United States Department of Labor
Employees' Compensation Appeals Board

D.O., Appellant	)	
and	)	
DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISIONS, METROPOLITAN CORRECTIONAL CENTER, New York, NY, Employer	)	**Docket No. 25-0722** **Issued: January 5, 2026**

Appearances:
Thomas S. Harkins, 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 July 23, 2025 appellant, through counsel, filed a timely appeal from a February 10, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).[2] Pursuant to the Federal Employees' Compensation Act[3] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[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] The Board notes that, following the February 10, 2025 decision, appellant submitted additional evidence to OWCP. However, 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*.

[3] 5 U.S.C. § 8101 *et seq*.

ISSUES

The issues are: (1) whether appellant has met his burden of proof to expand the acceptance of his claim to include additional conditions as causally related to his accepted December 3, 2020 employment injury; and (2) whether OWCP properly denied authorization for lumbar spine injections.

FACTUAL HISTORY

This case has previously been before the Board on a different issue.[4] The facts and circumstances as set forth in the Board's prior order and decision are incorporated herein by reference. The relevant facts are as follows.

On December 7, 2020 appellant, then a 36-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on December 3, 2020 he sustained injuries to his back, neck, ankle, and elbows when he was escorting a prisoner on an elevator that jerked sharply, dropping him to the floor while in the performance of duty. He stopped work on that date.[5]

In support of his claim, appellant submitted a December 3, 2020 report, wherein Kermit Chen, a physician assistant, diagnosed neck, back, and left ankle injuries. He also underwent left ankle x-rays on December 3, 2020.

By decision dated February 11, 2021, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment incident.

OWCP continued to receive medical evidence. In notes dated December 9, 2020, January 20 and February 24, 2021, Dr. Allen Wilkins, a Board-certified physiatrist, related appellant's history of a December 3, 2020 fall, and listed his symptoms of neck, thoracic, and low back pain; and bilateral elbow and left ankle sprains. He diagnosed spasm of the thoracic back muscle, sprain of the left ankle, cervicalgia, arthropathy of the elbows, lateral epicondylitis of the right elbow, and effusion of the right elbow. Dr. Wilkins opined that when the elevator jerked, appellant experienced a whiplash-type injury and fell to the ground onto his back, striking both elbows, and twisting his left ankle.

OWCP also received a series of diagnostic studies, including left elbow x-rays on February 2, 2021 which demonstrated arthropathy, right elbow x-rays on January 14, 2021 which demonstrated arthropathy, lumbar, thoracic, and cervical spine x-rays on January 14, 2021 which demonstrated a reduction in disc space height at C5-6, dextroscoliosis of the thoracic spine, and facet sclerosis of the lower lumbar spine. A February 3, 2021 left elbow magnetic resonance imaging (MRI) scan demonstrated cartilage loss, cystic changes, marrow edema, and osteophyte formation. A right elbow MRI scan of even date demonstrated cartilage loss, osteophyte formation, marrow edema, tendinosis, and ossicle which could reflect an intraarticular body or old

[4] *Order Remanding Case*, Docket No. 25-0050 (issued December 20, 2024); Docket No. 23-0658 (issued September 6, 2024).

[5] On October 8, 2018 appellant filed a Form CA-1 alleging that he fell while in the performance of duty. OWCP assigned that claim OWCP File No. xxxxxx150 and accepted it for right knee contusion, contusion of the wall of the thorax, low back strain, neck strain, thorax strain, and right shoulder strain. Appellant's claims have not been administratively combined.

fracture. A February 23, 2021 MRI scan demonstrated disc bulges at L3-5, a disc herniation at L5-S1, and straightening of the lumbar lordosis. Another MRI scan of even date demonstrated disc herniations at C3-4, C4-5, C5-6, and C7-T1. A June 18, 2021 computed tomography (CT) scan demonstrated disc herniations at C3-4 and C4-5. A left elbow CT scan of even date demonstrated advanced arthropathy with an intraarticular body.

