was unstable following her May 10, 2022 sprain, the peroneal tendons needed to work harder to give needed support to the damaged lateral ankle ligaments. Appellant's tendons and the sheath surrounding the tendons continued to swell, making it hard for them to move smoothly. To compensate for the pain and instability in the injured ankle, she changed her gait and put more pressure on other parts of her left foot and left leg. Dr. Tuckerman opined that the increased stress and strain on the peroneal tendons, due to the altered biomechanics, led to overuse and inflammation of the peroneal tendons, which ultimately resulted in peroneal tendinitis of the left lower extremity.

In a May 30, 2024 letter, appellant, through counsel, requested that the acceptance of the claim be expanded to include localized swelling, mass, and lump of the left lower extremity; other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of an unspecific lower extremity; and peroneal tendinitis of the left lower extremity.

In a development letter dated June 28, 2024, OWCP informed appellant of the deficiencies of her expansion claim. It advised her of the type of factual and medical evidence needed and afforded her 30 days to respond.

OWCP subsequently received a July 25, 2024 report wherein Dr. Tuckerman opined that, based on appellant's history, physical examination findings, and diagnostic testing findings, the work injury she suffered on May 10, 2022 caused the conditions of sprain of tibiofibular ligament of the left ankle; localized swelling, mass, and lump of the left lower extremity; other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of an unspecified lower extremity; and peroneal tendinitis of the left lower extremity. Dr. Tuckerman provided a discussion on causal relationship which was similar to the discussion in his May 16, 2024 report.

In an August 1, 2024 report, Dr. Saberi documented physical examination findings and diagnosed sprain of the tibiofibular ligament of the left foot, and other enthesopathy/sinus tarsi syndrome of the left foot. He reiterated that these conditions were directly related to the accepted May 10, 2022 employment injury. Dr. Saberi provided a discussion on causal relationship which was similar to the discussion in his May 2, 2024 report. In an August 1, 2024 Form OWCP-5c, he opined that she could perform her regular job without restriction.

On August 28, 2024 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Omar Hussamy, a Board-certified orthopedic surgeon, for an examination and evaluation regarding whether she sustained additional conditions as causally related to, or consequential to, the accepted May 10, 2022 employment injury.

In a September 27, 2024 report, Dr. Hussamy discussed the accepted May 10, 2022 employment injury and documented physical examination findings of non-tenderness over the medial, anterior, and lateral joint lines of the left ankle, and no instability to medial/lateral stresses of the left ankle. Motor strength was 5/5 in all groups and sensation was intact to light touch. Dr. Hussamy indicated that appellant had objective findings of loss of ROM of the left ankle and noted that her subjective complaints of left ankle pain exceeded the objective findings. He diagnosed sprain of the tibiofibular ligament of the left ankle. Dr. Hussamy opined that there were no findings on physical examination supporting the diagnoses of other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of an unspecified lower extremity; or peroneal tendinitis of the left lower extremity. He stated that the accepted May 10, 2022 employment injury or other employment factors did not cause or contribute to such claimed additional conditions. Dr. Hussamy explained that there was no tenderness of the peroneal tendons, no evidence of synovitis or tenosynovitis, and a negative Tinel's test over the left tarsal tunnel. He determined that appellant could perform her date-of-injury job. In a September 27, 2024 Form OWCP-5c, Dr. Hussamy opined that she could perform medium-level work.

OWCP subsequently received September 5 and October 31, 2024 reports wherein Dr. Saberi opined that the diagnosis of enthesopathy/sinus tarsi syndrome of the left foot was directly related to the accepted May 10, 2022 employment injury. He provided a discussion on causal relationship which was similar to the discussions in his May 2 and August 1, 2024 reports. In September 5 and October 31, 2024 OWCP-5c forms, Dr. Saberi opined that appellant could perform her usual job without restriction.

By decision dated November 21, 2024, OWCP denied appellant's expansion claim, finding that the medical evidence of record was insufficient to establish additional conditions as causally related to, or consequential to, the accepted May 10, 2022 employment injury. It accorded the weight of the medical evidence to the opinion of Dr. Hussamy, OWCP's referral physician.

