

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

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C.B., Appellant )

and )

U.S. POSTAL SERVICE, DETROIT POST )  
OFFICE, Detroit, MI, Employer )

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**Docket No. 26-0093**  
**Issued: February 23, 2026**

*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 October 20, 2025, appellant filed a timely appeal from August 12 and September 5, 2025 merit decisions and an October 14, 2025 nonmerit 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.<sup>2</sup>

**ISSUES**

The issues are: (1) whether appellant has met her burden of proof to expand the acceptance of her claim to include a lumbar condition as causally related to, or consequential to, the accepted

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

<sup>2</sup> The Board notes that, following the October 14, 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.*

August 14, 2024 employment injury; and (2) whether OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

### **FACTUAL HISTORY**

On August 19, 2024, appellant, then a 52-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on August 14, 2024 she injured her left knee, right groin, and right hip when she fell ascending stairs while in the performance of duty.<sup>3</sup> She stopped work on August 16, 2024 and returned to part-time modified-duty work on August 19, 2024. OWCP initially accepted the claim for lower left leg strain, right adductor strain, and right hip strain and later expanded its acceptance of the claim to include unilateral primary osteoarthritis of the left knee, complex tears of the medial and lateral menisci of the left knee, and sprain of the left anterior cruciate ligament.

In a medical report dated April 23, 2025, Keith C. Saylor, a physician assistant, noted that appellant had recently undergone a magnetic resonance imaging (MRI) scan of her lumbar spine which demonstrated lumbar degenerative disease and spondylolisthesis. He performed a physical examination and diagnosed left knee arthritis, contusion of right hip, and greater trochanteric bursitis of the right hip. Mr. Saylor recommended an evaluation by a spine specialist "for any potential recommendations and whether [the MRI] findings may be contributing to her lateral thigh/gluteal pain."

In a medical report dated May 12, 2025, Brett A. Schulte, a physician assistant, noted that appellant related complaints of pain in her lower back, which radiated to her buttocks and right thigh, with associated numbness and tingling. He performed a physical examination and obtained x-rays of the lumbar spine, which revealed multi-level lumbar spondylosis, most prominent at the L3-S1 levels, and grade 1 spondylolisthesis at L4-5. Mr. Schulte also reviewed an April 11, 2025 lumbar MRI scan, which indicated that it was compared to a July 25, 2024 x-ray of the lumbar spine. He diagnosed L4-5 spondylolisthesis and recommended epidural steroid injections.<sup>4</sup>

On June 9, 2025, appellant requested expansion of the acceptance of her claim to include a lumbar condition. She asserted that the accepted August 14, 2024 employment injury "significantly worsened a preexisting spinal condition." Appellant noted that she had undergone an x-ray to her lumbar spine in July 2024 which "showed a bulging disc" but that the pain from her preexisting lumbar condition had been "manageable" prior to the August 14, 2024 employment injury.

In a development letter dated June 10, 2025, OWCP informed appellant of the deficiencies of her expansion claim. It advised her of the type of factual and medical evidence needed to establish her claim and afforded her 30 days to submit the necessary evidence.

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<sup>3</sup> OWCP assigned the present claim OWCP File No. xxxxxx436. Appellant previously filed a Form CA-1 for a March 15, 2022 injury, which OWCP accepted for right hip strain under OWCP File No. xxxxxx381. OWCP has not administratively combined OWCP File Nos. xxxxxx436 and xxxxxx381.

<sup>4</sup> The report noted that "[t]he case was reviewed and discussed with" Dr. Nicholas Papakonstantinou, a Board-certified orthopedic surgeon, who was "in agreement with the plan of care." The report was not co-signed by Dr. Papakonstantinou.

On June 24, 2025, OWCP received a statement by appellant in support of expansion of her claim. She indicated that, on August 14, 2024, she fell while walking up porch steps and immediately had left knee pain and severe pain in the right hip. Despite treatment to her right hip, appellant continued to have significant difficulty with the right hip, which she attributed to untreated lumbar radiculopathy. She attached various medical records.

In an April 4, 2025 medical report, Nonie Pokornicki, a nurse practitioner, noted that appellant related complaints of chronic low back pain since 2004. She indicated that appellant was previously seen by Dr. Alan Zakaria, Board-certified in sports medicine internal medicine, and pediatrics, who diagnosed her with degenerative disc disease in the low back, and that she had multiple courses of physical therapy over the years with “no real relief.” Ms. Pokornicki also noted that appellant related that, on March 21, 2025, she bent over to pick up an envelope at work and had immediate pain in the right lower back with pain radiating down the right leg. She performed a physical examination and observed a positive straight leg raise test on the right. Ms. Pokornicki diagnosed lumbar radiculopathy and facet arthropathy.

An April 11, 2025 lumbar MRI scan demonstrated multilevel degenerative changes of the lower lumbar spine, most significant at L4-5, and grade 1 anterolisthesis of L4 on L5.

In a progress note dated April 29, 2025, Ms. Pokornicki diagnosed lumbar radiculopathy and recommended an epidural steroid injection.