OWCP subsequently received May 26 and July 15, 2021 form reports, wherein Dr. Boleslav Kosharskyy, a Board-certified anesthesiologist specializing in pain medicine, related appellant's December 3, 2020 employment injury, performed a physical examination, and diagnosed cervical disc displacement, muscle spasm, lumbar disc displacement, bilateral elbow olecranon bursitis, and low back pain. He indicated by checking boxes marked "Yes" that the employment injury was the competent medical cause of the diagnosed conditions, and that his history of injury was consistent with objective findings. In a report dated May 26, 2021, Dr. Kosharskyy repeated his diagnoses and opined that there was a direct causal relationship between the accepted employment injury and the diagnosed conditions. He performed an interlaminar epidural steroid injection at L5-S1 on that date.

In reports dated July 19 and September 20, 2021, Dr. Steven Orr, an orthopedic surgeon, recounted appellant's history of injury on December 3, 2020 and performed a physical examination. He diagnosed cervicalgia, acute low back pain without sciatica, spasm of the thoracic back muscle, sprain of the left ankle, arthropathy of both elbows, lateral epicondylitis of the right elbow, effusion right elbow, and bilateral elbow sprains.

OWCP also received reports dated May 10 and June 28, 2021, wherein Dr. Kenneth McCulloch, an orthopedic surgeon, related appellant's accepted December 3, 2020 employment injury and his neck, back, and bilateral elbow pain. Dr. McCulloch noted that he performed a physical examination and reviewed diagnostic studies, finding significant chondral damage of the elbows. By decision dated March 30, 2022, OWCP vacated the February 11, 2021 decision in part, finding that appellant had met his burden of proof to establish bilateral elbow sprains and a left ankle ligament sprain causally related to the accepted December 3, 2020 employment injury. However, it further denied the February 11, 2021 decision in part, finding that the medical evidence of record was insufficient to establish expansion of the acceptance of the claim to include a neck or back condition causally related to the accepted December 3, 2020 employment injury.[6] OWCP subsequently received additional evidence, including notes from Mary Ann Aplacador, a physical therapist, who provided treatment commencing January 16, 2021.

In notes dated February 20, 2021 through May 14, 2022, Dr. Wilkins described the December 3, 2020 employment injury, performed a physical examination, and reviewed appellant's diagnostic studies. He diagnosed cervicalgia, acute low back pain without sciatica, spasm of the thoracic back muscle, sprain of the left ankle, arthropathy of both elbows, bilateral lateral epicondylitis of the elbows, effusion right elbow, medial epicondylitis, ulnar neuropathy, and bilateral elbow sprains. Dr. Wilkins reported that the employment injury may have exacerbated appellant's bilateral elbow arthritis as demonstrated by MRI scan findings including edema. He recommended surgery.

Dr. Kosharskyy, in reports dated June 17, 2021 through November 11, 2022, found neck pain, bilateral elbow pain, mid-back pain, and lower back pain. He recounted the accepted

[6] By separate decision dated March 30, 2022, OWCP formally accepted the claim for bilateral elbow sprains and left ankle ligament sprain.

December 30, 2020 employment injury, noted that appellant attributed his symptoms to that injury, and diagnosed lumbar intervertebral disc displacement, lumbar radiculopathy, cervical disc displacement, cervical radiculopathy, lumbar spondylosis, muscle spasm, lumbar disc displacement, lumbar facet syndrome, bilateral olecranon bursitis, bilateral post-traumatic elbow osteoarthritis with loose bodies, and bilateral lesions of the ulnar nerves. Dr. Kosharskyy opined that there was a direct causal relationship between the employment injury and appellant's current injuries and that his symptoms and clinical findings were consistent with musculoskeletal injuries to the described areas. He recommended a lumbar endoscopic discectomy, lumbar trigger point injections, cervical epidural steroid injections, and extracorporeal shockwave therapy. Dr. Kosharskyy performed an additional L5-S1 interlaminar epidural steroid injection on June 17, 2021. He performed lumbar facet medial branch nerve blocks at L2-3, L3-4, L4-5, and L5-S1 on July 6, 2021. Dr. Kosharskyy subsequently performed a C7-T1 interlaminar epidural steroid injection and lumbar trigger point injections.

