United States Department of Labor
Employees' Compensation Appeals Board

S.H., Appellant	)	
and	)	**Docket No. 26-0168**
	)	**Issued: June 8, 2026**
DEPARTMENT OF THE NAVY, MARINE CORPS-STATION, Camp LeJeune, NC, Employer	)	

Appearances:
Capp P. Taylor, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 9, 2025 appellant, through counsel, filed a timely appeal from a November 6, 2025 merit decision and a December 2, 2025 nonmerit 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.

[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*.

ISSUES

The issues are: (1) whether appellant met her burden of proof to expand the acceptance of her claim to include lumbar degenerative disc disease and left hip primary osteoarthritis, as causally related to, or consequential to, the accepted April 14, 2021 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

This case has previously been before the Board.[3] The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On April 20, 2021 appellant then a 58-year-old miscellaneous clerk, filed a traumatic injury claim (Form CA-1) alleging that on April 14, 2021 she injured her right ankle, ribs, head, right wrist, left leg, and left hip when she slipped and fell as she descended concrete steps while in the performance of duty. She stopped work on April 14, 2021, but returned to work on April 22, 2021. OWCP accepted the claim for right wrist carpal joint sprain.

In a report dated July 22, 2021, Dr. David J. Kirby, a Board-certified family medicine physician, reported that appellant was treated for left hip pain which began after she fell down four stairs on April 14, 2021. On physical examination, Dr. Kirby observed tenderness over the trochanteric bursa or lateral myofascial structures and reasonably good hip range of motion. He noted that appellant's radiating symptoms and numbness/tingling suggested a lumbar radicular source of pain. Dr. Kirby also related that appellant's computerized tomography (CT) scan revealed significant lumbar degenerative disc disease and arthropathy. He diagnosed lumbar radiculopathy and recommended magnetic resonance imaging (MRI) scanning.

A February 18, 2022 MRI scan of appellant's lumbar spine indicated findings of lumbar levoscoliosis, L1-5 moderate degenerative disc disease, L5-S1 facet arthropathy, lumbar spondylosis, and disc bulge.

In a July 12, 2022 report, Dr. Felix Muniz, a Board-certified anesthesiologist, related that appellant was seen for an epidural injection. He diagnosed chronic pain syndrome, lumbar radiculopathy, lumbar facet joint pain, low back pain, and lumbar intervertebral disc degeneration.

A September 6, 2022 MRI scan of appellant's hips showed moderate left and mild-to-moderate right bilateral osteoarthritis, multilevel degenerative disc disease, lumbar facet arthrosis, small bilateral hip joint effusions greater on the left, and small partial-thickness right gluteus minimis tendon tear.

In reports dated April 10 and 24, 2023, Dr. Arthur Barton, a Board-certified orthopedic surgeon, reported that appellant was treated for complaints of left hip and back pain. He noted appellant's history that she injured her lower back and left hip when she fell on April 14, 2021.

[3] Docket No. 25-0626 (issued August 6, 2025).

On physical examination Dr. Barton observed pain with internal hip rotation, left lower back tenderness, antalgic gait, left groin pain, and equivocal straight leg raise. He diagnosed left hip primary osteoarthritis and lumbar degenerative disc disease.

An April 28, 2024 lumbar MRI scan demonstrated L1-2 disc bulge and no significant stenosis; L2-3 disc bulge, facet arthropathy, and mild spinal stenosis; L3-4 disc bulge, facet arthropathy, and no significant stenosis; L4-5 disc bulge, facet arthropathy, no significant spinal stenosis, and moderate right neural foraminal narrowing; and L5-S1 disc bulge, facet arthropathy, no significant spinal stenosis.

By decision dated November 7, 2024, OWCP denied expansion of the acceptance of the claim to include lumbar degenerative disc disease and left hip primary osteoarthritis.

OWCP continued to receive medical evidence. In a May 17, 2022 report, Dr. Robert Mark Rodger, a Board-certified orthopedic surgeon, reviewed appellant's diagnostic studies and diagnosed lumbar radiculopathy and lumbar spine scoliosis.

OWCP also received an August 29, 2023 note from Dr. Daniel DeLo, a Board-certified internist and rheumatologist, who related that appellant developed hip problems following falls in 2020. He noted that in 2021 appellant had a substantial fall at work which caused multiple injuries. She related significant aggravation of lower back and hip pain subsequent to the 2021 fall. Dr. DeLo opined that it seemed likely that the 2021 fall either aggravated a preexisting hip arthritic condition and/or back or caused a new injury to those areas.