In a medical report dated June 16, 2025, Dr. Zakaria, noted that appellant related complaints of back pain radiating to her right hip and lateral right lower extremity. He noted that she had a history of chronic back pain for the past nine years, which she indicated was manageable until she fell at work on August 14, 2024. Dr. Zakaria performed a physical examination and observed full range of motion with pain during forward flexion and right side-bending, no tenderness to palpation, positive straight leg raise test on the right, and 5 out of 5 strength with resisted straight leg raise, bilaterally. He diagnosed clinical signs of lumbar radiculopathy and right-sided sciatica.

In a report dated June 20, 2025, Sabrina Khan, a physical therapist, noted that appellant related complaints of “chronic low back pain which became exacerbated after the fall and could be causing [right lower extremity] radicular symptoms as well.”

In a medical report dated July 31, 2025, Patrick Albrant, a physician assistant, noted that appellant was treated on June 3 and July 29, 2025 for low back pain.

By decision dated August 12, 2025, OWCP denied expansion of the acceptance of appellant’s claim to include a lumbar condition as causally related to, or consequential to, the accepted August 14, 2024 employment injury.

On August 22, 2025, appellant requested reconsideration of OWCP’s August 12, 2025 decision. In support thereof, she submitted a June 20, 2025 medical report by Dr. Papakonstantinou, who noted that she related complaints of sharp, stabbing pain in her lower back which radiated to her buttocks and right thigh with associated numbness and tingling, which she attributed to a fall at work on August 14, 2024. Dr. Papakonstantinou performed a physical examination and observed an antalgic gait, pain with rotation of the spine, full strength of the bilateral lower extremities, negative root tension signs, and no paravertebral tenderness to

palpation. He diagnosed L4-5 spondylolisthesis and opined that “[appellant’s] work-related accident has contributed to her symptoms.”

In an August 11, 2025 follow-up report, Dr. Papakonstantinou noted unchanged subjective complaints and examination findings and diagnosed spondylolisthesis at L4-5. He opined that appellant’s “work-related accident has exacerbated her chronic degenerative changes that she used to be asymptomatic from.”

In an August 20, 2025 medical report, Dr. Scott M. Diamond, a Board-certified orthopedic surgeon, evaluated appellant for right hip and left knee pain. He documented physical examination findings and diagnosed contusion of right hip and arthritis of left knee.

By decision dated September 5, 2025, OWCP denied modification of its August 12, 2025 decision.

On September 30, 2025 appellant requested reconsideration of OWCP’s September 5, 2025 decision and submitted legal argument.

By decision dated October 14, 2025, OWCP denied appellant’s request for reconsideration of the merits of her expansion claim, pursuant to 5 U.S.C. § 8128(a).

### **LEGAL PRECEDENT -- ISSUE 1**

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>5</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>6</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>7</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>8</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>9</sup>

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<sup>5</sup> *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

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

<sup>8</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>9</sup> *E.P.*, Docket No. 20-0272 (issued December 19, 2022); *I.J.*, 59 ECAB 408 (2008).

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 -- ISSUE 1**

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include a lumbar condition as causally related to, or consequential to, her accepted August 14, 2024 employment injury.

In support of her expansion claim, appellant submitted a report dated June 20, 2025 by Dr. Papakonstantinou, who noted her subjective complaints and physical examination findings and diagnosed L4-5 spondylolisthesis. Dr. Papakonstantinou opined that “her work-related accident has contributed to her symptoms.” In an August 11, 2025 follow-up report, he opined that appellant’s “work-related accident has exacerbated her chronic degenerative changes that she used to be asymptomatic from.” Dr. Papakonstantinou did not, however, explain with sufficient rationale how the accepted August 14, 2024 employment injury caused an injury to her lumbar spine.<sup>11</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>12</sup> Medical rationale is particularly necessary where, as here, there are preexisting conditions involving the same body parts.<sup>13</sup> For these reasons, Dr. Papakonstantinou’s June 20 and August 11, 2025 reports are insufficient to establish appellant’s expansion claim.<sup>14</sup>

In a medical report dated June 16, 2025, Dr. Zakaria noted that appellant related a history of chronic back pain for the past nine years, which she indicated was manageable until she fell at work on August 14, 2024. He documented physical examination findings and diagnosed clinical signs of lumbar radiculopathy and right-sided sciatica. Dr. Zakaria did not, however, offer an opinion regarding the cause of the diagnosed conditions. Medical evidence which does not offer an opinion regarding the cause of an employee’s condition is of no probative value on the issue of

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<sup>10</sup> 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).

<sup>11</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>12</sup> *J.H.*, Docket No. 24-0415 (issued May 23, 2024); *C.C.*, Docket No. 15-1056 (issued April 4, 2016); *see T.M.*, Docket No. 08-975 (issued February 6, 2009); *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006); *William C. Thomas*, 45 ECAB 591 (1994).

<sup>13</sup> *R.W.*, Docket No. 19-0844 (issued May 29, 2020); *A.M.*, Docket No. 19-1138 (issued February 18, 2020); *A.J.*, Docket No. 18-1116 (issued January 23, 2019).