In February 7, 2022 report, Dr. Orr described the December 3, 2020 employment injury and reviewed the medical records. He opined that appellant's bilateral elbow osteoarthritis with loose bodies and bilateral ulnar neuropathy were a direct result of the December 3, 2020 employment injury during which he landed on his elbows with great force. Dr. Orr examined appellant on March 1 and April 26, 2022. He recounted the history of injury, and diagnosed post-traumatic osteoarthritis of the elbows, with loose bodies, and lesions of the ulnar nerves. Dr. Orr recommended surgery.

Dr. Orr performed an arthroscopy of the right elbow on June 1, 2022 with transposition of the ulnar nerve and removal of a foreign body. On June 14, 2022 he reported that appellant continued to experience left elbow pain and that he wished to undergo left elbow surgery. Beginning June 15, 2022, Michael C. Jordhamo, a physical therapist, provided additional treatment.

On June 25, 2022 Dr. Wilkins described the December 3, 2020 employment injury and noted that appellant's bilateral elbow symptoms began the following day with pain and swelling. He performed a physical examination and reiterated his diagnoses.

On July 6, 2022 Dr. Orr performed a left elbow arthroscopic debridement and removal of loose body and left ulnar nerve decompression. In a September 2, 2022 note, he diagnosed bilateral post-traumatic elbow osteoarthritis and bilateral loose bodies.

Appellant provided a series of notes dated July 12 through October 21, 2022 from Brian Samaniego and Laura M. Stevens, physical therapists.

In a July 20, 2022 narrative report, Dr. Kosharskyy related appellant's history of injury on December 3, 2020 asserting that, when appellant fell hard to the floor he landed on his back, and in an attempt to break the fall, his elbows struck the floor with extreme force causing injuries to his back, neck, elbows, and ankle. He reviewed appellant's medical treatment and diagnosed lumbar and cervical intervertebral disc displacement, lumbar and cervical facet arthropathy, lumbar spondylosis, and post-traumatic bilateral elbow osteoarthritis with nerve lesions. Dr. Kosharskyy opined that the December 3, 2020 employment injury was the definite cause of the diagnosed conditions.

In reports dated August 6, September 2 and 17, and October 29, 2022, Dr. Wilkins noted that he examined appellant following bilateral elbow surgery and diagnosed post-traumatic osteoarthritis and loose bodies of the bilateral elbows with bilateral cubital tunnel syndrome "in

the setting of work-related elbow trauma." He further noted that appellant's left ankle was significantly improved.

In reports dated October 7 and November 11, 2022, Dr. Orr again opined that appellant's diagnosed conditions of bilateral elbow osteoarthritis with loose bodies and bilateral ulnar neuropathy were a direct result of the December 3, 2020 employment injury, during which he landed on his elbows with great force.

Dr. Wikins, in reports dated December 17, 2022 and January 14 and March 4, 2023, related the December 3, 2020 employment injury as "the elevator jerked -- p[atien]t experienced a whiplash[-]type injury and fell to the ground, onto his low back and banged [bilateral] elbow[s] and twisted his L[eft] ankle." He repeated his diagnoses of cervicalgia, acute low back pain without sciatica, spasm of the thoracic back muscle, sprain of the left ankle, arthropathy of both elbows, lateral epicondylitis of the right elbow, effusion right elbow, and bilateral elbow sprains.

In an January 4, 2023 report, Dr. Kevin Wright, an orthopedic surgeon, described the December 3, 2020 employment injury and asserted that appellant fell traumatizing his elbows, cervical spine, and lumbar spine. He diagnosed cubital tunnel syndrome of the elbows following neuroplasty of the ulnar nerves without transposition, and bilateral elbow arthritis.

In notes dated January 4 through February 15, 2023, Dr. Kosharskyy diagnosed cervical and lumbar radiculopathies and disc displacements, lumbar spondylosis, bilateral elbow post-traumatic arthritis, loose bodies, and bilateral lesions of the ulnar nerves. He opined that there was a direct causal relationship between the December 3, 2020 work accident as described and appellant's current injuries as his symptoms and clinical findings were consistent with musculoskeletal injuries to the affected areas. Dr. Kosharskyy requested authorization for a lumbar facet medial branch nerve injection.