OWCP subsequently received a November 25, 2024 report wherein Dr. Robert Swift, an osteopath and Board-certified orthopedic surgeon, documented physical examination findings and diagnosed sprain of the tibiofibular ligament of the left ankle; sinus tarsi syndrome of the left foot; and other enthesopathy of the left foot and ankle.

In a December 13, 2024 report, Dr. Tuckerman diagnosed sprain of tibiofibular ligament of the left ankle; localized swelling, mass, and lump of the left lower extremity; other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of an unspecified lower extremity; and peroneal tendinitis of the left lower extremity.

On January 17, 2025 appellant, through counsel, requested reconsideration. In support thereof, appellant submitted another December 13, 2024 report wherein Dr. Tuckerman opined that the additional diagnosed conditions of localized swelling, mass, and lump of the left lower extremity; other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of an unspecified lower extremity; and peroneal tendinitis of the left lower extremity were directly

caused by the accepted May 10, 2022 employment injury. With respect to the condition of localized swelling, mass, and lump of the left lower extremity, he opined that the accepted May 10, 2022 employment injury caused the release of inflammatory mediators, leading to edema and hematoma formation which created a palpable mass. With respect to the condition of other synovitis and tenosynovitis of the left ankle and foot, Dr. Tuckerman explained that the accepted May 10, 2022 employment injury irritated the synovial lining of the left ankle joint, leading to inflammation and the development of synovitis, and that the injury caused direct trauma to the nearby tendons, leading to inflammation and the development of tenosynovitis. With respect to the condition of tarsal tunnel syndrome of an unspecified lower extremity, he opined that the edema and altered biomechanics resulting from the accepted May 10, 2022 employment injury caused encroachment of the tarsal tunnel space where the tibial nerve ran, leading to development of this condition. With respect to the condition of peroneal tendinitis of the left lower extremity, Dr. Tuckerman stated that appellant's altered gait mechanics and compensatory movements placed increased stress on the left peroneal tendons, leading to the development of this condition.

On January 29, 2025 OWCP received a January 15, 2025 report wherein Dr. Saberi opined that the diagnosis of enthesopathy/sinus tarsi syndrome of the left foot was directly related to the accepted May 10, 2022 employment injury. He provided a discussion on causal relationship which was similar to the discussions in his prior reports. In a Form OWCP-5c of even date, Dr. Saberi opined that appellant could perform her usual job without restriction.

By decision dated February 3, 2025, OWCP denied modification of the November 21, 2024 decision.

OWCP subsequently received February 26, April 3, May 19, and June 23, 2025 reports wherein Dr. Saberi opined that the diagnosis of enthesopathy/sinus tarsi syndrome of the left foot was directly related to the accepted May 10, 2022 employment injury. He provided a discussion on causal relationship which was similar to the discussions in his prior reports. In February 26, April 3, May 19, and June 23, 2025 OWCP-5c forms, Dr. Saberi opined that appellant could perform her usual job without restriction.

OWCP also subsequently received an April 11, 2025 report wherein Dr. Tuckerman opined that the additional diagnosed conditions of localized swelling, mass, and lump of the left lower extremity; other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of an unspecified lower extremity; and peroneal tendinitis of the left lower extremity were directly caused by the accepted May 10, 2022 employment injury. He opined that the trauma of the accepted May 10, 2022 employment injury caused swelling which led to the development of localized swelling, mass, and lump of the left lower extremity. Dr. Tuckerman further opined that appellant's extensive physical demands at work, coupled with her untreated May 10, 2022 sprain, led to inflammation of the synovial membrane surrounding her tendons and caused other synovitis and tenosynovitis of the left ankle and foot. He indicated that the swelling resulting from the accepted May 10, 2022 employment injury contributed to the development of tarsal tunnel syndrome of an unspecified lower extremity. Dr. Tuckerman further explained that appellant's continued work activity after her May 10, 2022 injury led to overuse and inflammation of the peroneal tendons and development of peroneal tendinitis of the left lower extremity. In an April 25, 2025 Form OWCP-5c, he opined that appellant could perform her usual job without restriction.