On May 14, 2025 appellant, through counsel, requested reconsideration of the November 7, 2024 decision.

By decision dated May 20, 2025, OWCP denied modification of its prior decision.

On June 16, 2025 appellant, through counsel, appealed to the Board. By decision dated August 6, 2025, the Board affirmed OWCP's May 20, 2025 decision, finding that appellant had not met her burden of proof to expand the acceptance of her claim to include lumbar degenerative disc disease and left hip primary osteoarthritis, as causally related to the April 14, 2021 employment injury.[4]

On September 28, 2025 appellant, through counsel, requested reconsideration and submitted additional evidence.

In an August 29, 2025 report, Dr. Randle Ramsey, an osteopathic Board-certified orthopedic surgeon, noted familiarity with appellant's bilateral hip and low back conditions and treatment. He diagnosed left hip osteoarthritis based on physical examination findings, review of x-ray interpretations, and her complaints. Dr. Ramsey opined that her left hip osteoarthritis was partially attributable to being overweight and the aging process. He explained that her fall on April 14, 2021 would be sufficient to cause or exacerbate damage to the cartilage tissue, noting she was asymptomatic prior to the April 14, 2021 fall. Dr. Ramsey further related appellant's

[4] *Id.*

diagnosis of lumbar intervertebral disc disease, which predated the April 14, 2021 employment injury. He found that the fall likely aggravated the degenerative process as she was asymptomatic prior to her fall on April 14, 2021. In support of this conclusion, he referenced an April 2023 lumbar MRI scan which demonstrated L2-3 stenosis and L4-5 right neural foraminal narrowing, which he related evidenced a degenerative process which caused the stenosis and foraminal narrowing.

By decision dated November 6, 2025, OWCP denied modification of the May 20, 2025 decision.

On November 11, 2025 appellant, through counsel, requested reconsideration and submitted additional evidence. Kathryn Finch, a certified physician assistant, in an April 21, 2022 report, provided physical examination findings and diagnosed lumbar radiculopathy and low back pain.

In reports dated November 11, 2021, and January 13, February 7, and March 9, 2022, David Bertrand, a certified physician assistant, provided examination findings and diagnosed low back pain, lumbar facet joint arthropathy, lumbar intervertebral disc degeneration, and lumbar radiculopathy.

Lumbar MRI scans dated April 21, 2022 and August 23, 2024 demonstrated L2-3 and L4-5 mild central canal stenosis and mild levoscoliosis.

A July 24, 2024 bilateral hip x-ray interpretation indicated moderate-to-mild right bilateral hip osteoarthritis. A lumbar x-ray dated July 24, 2024 showed severe L1-S1 degenerative disc disease with moderate scoliosis/moderate facet L1-S1.

Dr. Ramsey, in a September 16, 2025 report, related appellant's medical history, noted her physical examination findings.

By decision dated December 2, 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.[5]

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

[5] *G.C.*, Docket No. 25-0104 (issued March 4, 2025); *Y.B.,* Docket No. 22-0121 (issued November 19, 2024); *J.R.,* Docket No. 20-0292 (issued June 26, 2020); *W.L.,* Docket No. 17-1965 (issued September 12, 2018); *Jaja K. Asaramo,* 55 ECAB 200, 204 (2004).

intervening cause attributable to the claimant's own intentional misconduct.[6] 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.[7]

The medical evidence required to establish causal relationship between a specific condition, and the accepted 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 additional diagnosed condition and the accepted injury.[8]

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.[9]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include lumbar degenerative disc disease and left hip primary osteoarthritis as causally related to, or consequential to, the accepted April 14, 2021 employment injury.

Preliminarily, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's May 20, 2025 decision, which was considered by the Board in its August 6, 2025 decision. Findings made in prior Board decisions are *res judicata* absent any further review by OWCP under section 8128 of FECA.[10]

Thereafter OWCP received a report dated August 29, 2025, wherein Dr. Ramsey noted appellant's subjective complaints and physical examination findings. Dr. Ramsey diagnosed left hip osteoarthritis and lumbar intervertebral disc disease. He opined that her fall on April 14, 2021 would be sufficient to have caused or exacerbated damage to the cartilage tissue in her left hip, noting she was asymptomatic prior to the April 14, 2021 fall. Dr. Ramsey related that appellant also had preexisting lumbar intervertebral disc disease, which predated the April 14, 2021 employment injury. He again opined that, as appellant was asymptomatic prior to the fall on

[6] *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).