In a March 16, 2023 report, Dr. Rafael Abramov, an osteopath, specializing in physical medicine and rehabilitation, noted that he examined appellant due to symptoms of bilateral elbow pain, weakness, and tingling. He attributed the underlying conditions of wrist and right shoulder to a vehicular accident on December 3, 2020. Dr. Abramov diagnosed cervical spine derangement and bilateral elbow derangement.

In an April 7, 2023 report, Dr. Demetrios Koutsospyros, Board-certified anesthesiologist specializing in pain management, noted that he performed cervical spine epidural steroid and trigger point injections.

By letter dated April 28, 2023, appellant, through counsel, requested that the acceptance of his claim be expanded to include additional conditions and authorization for medical treatment thereof.

OWCP continued to receive additional evidence. Dr. Wilkins, in an April 29, 2023 note, described the December 3, 2020 employment incident and repeated his diagnoses. He continued to opine that the diagnosed conditions were due to the accepted employment injury.

In a May 19, 2023 development letter, OWCP informed appellant of the deficiencies of his claim to establish additional conditions as causally related to the accepted December 3, 2020 employment injury. It advised him of the type of medical evidence needed, including a detailed narrative report from his attending physician setting forth the objective findings and medical

rationale addressing whether the additional diagnosed conditions had been caused or aggravated by the accepted employment injury.

OWCP subsequently received an October 25, 2021 note from Dr. Orr relating appellant's history of injury on December 3, 2020 and diagnosing bilateral elbow cartilage loss and osteophyte formation of the anterior corner process, osteophyte formation of the radial head with cartilage loss, and intra-articular loose body with overlapping bilateral elbow ulnar nerve neuropathy versus possible radiculopathy.

In October 26 and December 7, 2022 notes, Dr. McCulloch addressed appellant's bilateral elbow conditions following the December 3, 2020 employment injury.

In notes dated January 6, 2023 through October 12, 2023, Dr. Kosharskyy described the December 3, 2020 employment incident and diagnosed lumbar intervertebral disc displacement and radiculopathy, cervical disc displacement and radiculopathy, lumbar spondylosis, myalgia, bilateral elbow post-traumatic arthritis and loose bodies, bilateral ulnar nerve lesion and chronic pain. He opined that appellant's lumbar pain was related to the lumbar zygapophyseal facet joint and to the whiplash-type injury and further opined that there was a direct causal relationship between the December 3, 2020 work accident described and appellant's current injuries as his symptoms and clinical findings were consistent with musculoskeletal injuries to the described areas. Dr. Kosharskyy requested authorization for diagnostic lumbar medial branch block, trigger point, and facet joint injections and an EMG/NCV study of the lower extremities. He reported that appellant had undergone three epidural steroid injections with mild relief in pain and had not experienced improvement in his lower back pain with conservative therapy. Dr. Kosharskyy requested authorization for an additional epidural steroid injection for treatment of lumbar radiculitis secondary to disc displacement to elucidate the pain generator and provide therapeutic benefit. He further explained that trigger point injections were used to manage chronic pain in skeletal muscles in response to strain produced by acute or chronic overload. Dr. Kosharskyy found persistent pain and muscle spasm in the latissimus dorsi muscle. He further requested authorization for a lower extremity an electromyogram/nerve conduction velocity (EMG/NCV) study due to persistent radicular paresthesia following the L5-S1 dermatomes.

In notes dated April 7 through September 15, 2023, Dr. Koutsospyros diagnosed lumbar intervertebral disc displacement and radiculopathy, cervical disc displacement and radiculopathy, lumbar spondylosis, myalgia, bilateral elbow post-traumatic arthritis and loose bodies, left ulnar nerve lesion and chronic pain. He opined that there was a direct causal relationship between the December 3, 2020 work accident described and appellant's current injuries as his symptoms and clinical findings were consistent with musculoskeletal injuries to the described areas. Dr. Koutsospyros performed an interlaminar epidural steroid injection at C7-T1 and trigger point injections in the trapezius, rhomboid, and levator scapulate bilaterally on April 7, 2023. On September 14, 2023 he performed an interlaminar epidural steroid injection at L5-S1.