In a July 3, 2025 report, Dr. Jonathon D. Watts, a Board-certified orthopedic surgeon, documented physical examination findings and diagnosed sinus tari syndrome of the left ankle and pain in the left ankle and left foot joints. In a Form OWCP-5c of even date, he opined that appellant could perform heavy work.

In an August 8, 2025 Form OWCP-5c, Dr. Tuckerman opined that appellant could perform her usual job without restriction.

On August 22, 2025 appellant, through counsel, requested reconsideration of the November 21, 2024 decision.

Appellant submitted an April 25, 2025 report wherein Dr. Tuckerman opined that the additional diagnosed conditions of localized swelling, mass, and lump of the left lower extremity; other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of an unspecified lower extremity; and peroneal tendinitis of the left lower extremity were directly caused by the accepted May 10, 2022 employment injury. He provided a discussion on causal relationship which was similar to the discussion in his April 11, 2025 report.

Appellant submitted an August 25, 2025 report wherein Dr. Saberi opined that the additional diagnosis of enthesopathy/sinus tarsi syndrome of the left foot was the direct result of the accepted May 10, 2022 employment injury. He provided a discussion on causal relationship which was similar to the discussions in his prior reports. In a Form OWCP-5c of even date, Dr. Saberi opined that appellant could perform her usual job without restriction.

By decision dated September 9, 2025, OWCP denied modification of the February 2, 2025 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.[4]

The claimant bears the burden of proof to establish a claim for a consequential injury.[5] A part of this burden, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, establishing causal relationship. The opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.[6]

[4] *D.H.,* Docket No. 26-0428 (issued July 17, 2026); *J.R.,* Docket No. 20-0292 (issued June 26, 2020); *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).

[5] *V.K.*, Docket No. 19-0422 (issued June 10, 2020); *A.H.*, Docket No. 18-1632 (issued June 1, 2020); *I.S.*, Docket No. 19-1461 (issued April 30, 2020).

[6] *D.S.*, Docket No. 26-0287 (issued July 10, 2026); *K.W.*, Docket No. 18-0991 (issued December 11, 2018).

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.[7] Nether the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.[8]

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.[9] The basic rule is that a subsequent injury, whether 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.[10]

Section 8123(a) of FECA provides that if there is a disagreement between the physician making the examination for the United States and the physician of an employee, the Secretary shall appoint a third physician (known as a referee physician or impartial medical specialist) who shall make an examination.[11] For a conflict to arise, the opposing physicians' opinions must be of virtually equal weight and rationale.[12] In situations where the case is properly referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.[13]

ANALYSIS

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

In a September 27, 2024 report, Dr. Hussamy, the OWCP referral physician, documented physical examination findings and diagnosed sprain of the tibiofibular ligament of the left ankle. He opined that there were no findings on physical examination supporting the diagnoses of other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of an unspecified lower extremity; or peroneal tendinitis of the left lower extremity. Dr. Hussamy stated that the accepted May 10, 2022 employment injury or other employment factors did not cause or contribute to any claimed additional conditions. He explained that there was no tenderness of the peroneal

[7] *G.R.*, Docket No. 18-0735 (issued November 15, 2018).

[8] *Id.*

[9] *W.S.*, Docket No. 26-0313 (issued June 15, 2026); *I.S.*, Docket No. 19-1461 (issued April 30, 2020); *A.M.,* Docket No. 18-0685 (issued October 26, 2018); *Mary Poller,* 55 ECAB 483, 487 (2004).

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

[11] 5 U.S.C. § 8123(a); *see E.L.,* Docket No. 20-0944 (issued August 30, 2021); *R.S.*, Docket No. 10-1704 (issued May 13, 2011); *S.T.*, Docket No. 08-1675 (issued May 4, 2009); *M.S.*, 58 ECAB 328 (2007).