[7] *D.F.*, Docket No. 26-0058 (issued April 27, 2026); *J.M., id.*; *Susanne W. Underwood (Randall L. Underwood),* 53 ECAB 139, 141 n.7 (2001).

[8] *Supra* note 5; *see also E.J.,* Docket No. 09-1481 (issued February 19, 2010).

[9] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *C.B.*, Docket No. 26-0093 (issued February 23, 2026); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019).

[10] *C.B.*, *id.*; *P.N.*, Docket No. 25-0277 (issued March 6, 2025); *G.W.*, Docket No. 22-0301 (issued July 25, 2022); *M.D.*, Docket No. 19-0510 (issued August 6, 2019); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1988).

April 14, 2021, her fall likely aggravated her lumbar degenerative process. Dr. Ramsey, however, did not provide sufficient rationale explaining how the accepted employment injury physiologically caused or aggravated the diagnosed left hip and lumbar conditions.[11] 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.[12] Medical rationale is particularly necessary where, as here, there are preexisting conditions involving the same body parts.[13] For these reasons, Dr. Ramsey's August 29, 2025 report is insufficient to establish appellant's expansion claim.[14]

As the medical evidence of record is insufficient to establish causal relationship between additional diagnosed conditions and the accepted April 14, 2021 employment injury, the Board finds that appellant has not met her burden of proof.

Appellant may submit new evident 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.[15]

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.[16]

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[11] *See C.B., id.*; *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).

[12] *C.B., id.*; *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).

[13] *C.B.*, *id.*; *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).

[14] *C.B.*, *id.*; *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).

[15] 5 U.S.C. § 8128(a); *see A.L.,* Docket No. 25-0774 (issued September 24, 2025); *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).

[16] 20 C.F.R. § 10.606(b)(3); *see A.L.*, *id.*; *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).

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.[17] If it chooses to grant reconsideration, it reopens and reviews the case on its merits.[18] 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.[19]

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).[20]

On reconsideration, appellant submitted a September 16, 2025 report wherein Dr. Ramsey related appellant's medical history, provided physical examination findings. While this medical evidence is new, it is irrelevant as it does not directly address the underlying issue of the present case, *i.e.*, whether the medical evidence of record is sufficient to establish additional conditions as causally related to, or consequential to, the accepted April 14, 2021 employment injury. The Board has held that the submission of evidence or argument which does not address the particular issue involved does not constitute a basis for reopening a case.[21] OWCP also received reports from physician assistants and reports of diagnostic testing. However, while this evidence is new, it is irrelevant as certain health care providers such as physician assistants are not considered physicians as defined under FECA.[22] Consequently, their medical findings and/or opinions will

[17] 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.

[18] *Id.* at § 10.608(a); *see A.L.*, *supra* note 15; *D.C.,* Docket No. 19-0873 (issued January 27, 2020); *M.S.,* 59 ECAB 231 (2007).

[19] *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).

[20] *See C.B.*, *supra* note 9.

[21] 20 C.F.R. § 10.608(b); *see D.S.*, Docket No. 25-0564 (issued June 25, 2025); *T.V.,* Docket No. 19-1504 (issued January 23, 2020); *E.R.,* Docket No. 09-1655 (issued March 18, 2010); *Eugene F. Butler,* 36 ECAB 393, 398 (1984); *Edward Matthew Diekemper*, 31 ECAB 224-25 (1979).

[22] Section 8101(2) 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 supra* note 17 at 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); *T.S.,* Docket No. 19-0056 (issued July 1, 2019) (physician assistants are not considered physicians under FECA).

not suffice for purposes of establishing entitlement to FECA benefits. Additionally, 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.[23] Because appellant did not provide any relevant and pertinent new evidence not previously considered by OWCP, she is not entitled to a review of the merits based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).

The Board, accordingly, finds that as appellant has not met any of the requirements under 20 C.F.R. § 10.606(b)(3), pursuant to 20 C.F.R. § 10.608 OWCP properly denied merit review.

CONCLUSION

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include lumbar degenerative disc disease and left hip primary osteoarthritis as causally related to, or consequential to, her accepted April 14, 2021 employment injury. The Board further finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the November 6 and December 2, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: June 8, 2026
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

[23] *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).