Dr. Wright completed a May 3, 2023 note diagnosing cubital tunnel syndrome of the elbows and bilateral elbow arthritis.

On June 10 and August 19, 2023 Dr. Wilkins related appellant's history of injury and diagnosed left ankle sprain, bilateral elbow sprains, and arthropathy, low back pain, lateral epicondylitis and effusion of the right elbow, thoracic back muscle spasm, and cervicalgia.

In November 8 and 15, 2023 reports, Dr. Mohammad Ghorbanhoseini, a Board-certified anesthesiologist specializing in pain management, related appellant's history of injury on

December 3, 2020 and diagnosed lumbar intervertebral disc displacement, myalgia, lumbar radiculopathy, cervical disc displacement, cervical radiculopathy, lumbar spondylosis, bilateral elbow conditions, and bilateral ulnar nerve conditions. He opined that there was a direct causal relationship between the accepted employment injury and his current diagnoses. Dr. Ghorbanhoseini requested authorization for diagnostic lumbar medial branch block, trigger point, and facet joint injections and an EMG/NCV study of the lower extremities. He repeated the reasoning found in Dr. Kosharskyy's October 12, 2023 report requesting these medical services.

In a development letter dated November 16, 2023, OWCP informed appellant that the evidence of record was insufficient to authorize lumbar joint injections. It advised him of the type of medical evidence needed and afforded him 30 days to submit the necessary evidence.

OWCP subsequently received notes from Dr. Ghorbanhoseini dated December 13, 2023 through March 13, 2024 repeating his diagnoses and opinion that there was causal relationship between these diagnoses and the accepted employment injury. Dr. Ghorbanhoseini again requested authorization for trigger point injections, an EMG/NCV study of the lower extremities, and a cervical epidural steroid injection. He performed cervical extracorporeal shock wave therapy on December 13, 2023. On February 14, 2024 Dr. Ghorbanhoseini recommended an endoscopic lumbar discectomy.

Dr. Kosharskyy completed notes dated December 14, 2023 through March 29, 2024, describing the December 3, 2020 employment incident and diagnosed lumbar intervertebral disc displacement and radiculopathy, cervical disc displacement and radiculopathy, lumbar spondylosis, myalgia, bilateral elbow post-traumatic arthritis and loose bodies, left ulnar nerve lesion and chronic pain. He opined that appellant's lumbar pain was related to the lumbar zygapophyseal facet joint and to the whiplash-type injury and further opined that there was a direct causal relationship between the December 3, 2020 work accident described and appellant's current injuries as his symptoms and clinical findings were consistent with musculoskeletal injuries to the described areas. Dr. Kosharskyy continued to request authorization for trigger point injections, EMG/NCV study of the lower extremities, and a cervical epidural steroid injection. He repeated his previous reasoning for these medical treatments. Dr. Kosharskyy performed a lumbar epidural steroid injection on December 13, 2023 and found that appellant experienced mild pain relief for the less than 12 hours.

On January 19, 2024 appellant underwent additional cervical spine x-rays. Dr. Kosharskyy reviewed these studies on February 5, 2024 and determined that his cervical spine alignment was predictive of chronic neck pain.

In an April 10, 2024 report, Dr. Wright reviewed diagnostic studies and diagnosed work-related injuries to the bilateral elbows requiring surgical intervention for ulnar nerve decompression.

By decision dated April 30, 2024, OWCP denied appellant's request for authorization for lumbar injections.

Appellant appealed the April 30, 2024 decision to the Board. By order remanding case dated December 20, 2024,[7] the Board found that the case was not in posture for decision as OWCP failed to consider and address the medical evidence from Drs. Ghorbanhoseini and Kosharskyy

[7] *Supra* note 4.

dated December 13, 2023 through March 29, 2024. The Board remanded the case for review of all the evidence of record and a *de novo* decision.

