United States Department of Labor
Employees' Compensation Appeals Board

M.M., Appellant	)	
and	)	**Docket No. 26-0306**
	)	**Issued: June 2, 2026**
DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS, METROPOLITAN DETENTION CENTER, Brooklyn, NY, Employer	)	

Appearances:
John L. DeGeneres, Jr., 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 February 10, 2026 appellant, through counsel, filed a timely appeal from an October 29, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).[2] Pursuant to the

[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] Appellant, through counsel, submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of the oral argument request, counsel requested that oral argument be granted so that he could further explain his contentions concerning the evaluation of the medical evidence. The Board, in exercising its discretion, denies appellant's request for oral argument because this matter requires an evaluation of the evidence of record. As such, the issues on appeal can be adequately addressed in a decision based on a review of the case record and legal arguments. Oral argument in this appeal would not serve a useful purpose. Therefore, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

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.[4]

ISSUE

The issue is whether OWCP met its burden of proof to terminate appellant's entitlement to wage-loss compensation and medical benefits, effective October 29, 2025, as he no longer had residuals causally related to his accepted March 24, 2025 employment injury.

FACTUAL HISTORY

On May 30, 2025 appellant, a 51-year-old retired correctional officer, filed an occupational disease claim (Form CA-2) alleging that he developed a bilateral hip condition due to factors of his federal employment. He noted that he first became aware of his condition and realized its relationship to his federal employment on March 24, 2025.[5]

In an accompanying statement, appellant indicated that his job duties included restraining inmates; making rounds while wearing a 10-pound vest and a 15-pound equipment belt; conducting shakedowns and security checks throughout an 18-story correctional institution including the roof, inmate cells, activity rooms, and yard; moving inmate belongings weighing 40 to 60 pounds; and pushing a food cart to deliver meals. These duties required continuous standing, walking, bending, stooping, twisting, squatting, kneeling, and ascending and descending multiple flights of stairs, sometimes while carrying inmate belongings. Appellant related that he began to experience pain in his lower extremities in 2023 and sought medical treatment.

In a December 19, 2023 medical report, Dr. Chester Wang, an osteopathic family physician, noted that appellant related complaints of bilateral hip pain radiating to his knees. He documented physical examination findings and diagnosed bilateral hip and knee joint pain.

In a December 21, 2023 medical report, Dr. Scott Weiner, an osteopathic orthopedist, noted that appellant related complaints of bilateral knee and hip pain for approximately six months without injury. He documented physical examination findings and diagnosed bilateral knee and hip joint pain and bilateral knee arthritis.

In a report dated January 4, 2024, Dr. Gregg A. Miller, Board-certified in nuclear medicine and diagnostic radiology, reviewed x-rays of the hips and knees obtained on December 21, 2023. He indicated that they demonstrated bilateral narrowing of the hip joints, calcific tendinosis involving the insertional component of one of the gluteal tendons on the right, and bilateral

[3] 5 U.S.C. § 8101 *et seq.*

[4] The Board notes that, following the October 29, 2025 decision, OWCP received additional evidence. 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.*

[5] Appellant retired effective August 31, 2023.

narrowing of the knee joints, most prominent in the medial compartments, with articular surface spurs off the upper and lower poles of the patellae.

In a March 24, 2025 narrative medical report and permanent impairment rating evaluation, Dr. Arnold Goldman, a Board-certified orthopedic surgeon, reviewed medical records and noted that appellant related complaints of bilateral hip pain, right worse than left, which he attributed to his duties as a correctional officer. He performed a physical examination of appellant's hips and lower extremities and observed gait abnormality, reduced range of motion (ROM) in all planes, positive FABER signs, and rotational deformity, bilaterally, right worse than left. Dr. Goldman opined that his job duties contributed to acceleration and aggravation of bilateral hip osteoarthritis. He explained that impact loading, such as repetitive walking, standing, kneeling, squatting, stooping, bending, and heavy lifting, caused repeated local stress, inflammation, and a chemical change in the articular cartilage surfaces in the hip joints. Using the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),[6] Dr. Goldman opined that appellant had nine percent permanent impairment of each lower extremity due to his hip conditions.

