United States Department of Labor
Employees' Compensation Appeals Board

D.H., Appellant	)	
and	)	**Docket No. 26-0428**
	)	**Issued: July 17, 2026**
U.S. POSTAL SERVICE, NORTH HOUSTON POST OFFICE, Houston, TX, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 8, 2026 appellant filed a timely appeal from a January 15, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the January 15, 2026 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 his burden of proof to expand the acceptance of his claim to include additional conditions as causally related to the accepted June 17, 2025 employment injury.

FACTUAL HISTORY

On June 18, 2025 appellant, then a 69-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on June 17, 2025 he injured his hips, knees, right foot, and back when he stepped in a deep hole and fell to the ground while in the performance of duty. He stopped work on June 17, 2025, and returned to full duty on June 18, 2025 without wage loss.

In a June 27, 2025 development letter, OWCP informed appellant of the deficiencies of his claim and advised him of the type of evidence needed to establish his claim. It afforded him 60 days to submit the necessary evidence.

Appellant subsequently submitted a June 25, 2025 report wherein Dr. Robert C. Lowry, a Board-certified physiatrist, recounted the claimed June 17, 2025 employment incident and documented physical examination findings of muscle spasms, swelling, and paraspinal tenderness of the lumbar spine; positive crepitus in passive range of motion (ROM) and muscle spasms of the knees; edema at the dorsum of the right foot; and inability to perform frog leg position with either leg. Dr. Lowry discussed diagnostic testing results and listed the "proposed diagnoses" of aggravation of lumbar sprain, right ankle talofibular ligament tear, right hip acetabular labral complex tear, left hip acetabular labral complex tear, right trochanteric bursitis, and left trochanteric bursitis. He indicated that, when a person suffers a fall, the sudden shifts in body weight and abrupt reflexive actions can cause overstretching and/or tearing of the soft tissue structures and the back absorbs an incredible amount of force pressure from the jerking and pressure of the impact on the ground. Dr. Lowry opined that when appellant landed on his back after trying to break his fall on June 17, 2025 he sustained a sprain of his lumbar spine. He indicated that appellant's right foot twisted as he stepped into the grassy hole, causing severe stress and strain to the ligaments and muscles in his right ankle/foot. Dr. Lowry noted that the forceful twisting and hyper-plantar flexion of his right ankle when his right foot fell in the hole led to a tear in his talofibular tendon. Because the ankle and the foot are connected, the right foot muscles and surrounding ligaments overstretched and appellant sustained a sprain to his right foot. Dr. Lowry indicated that his right hip osteoarthritis made the joint susceptible to injury and, when his right hip hit the ground, he overstretched his left hip. He explained that the impact of hitting the ground led to complex tears of appellant's bilateral acetabular labrum and bilateral trochanteric bursitis. Dr. Lowry noted that comparison of a 2024 magnetic resonance imaging (MRI) scan of the right hip to a recent right hip MRI scan clearly showed that the injury on June 17, 2025 permanently aggravated the right hip condition. He opined that appellant's job duties contributed to the diagnoses of aggravation of lumbar sprain, right ankle talofibular ligament tear, right hip acetabular labral complex tear, left hip acetabular labral complex tear, right trochanteric bursitis, and left trochanteric bursitis, in addition to the accepted conditions. Dr. Lowry indicated that these conditions necessitated medical treatment such as physical rehabilitation and medications, and required alteration of occupational demands. He stated, "When [appellant's] right ankle twisted in the grass-covered hole, his body suffered more than just sprains."

In a June 25, 2025 attending physician's report (Form CA-20), Dr. Lowry listed a June 17, 2025 date of injury and provided the diagnoses of lumbosacral sprain/strain, sprain of the right foot, sprains of ligaments of the ankles, sprains of the knees, and sprains of the hips. He opined that the claimed June 17, 2025 employment incident caused or aggravated the listed diagnosed conditions.