While the appeal was pending, OWCP received notes dated April 26 through July 18, 2024 noting treatment by Dr. Ghorbanhoseini for neck, bilateral elbow, and lower back pain which appellant attributed to his December 3, 2020 employment injury. Dr. Ghorbanhoseini diagnosed lumbar and cervical disc displacements and radiculopathies, lumbar spondylosis, bilateral post-traumatic osteoarthritis of the elbows, bilateral loose bodies in the elbows, and bilateral lesions of the ulnar nerves. He opined that there was a direct causal relationship between the accident and the current conditions, and that appellant's symptoms and clinical findings were consistent with musculoskeletal injuries to the described areas.

In reports dated May 14 through August 17, 2024, Dr. Kosharskyy diagnosed lumbar and cervical disc displacements and radiculopathies, lumbar spondylosis, bilateral post-traumatic osteoarthritis of the elbows, bilateral loose bodies in the elbows, and bilateral lesions of the ulnar nerves. He opined that there was a direct causal relationship between the accident and the current conditions and that appellant's symptoms and clinical findings were consistent with musculoskeletal injuries to the described areas.

In a January 6, 2025 development letter, OWCP advised appellant that the evidence remained insufficient to establish additional conditions as causally related to the accepted December 3, 2020 employment injury. It advised him of the type of medical evidence needed, including a detailed narrative report from his attending physician setting forth the objective findings and medical rationale addressing whether the additional diagnosed conditions had been caused or aggravated by the accepted employment injury. OWCP afforded appellant 30 days to submit the requested evidence.

OWCP subsequently received a September 10, 2021 report wherein Dr. Abramov related that appellant was involved in a December 2, 2020 motor vehicle accident in which he sustained cervical and lumbar spine derangements with multilevel disc herniations and injured his knee and shoulder.

By decision dated February 10, 2025, OWCP denied appellant's request to expand the acceptance of his claim to include additional conditions as causally related to his accepted employment injury. It further denied his request for authorization for lumbar spine injections.

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.[8]

To establish causal relationship between the condition, and the accepted employment injury, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.[9] The opinion of the physician must be based on a complete factual and medical background of the claimant, must be

[8] *See A.M.*, Docket No. 22-0707 (issued October 16, 2023); *V.P.*, Docket No. 21-1111 (issued May 23, 2022); *S.B.*, Docket No. 19-0634 (issued September 19, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

[9] *K.B.*, Docket No. 22-0842 (issued April 25, 2023); *T.K.*, Docket No. 18-1239 (issued May 29, 2019).

one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the accepted employment injury.[10] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.[11]

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.[12]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include additional conditions as causally related to his accepted December 3, 2020 employment injury.

In reports dated December 9, 2020 through August 19, 2023, Dr. Wilkins opined that appellant sustained a "whiplash[-]type injury" and "banged" his elbows and twisted his left ankle and found that the diagnosed conditions arose "in the setting of work-related elbow trauma." In reports dated May 26, 2021 through August 17, 2024, Dr. Kosharskyy opined that there was a direct causal relationship between the accepted employment injury and the diagnosed back, neck, and elbow conditions and noted that appellant's symptoms and clinical findings were consistent with musculoskeletal injuries to the described areas. He noted that appellant struck the floor of the elevator with extreme force causing injuries to his back neck, elbows, and ankle. In reports dated February 7 through November 11, 2022, Dr. Orr opined that appellant's bilateral elbow osteoarthritis with loose bodies and bilateral ulnar neuropathy were a direct result of the December 3, 2020 employment injury during which he landed on his elbows with great force. In reports dated April 7 through September 14, 2023, Dr. Koutsospyros opined that there was a direct causal relationship between the December 3, 2020 work accident described and these injuries as appellant's symptoms and clinical findings were consistent with musculoskeletal injuries to the described areas. In reports dated November 8, 2023 through July 18, 2024, Dr. Ghorbanhoseini opined that there was a direct causal relationship between the accepted employment injury and his current diagnoses. In May 3, 2023 and April 10, 2024 reports, Dr. Wright diagnosed cubital tunnel syndrome and bilateral elbow arthritis and opined that these conditions were work related. However, while these physicians opined that appellant's additional diagnosed conditions were causally related to the accepted December 3, 2020 employment injury, they did not explain their opinion with sufficient rationale. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain sufficient medical rationale explaining how an

[10] *D.C.,* Docket No. 25-0621 (issued July 15, 2025); *R.P.*, Docket No. 18-1591 (issued May 8, 2019).