In a June 6, 2025 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the requested evidence.

OWCP subsequently received an employing establishment position description for correctional officer.

In a follow-up development letter dated August 22, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the August 18, 2025 letter to submit the necessary evidence.

On August 22, 2025 OWCP referred appellant, the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. George Ackerman, a Board-certified orthopedic surgeon, for a second opinion evaluation to address appellant's current condition and whether it was related to the accepted employment factors as outlined in the SOAF.

In an October 22, 2025 report, Dr. Ackerman reviewed the SOAF and medical record and noted appellant's complaints of pain in his hips and knees. He performed a physical examination and observed trochanteric tenderness and reduced ROM with internal and external rotation of the hips. Dr. Ackerman opined that "employment factors such as prolonged standing/walking and occasional use of physical restraint of aggressive inmates caused temporary aggravations and acceleration of the claimant's underlying bilateral hip osteoarthritis." He indicated that the temporary aggravations of right and left hip osteoarthritis had "resolved to the baseline osteoarthritis symptoms." Dr. Ackerman opined that appellant was not in need of medical treatment or work restrictions for the accepted employment injury but did have "restrictions due to the natural progression of his underlying bilateral hip osteoarthritis," including that he was not capable of performing his preinjury position and should not lift greater than 40 pounds or engage in prolonged walking/standing, excessive stair climbing, or repetitive bending.

[6] A.M.A., *Guides* (6th ed. 2009).

By decision dated October 28, 2025, OWCP accepted the claim for temporary aggravation of osteoarthritis of the right and left hips.

By decision dated October 29, 2025, OWCP accepted that the temporary aggravation of unilateral primary osteoarthritis of the right and left hips had resolved as of that date. It accorded the weight of the medical evidence to the October 14, 2025 opinion of Dr. Ackerman.

LEGAL PRECEDENT

Once OWCP accepts a claim, it has the burden of proof to justify termination or modification of an employee's entitlement to benefits.[7] The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.[8] To terminate entitlement to medical benefits, OWCP must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.[9]

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's entitlement to wage-loss compensation and medical benefits, effective October 29, 2025.

On August 22, 2025 OWCP referred appellant to Dr. Ackerman for a second opinion evaluation. In an October 22, 2025 report, Dr. Ackerman opined that the accepted employment factors caused temporary aggravations and acceleration of underlying bilateral hip osteoarthritis. He indicated that appellant was not in need of medical treatment or work restrictions for the accepted employment injury but that he could not perform his preinjury duties due to progression of his underlying bilateral hip osteoarthritis. Although Dr. Ackerman opined that the temporary aggravations of bilateral hip osteoarthritis had resolved, he did not provide sufficient rationale for his conclusory opinion. Therefore, the Board finds that his report is insufficient to constitute the weight of the medical opinion evidence regarding whether appellant continued to have residuals or disability causally related to his accepted March 24, 2025 employment injury.[10] Accordingly, the Board finds that OWCP failed to meet its burden of proof to terminate appellant's medical benefits, effective October 29, 2025.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's entitlement to wage-loss compensation and medical benefits effective October 29, 2025.

[7] *See R.P.*, Docket No. 17-1133 (issued January 18, 2018); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

[8] *A.G.*, Docket No. 19-0220 (issued August 1, 2019); *A.P.*, Docket No. 08-1822 (issued August 5, 2009); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *Furman G. Peake*, 41 ECAB 361, 364 (1990).

[9] *See A.G.*, *id*.; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002); *Furman G. Peake*, *id.*

[10] *See J.F.*, Docket No. 26-0068 (issued February 24, 2026); *D.F.*, Docket No. 24-0559 (issued July 9, 2024).

ORDER

IT IS HEREBY ORDERED THAT the October 29, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: June 2, 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