In a June 25, 2025 authorization for examination and/or treatment (Form CA-16), Dr. Lowry listed a June 17, 2025 date of injury and provided the diagnoses of lumbosacral strain, sprain of the right foot, sprains of ligaments of the ankles, sprains of the knees, and sprain of the right hip. He opined that the June 17, 2025 employment incident caused or aggravated the listed diagnosed conditions.[3] In a July 8, 2025 report, Dr. Lowry documented physical examination findings and recommended physical rehabilitation for appellant's hips.

Appellant also submitted a July 11, 2025 MRI scan of the left ankle which contained an impression of moderate osteoarthritis at the second, third, and fourth tarsometatarsal joints.

A July 11, 2025 left hip MRI scan contained an impression of mild femoral acetabular joint osteoarthritis, acetabular labral complex tear, and mild greater trochanteric bursitis.

A July 11, 2025 right hip MRI scan contained an impression of mild femoral acetabular joint osteoarthritis, acetabular labral complex tear, and mild greater trochanteric bursitis.

A July 11, 2025 right ankle MRI scan contained an impression of anterior talofibular ligament high-grade sprain/partial tear, bone marrow edema in the cuneiforms, cuboid, and bases of the second, third and fourth metatarsals, and significant degenerative changes/edema of the second, third, and fourth tarsometatarsal joints.

A July 11, 2025 right foot MRI scan contained an impression of severe hallux valgus and bunion deformity, moderate first metatarsophalangeal joint osteoarthritis, bone marrow edema in the cuneiforms, cuboid, and bases of the second, third and fourth metatarsals, and significant degenerative changes/edema of the second, third, and fourth tarsometatarsal joints.

On July 21, 2025 OWCP accepted appellant's claim for sprain of the right foot, sprains of ligaments of the ankles, sprains of the knees, and sprains of the hips.

In a July 23, 2025 report, Dr. Lowry indicated that appellant reported his hip symptoms had worsened since his prior visit.

On August 28, 2025 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Charles W. Kennedy, Jr., a Board-

[3] A properly completed Form CA-16 form authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. 20 C.F.R. § 10.300(c); *P.R.,* Docket No. 18-0737 (issued November 2, 2018); *N.M.,* Docket No. 17-1655 (issued January 24, 2018); *Tracy P. Spillane,* 54 ECAB 608 (2003).

certified orthopedic surgeon, for an examination and evaluation regarding whether he sustained additional conditions causally related to the accepted June 17, 2025 employment injury.

OWCP subsequently received reports, dated August 12 through September 24, 2025, of Dr. Riley Neel-Hernandez, a chiropractor, and reports, dated August 26 and September 23, 2025, of Dr. Nicolas Chillemi, a chiropractor. It also received an unsigned August 28, 2025 report regarding the treatment of appellant's feet.

In a September 3, 2025 report, Dr. Lowry noted that appellant reported pain in his ankles and feet. In a September 10, 2025 report, he documented complaints of pain in his hips, knees, and ankles. In an October 15, 2025 report, Dr. Lowry indicated that appellant reported pain in his buttocks, ankles, and feet.

In an October 6, 2025 report, Dr. Kennedy discussed the June 17, 2025 employment injury and the results of diagnostic testing. He documented physical examination findings, including ROM findings for the hips, knees, and ankles. Dr. Kennedy related that appellant had no instability or effusion of his knees and that he had mild tenderness of the greater trochanteric area of his hips with full ROM. He noted swelling at the tarsal/metatarsal areas of his feet and some mild tenderness of his low back. There was no numbness or weakness of the lower extremities. Dr. Kennedy advised that physical examination and diagnostic testing confirmed mild bilateral trochanteric bursitis and minor ankle sprains. He opined that there was no objective evidence that the June 17, 2025 work injury caused or materially aggravated any preexisting condition, including a condition of the hips, knees, low back, or feet. Dr. Kennedy indicated that appellant's labral tears and degenerative changes were consistent with his age and prior medical history. In an October 6, 2025 work capacity evaluation (Form OWCP-5c), he opined that appellant could perform his usual job without restriction.

OWCP subsequently received reports, dated October 2 through 28, 2025, of Dr. Chillemi. In an October 29, 2025 report, Dr. Lowry indicated that appellant reported pain and swelling in his right knee.