[11] *Id.*

[12] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *N.N.,* Docket No. 24-0510 (issued July 16, 2024); *J.L.,* Docket No. 20-0717 (issued October 15, 2020).

additional medical condition was causally related to the accepted employment injury.[13] Thus, this evidence is insufficient to establish expansion of the claim.[14]

In May 26 and July 15, 2021 form reports, Dr. Kosharskyy related appellant's history of a December 3, 2020 employment injury and indicated by checking boxes marked "Yes" that the employment injury was the competent medical cause of the diagnosed conditions. However, the Board has held that an opinion on causal relationship with an affirmative check mark, without more by way of medical rationale, is insufficient to establish expansion of the claim.[15]

In reports dated October 30, 2021 through May 14, 2022, Dr. Wilkins opined that the fall may have exacerbated appellant's bilateral elbow arthritis. The Board has held that medical opinions that suggest that a condition could be caused or aggravated by work activities are speculative or equivocal in character and have limited probative value.[16] The Board has further held that medical rationale is particularly necessary if appellant has a preexisting condition.[17] This evidence is therefore insufficient to establish expansion of appellant's claim.

In notes dated May 10 and June 28, 2021, Dr. McCulloch described appellant's accepted December 3, 2020 employment injury and his neck, back, and bilateral elbow pain. In reports dated July 19, 2021 through September 20, 2021, Dr. Orr recounted appellant's history of injury on December 3, 2020 and diagnosed low back, thoracic, left ankle, and bilateral elbow conditions. These reports did not address the issue of whether appellant's additional conditions were causally related to the accepted December 3, 2020 employment injury. The Board has held that medical evidence that does not provide an opinion regarding the cause of an employee's condition is of no probative value.[18] Therefore, this evidence is also insufficient to establish expansion of the claim.

Dr. Abramov, in reports dated September 10, 2021 and March 16, 2023, attributed appellant's cervical and lumbar spine conditions to a December 2, 2020 motor vehicle accident. As these reports negate causal relationship between the accepted December 3, 2020 employment injury and the diagnosed cervical and lumbar spine conditions, they lack probative value.[19] Therefore, this evidence is also insufficient to establish expansion of the claim.

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[13] *See D.C.,* Docket No. 25-0621 (issued July 15, 2025); *S.W.*, Docket No. 25-0473 (issued May 15, 2025); *J.B.*, Docket No. 21-0011 (issued April 20, 2021); *A.M.*, Docket No. 19-1394 (issued February 23, 2021); *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).

[14] *S.W.*, *id.*; *B.W.*, Docket No. 21-0536 (issued March 6, 2023); *M.M.*, Docket No. 20-1557 (issued November 3, 2021).

[15] *See F.M.*, Docket No. 23-0977 (issued February 6, 2024); *J.H.*, Docket No. 23-0159 (issued August 1, 2023); *C.S.*, Docket No. 18-1633 (issued December 30, 2019); *D.S.*, Docket No. 17-1566 (issued December 31, 2018); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

[16] *P.C.*, Docket No. 22-1242 (issued May 23, 2023); *J.W.*, Docket No. 18-0678 (issued March 3, 2020).

[17] *E.K.*, Docket No. 18-0835 (issued September 23, 2020); *G.H.*, Docket No. 18-0414 (issued November 14, 2018); *Del K. Rykert*, 40 ECAB 294-96 (1988).

[18] *P.N.*, Docket No. 25-0277 (issued March 6, 2025); *A.M.*, Docket No. 24-0413 (issued July 31, 2024); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *see D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[19] *Supra* note 15.

OWCP also received evidence signed solely by a physician assistant and physical therapist. However, certain healthcare providers such as nurse practitioners, physician assistants, and physical therapists are not considered physicians as defined under FECA.[20] Thus, this evidence is of no probative value and is insufficient to establish appellant's claim.