<sup>14</sup> *J.W.*, Docket No. 25-0011 (issued November 19, 2024); *B.W.*, Docket No. 21-0536 (issued March 6, 2023); *M.M.*, Docket No. 20-1557 (issued November 3, 2021).

causal relationship.<sup>15</sup> Therefore, the June 16, 2025 report of Dr. Zakaria is insufficient to establish appellant's expansion claim.

In an August 20, 2025 medical report, Dr. Scott M. Diamond, a Board-certified orthopedic surgeon, evaluated appellant for right hip and left knee pain. This report is of no probative value regarding her claim for expansion of the accepted conditions as he did not provide an opinion that she had additional medical conditions causally related to the August 14, 2024 employment injury. The Board has held that a medical report that does not offer an opinion on causal relationship is of no probative value.<sup>16</sup> Thus, this evidence is insufficient to establish appellant's expansion claim.

Appellant also submitted notes from physician assistants, a nurse practitioner, and a physical therapist. The Board has held that certain healthcare providers such as nurses, physician assistants, and physical therapists are not considered physicians as defined under FECA.<sup>17</sup> Their medical findings, reports, and/or opinions, unless co-signed by a qualified physician, will not suffice for purposes of establishing entitlement to FECA benefits.<sup>18</sup> Therefore, this evidence is of no probative value and is insufficient to establish appellant's expansion claim.

The remaining evidence of record consisted of an April 11, 2025 lumbar MRI scan. 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>19</sup> Thus, this evidence is insufficient to establish appellant's expansion claim.

As the medical evidence of record is insufficient to establish expansion of the acceptance of the claim to include a lumbar condition as causally related to, or consequential to, appellant's accepted August 14, 2024 employment injury, the Board finds that she has not met her burden of proof.

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<sup>15</sup> *A.P.*, Docket No. 18-1690 (issued December 12, 2019); *J.H.*, Docket No. 19-0383 (issued October 1, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>16</sup> *L.B.*, *id.*; *D.K.*, *id.*

<sup>17</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 *B.D.*, Docket No. 22-0503 (issued September 27, 2022) (nurse practitioners are not considered physicians as defined under FECA and their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits); *L.S.*, Docket No. 19-1231 (issued March 30, 2021) (a nurse practitioner is not considered a physician as defined under FECA); *V.R.*, Docket No. 19-0758 (issued March 16, 2021) (a physical therapist is not considered a physician under FECA); *C.K.*, Docket No. 19-1549 (issued June 30, 2020) (physical therapists are not considered physicians as defined under FECA).

<sup>18</sup> See *A.V.*, Docket No. 25-0682 (issued August 7, 2025); *K.A.*, Docket No. 18-0999 (issued October 4, 2019); *K.W.*, 59 ECAB 271, 279 (2007); *David P. Sawchuk*, *id.*

<sup>19</sup> See *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).

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.

### **LEGAL PRECEDENT -- ISSUE 2**

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his or her own motion or on application.<sup>20</sup>

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.<sup>21</sup>

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.<sup>22</sup> If it chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>23</sup> If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.<sup>24</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On reconsideration, appellant did not demonstrate that OWCP erroneously applied or interpreted a specific point of law, nor did she advance a relevant legal argument not previously considered by OWCP. Accordingly, the Board finds that appellant is not entitled to a review of the merits of her claim based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).<sup>25</sup>

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<sup>20</sup> 5 U.S.C. § 8128(a); *see L.D.*, Docket No. 18-1468 (issued February 11, 2019); *V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

<sup>21</sup> 20 C.F.R. § 10.606(b)(3); *see M.S.*, Docket No. 18-1041 (issued October 25, 2018); *L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

<sup>22</sup> 20 C.F.R. § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

<sup>23</sup> *Id.* at § 10.608(a); *see D.C.*, Docket No. 19-0873 (issued January 27, 2020); *M.S.*, 59 ECAB 231 (2007).

<sup>24</sup> *Id.* at § 10.608(b); *see T.V.*, Docket No. 19-1504 (issued January 23, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

<sup>25</sup> *See L.W.*, Docket No. 21-0607 (issued October 18, 2022).

Appellant also did not submit any relevant and pertinent new evidence with her September 30, 2025 request for reconsideration. Therefore, she is not entitled to further review of the merits of her claim based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).<sup>26</sup>

The Board, therefore, finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.<sup>27</sup>

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include a lumbar condition as causally related to, or consequential to, her accepted August 14, 2024 employment injury. The Board also finds that OWCP properly denied her request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

### **ORDER**

**IT IS HEREBY ORDERED THAT** the August 12, September 5, and October 14, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 23, 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

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<sup>26</sup> 20 C.F.R. § 10.606(b)(3).

<sup>27</sup> See *D.R.*, Docket No. 18-0357 (issued July 2, 2018); *A.K.*, Docket No. 09-2032 (issued August 3, 2010); *M.E.*, 58 ECAB 694 (2007); *Susan A. Filkins*, 57 ECAB 630 (2006).