By decision dated November 21, 2025, OWCP denied appellant's expansion claim, finding that the medical evidence of record was insufficient to establish that appellant sustained additional conditions causally related to the accepted June 17, 2025 employment injury. It afforded the weight of the medical evidence to the opinion of Dr. Kennedy, the OWCP referral physician.

OWCP subsequently received reports, dated November 20 and December 3, 2025, of Dr. Chillemi.

On December 19, 2025 appellant requested reconsideration of the November 21, 2025 decision.

OWCP subsequently received a December 10, 2025 report wherein Dr. Lowry indicated that appellant continued to report pain in his ankles and feet.

In a December 16, 2025 report, Dr. Lowry advised that he disagreed with Dr. Kennedy's opinion that the diagnoses appellant requested be accepted in connection with his expansion claim were not related to the work injury. He opined that these diagnoses were related to the June 17,

2025 work injury and "should be included in this case." Dr. Lowry stated that the June 17, 2025 work injury aggravated the previous lower back and hip injuries. He discussed diagnostic testing results and listed the "proposed diagnoses" of aggravation of lumbar sprain, right ankle talofibular ligament tear, right hip acetabular labral complex tear, left hip acetabular labral complex tear, right trochanteric bursitis, and left trochanteric bursitis. Dr. Lowry indicated that, when a person suffers a fall, the sudden shifts in body weight and abrupt reflexive actions can cause overstretching and/or tearing of the soft tissue structures and he opined that when appellant landed on his back after trying to break his fall on June 17, 2025 he sustained a sprain of his lumbar spine. He indicated that his right foot twisted as he stepped into the grassy hole, causing severe stress and strain to the ligaments and muscles in his right ankle/foot. Dr. Lowry noted that the forceful twisting and hyper-plantar flexion of appellant's right ankle when his right foot fell in the hole led to a tear in his talofibular tendon. He indicated that his right hip osteoarthritis made the joint susceptible to injury and, when his right hip hit the ground, he overstretched his left hip. Dr. Lowry opined that the impact of hitting the ground led to complex tears of appellant's bilateral acetabular labrum and bilateral trochanteric bursitis. He determined that the June 17, 2025 injury resulted in the diagnoses of aggravation of lumbar sprain, right ankle talofibular ligament tear, right hip acetabular labral complex tear, left hip acetabular labral complex tear, right trochanteric bursitis, and left trochanteric bursitis, in addition to the accepted conditions. Dr. Lowry indicated that these conditions necessitated medical treatment such as physical rehabilitation and medications, and required alteration of occupational demands. He stated, "When [appellant's] right ankle twisted in the grass-covered hole, these conditions are [sic] not degenerative, they were the result of his traumatic injury that occurred while performing his job duties."

OWCP also received reports, dated January 7 and 13, 2026, of Dr. Chillemi.

By decision dated January 15, 2026, OWCP denied modification of its November 21, 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 medical evidence required to establish causal relationship between a specific condition, and the employment injury is rationalized medical opinion evidence. 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 accepted employment injury.[5]

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 examiner (IME)) who

[4] *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] *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

shall make an examination.[6] For a conflict to arise, the opposing physicians' opinions must be of virtually equal weight and rationale.[7] In situations where the case is properly referred to an IME 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.[8]

ANALYSIS

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

In an October 6, 2025 report, Dr. Kennedy, the OWCP referral physician, discussed the June 17, 2025 employment injury and the results of diagnostic testing. He documented physical examination findings, noting that appellant had no instability or effusion of his knees and that he had mild tenderness of the greater trochanteric area of his hips with full ROM. Dr. Kennedy noted swelling at the tarsal/metatarsal areas of his feet and some mild tenderness of his low back. There was no numbness or weakness of the lower extremities. Dr. Kennedy advised that physical examination and diagnostic testing confirmed mild bilateral trochanteric bursitis and minor ankle sprains. He opined that there was no objective evidence that the June 17, 2025 work injury caused or materially aggravated any preexisting condition, including a condition of the hips, knees, low back, or feet. Dr. Kennedy indicated that appellant's labral tears and degenerative changes were consistent with his age and prior medical history. In an October 6, 2025 Form OWCP-5c, he opined that he could perform his usual job without restriction.