The remainder of the evidence of record consisted 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.[21]

As the medical evidence of record is insufficient to establish that the acceptance of the claim should be expanded to include the additional diagnosed conditions as causally related to the accepted December 3, 2020 employment injury, 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.

LEGAL PRECEDENT -- ISSUE 2

Section 8103(a) of FECA[22] provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed by or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.[23]

[20] 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); *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).

[21] *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).

[22] 5 U.S.C. § 8103(a).

[23] *Id.*; *see J.K.*, Docket No. 20-1313 (issued May 17, 2021); *Thomas W. Stevens*, 50 ECAB 288 (1999).

In interpreting this section of FECA, the Board has recognized that OWCP has broad discretion in determining whether a particular type of treatment is likely to cure or give relief.[24] The only limitation on OWCP's authority is that of reasonableness.[25]

Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed to produce a contrary factual conclusion.[26]

While OWCP is obligated to pay for treatment of employment-related conditions, appellant has the burden of proof to establish that the expenditures were incurred for treatment of the effects of an employment-related injury or condition.[27] Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.[28] In order for a procedure to be authorized, appellant must establish that the procedure was for a condition causally related to the employment injury and that the procedure was medically warranted.[29] Both of these criteria must be met in order for OWCP to authorize payment.[30]

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied authorization for lumbar spine injections.

Drs. Ghorbanhoseini, Kosharskyy, requested to perform additional lumbar spine injections as treatment for appellant's diagnosed lumbar conditions. However, no lumbar spine conditions have been accepted as causally related to the accepted December 3, 2021 employment injury. As the procedure requested is not related to the accepted conditions, it is not likely to cure, give relief, reduce the degree or the period of any disability, or aid in lessening the amount of any monthly compensation.[31] Thus, the Board finds that OWCP did not abuse its discretion in denying appellant's request for authorization of lumbar spine injections.

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[24] *R.C.*, Docket No. 18-0612 (issued October 19, 2018); *W.T.*, Docket No. 08-812 (issued April 3, 2009).

[25] *See S.Y.*, Docket No. 24-0443 (issued May 28, 2024); *see D.C.*, Docket No. 20-0854 (issued July 19, 2021); *C.L.*, Docket No. 17-0230 (issued April 24, 2018); *D.K.*, 59 ECAB 141 (2007).

[26] *See E.F.*, Docket No. 20-1680 (issued November 10, 2021); *J.L.*, Docket No. 18-0503 (issued October 16, 2018); *Daniel J. Perea*, 42 ECAB 214, 221 (1990).

[27] *R.M.*, Docket No. 19-1319 (issued December 10, 2019); *J.T.*, Docket No. 18-0503 (issued October 16, 2018); *Debra S. King*, 44 ECAB 203, 209 (1992); *Zane H. Cassell*, 32 ECAB 1537, 1540-41 (1981).

[28] *K.W.*, Docket No. 18-1523 (issued May 22, 2019); *C.L.*, Docket No. 17-0230 (issued April 24, 2018); *M.B.*, 58 ECAB 588 (2007); *Bertha L. Arnold*, 38 ECAB 282 (1986).

[29] *T.A.*, Docket No 19-1030 (issued November 22, 2019); *Zane H. Cassell*, *supra* note 27; *John E. Benton*, 15 ECAB 48, 49 (1963).

[30] *J.L.*, Docket No. 18-0990 (issued March 5, 2019); *R.C.*, 58 ECAB 238 (2006); *Cathy B. Millin*, 51 ECAB 331, 333 (2000).

[31] 5 U.S.C. § 8103(a); *see P.M.,* Docket No. 18-0287 (issued October 11, 2018); *B.L.*, Docket No. 15-1452 (issued September 20, 2016); L.D., 59 ECAB 648 (2008).

CONCLUSION

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include additional conditions as causally related to his accepted December 3, 2020 employment injury. The Board further finds that OWCP properly denied authorization for lumbar spine injections.

ORDER

IT IS HEREBY ORDERED THAT the February 10, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 5, 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