[12] *R.C.*, Docket No. 26-0309 (issued June 11, 2026); *P.R.*, Docket No. 18-0022 (issued April 9, 2018); *see also Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts,* 30 ECAB 1010 (1980).

[13] *See T.G.,* Docket No. 24-0803 (issued July 24, 2026); *D.M.,* Docket No. 18-0746 (issued November 26, 2018); *R.H.,* 59 ECAB 382 (2008); *James P. Roberts*, *id*.

tendons, no evidence of synovitis or tenosynovitis, and a negative Tinel's test over the left tarsal tunnel.

In contrast, Dr. Tuckerman, an attending physician, opined in reports dated May 16, 2024 through April 25, 2025 that the conditions of localized swelling, mass, and lump of the left lower limb; other synovitis and tenosynovitis of the left ankle and foot; tarsal tunnel syndrome of unspecified lower limb; and peroneal tendinitis of the left leg were causally related to, or consequential to, the accepted May 10, 2022 employment injury. With respect to the condition of localized swelling, mass, and lump of the left lower extremity, he opined that the accepted May 10, 2022 employment injury caused the release of inflammatory mediators, leading to edema and hematoma formation which created a palpable mass. With respect to the condition of other synovitis and tenosynovitis of the left ankle and foot, Dr. Tuckerman explained that the accepted May 10, 2022 employment injury irritated the synovial lining of the left ankle joint, leading to inflammation and the development of synovitis, and that the injury caused direct trauma to the nearby tendons, leading to inflammation and the development of tenosynovitis. With respect to the condition of tarsal tunnel syndrome of an unspecified lower extremity, he opined that the edema and altered biomechanics resulting from the accepted May 10, 2022 employment injury caused encroachment of the tarsal tunnel space where the tibial nerve ran, leading to development of this condition. With respect to the condition of peroneal tendinitis of the left lower extremity, Dr. Tuckerman further opined that appellant's altered gait mechanics and compensatory movements, resulting from the accepted May 10, 2022 employment injury, placed increased stress on the left peroneal tendons, leading to the development of this condition.

Moreover, in reports dated from May 2, 2024 through August 25, 2025, Dr. Saberi, an attending physician, also provided an opinion that appellant sustained an additional condition causally related to, or consequential to, the accepted May 10, 2022 employment injury. In these reports, he opined that the diagnosis of enthesopathy/sinus tarsi syndrome of the left foot was caused by the accepted May 10, 2022 employment injury. Dr. Saberi noted that this condition was an enthesopathy, meaning that it was a disorder involving the entheses, the sites where tendons or ligaments insert into the bones. He indicated that, with this condition, damage or injury to the structures within the sinus tarsi leads to persistent pain and instability of the foot which could be due to inflammation, scarring, or fibrosis of these structures following an injury or due to chronic strain. Dr. Saberi stated, "This is exactly what happened in [appellant's] case, as she experienced a significant delay in care for her left foot sprain due to her case not being accepted and was forced to continue to ambulate and perform her required job duties without proper escalation of treatment."

Therefore, there is a conflict in the medical evidence between the OWCP referral physician, Dr. Hussamy, and the attending physicians, Dr. Tuckerman and Dr. Saberi, regarding whether appellant sustained additional conditions causally related to, or consequential to, the accepted May 10, 2022 employment injury.[14] Due to this unresolved conflict in medical opinion, pursuant to 5 U.S.C. § 8123(a), the case shall be remanded to OWCP for referral of appellant, together with the case record and an updated SOAF, to a specialist in the appropriate field of medicine for an

[14] *See supra* notes 11 and 12.

impartial medical examination to resolve the conflict.[15] 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.

ORDER

IT IS HEREBY ORDERED THAT the September 9, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for additional proceedings consistent with this decision of the Board.

Issued: August 24, 2026
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

[15] *See supra* note 13. *See also V.S.*, Docket No. 26-0443 (issued July 17, 2026).