In a June 26, 2025 report, Dr. Lowry, an attending physician, documented physical examination findings of muscle spasms, swelling, and paraspinal tenderness of the lumbar spine; positive crepitus in passive ROM and muscle spasms of the knees; edema at the dorsum of the right foot; and inability to perform frog leg position with either leg. He indicated that, when a person suffers a fall, the sudden shifts in body weight and abrupt reflexive actions can cause overstretching and/or tearing of the soft tissue structures and the back absorbs an incredible amount of force pressure from the jerking and pressure of the impact on the ground. Dr. Lowry opined that when appellant landed on his back after trying to break his fall on June 17, 2025 he sustained a sprain of his lumbar spine and indicated that his right foot twisted as he stepped into the grassy hole, causing severe stress and strain to the ligaments and muscles in his right ankle/foot. He noted that the forceful twisting and hyper-plantar flexion of his right ankle when his right foot fell in the hole led to a tear in his talofibular tendon. Because the ankle and the foot are connected, the right foot muscles and surrounding ligaments overstretched and appellant sustained a sprain to his right foot. Dr. Lowry indicated that his right hip osteoarthritis made the joint susceptible to injury and, when his right hip hit the ground, he overstretched his left hip. He related that the impact of hitting the ground led to complex tears of appellant's bilateral acetabular labrum and bilateral trochanteric bursitis. Dr. Lowry opined that his job duties contributed to the diagnoses of aggravation of lumbar sprain, right ankle talofibular ligament tear, right hip acetabular labral complex tear, left hip

[6] 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).

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

[8] *See D.M.,* Docket No. 18-0746 (issued November 26, 2018); *R.H.,* 59 ECAB 382 (2008); *James P. Roberts*, *id*.

acetabular labral complex tear, right trochanteric bursitis, and left trochanteric bursitis, in addition to the accepted conditions. He stated, "When [appellant's] right ankle twisted in the grass covered hole, his body suffered more than just sprains."

In a December 16, 2025 report, Dr. Lowry advised that he disagreed with Dr. Kennedy's opinion that the diagnoses appellant requested be accepted in connection with his expansion claim were not related to the work injury. He opined that these diagnoses were related to the June 17, 2025 work injury and "should be included in this case." Dr. Lowry stated that the June 17, 2025 injury aggravated the previous lower back and hip injuries. He then provided a discussion of the mechanics of the June 17, 2025 fall and the resulting medical conditions which was similar to the discussion in his June 26, 2025 report. Dr. Lowry opined that the June 17, 2025 injury resulted in the diagnoses of aggravation of lumbar sprain, right ankle talofibular ligament tear, right hip acetabular labral complex tear, left hip acetabular labral complex tear, right trochanteric bursitis, and left trochanteric bursitis, in addition to the accepted conditions. He stated, "When [appellant's] right ankle twisted in the grass-covered hole, these conditions are [sic] not degenerative, they were the result of his traumatic injury that occurred while performing his job duties."

The Board finds that there is a conflict in the medical evidence as Dr. Kennedy and Dr. Lowry provided conflicting opinions regarding whether the diagnoses appellant requested be accepted in connection with his expansion claim were related to the accepted June 17, 2025 employment injury.[9] Dr. Kennedy opined that the diagnoses of aggravation of lumbar sprain, right ankle talofibular ligament tear, right hip acetabular labral complex tear, left hip acetabular labral complex tear, right trochanteric bursitis, and left trochanteric bursitis were not related to the accepted June 17, 2025 employment injury. In contrast, Dr. Lowry opined that these diagnoses were caused by the accepted June 17, 2025 employment injury.

Because there is an unresolved conflict in medical opinion regarding whether appellant sustained additional conditions causally related to the accepted June 17, 2025 employment injury, 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 a SOAF, to a specialist in the appropriate field of medicine for an impartial medical examination to resolve the conflict. 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.

[9] *See supra* note 6. *See also P.R.*, Docket No. 18-0022 (issued April 9, 2018).

ORDER

IT IS HEREBY ORDERED THAT the January 15, 2026 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for proceedings consistent with this decision of the Board.

Issued: July 17, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board