United States Department of Labor
Employees' Compensation Appeals Board

C.S., Appellant	)	
and	)	**Docket No. 26-0317**
	)	**Issued: June 12, 2026**
DEPARTMENT OF LABOR, MINE SAFETY & HEALTH ADMINISTRATION, Barbourville, KY, 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:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 16, 2026 appellant, through counsel, filed a timely appeal from a January 16, 2026 merit 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*.

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On September 9, 2024 appellant, then a 59-year-old compliance inspection and support employee, filed an occupational disease claim (Form CA-2) alleging that he developed chronic migraines, anxiety, depression, cervical spine degenerative disc disease, and bone spurs causally related to factors of his federal employment. He noted that he first became aware of his condition on May 28, 2024 and realized its relationship to his federal employment on August 13, 2024. On the reverse side of the claim form, appellant's supervisor contended that appellant neither established the employment factors as described, nor established that he was injured while in the performance of duty.

Appellant submitted several diagnostic studies in support of his claim. A June 27, 2023 thoracic spine MRI scan related an impression of mild overall degenerative changes, with small disc protrusions abutting the ventral cord at T2 through T7, and bone island at left L1 vertebral body. A July 9, 2024 cervical MRI scan related an impression of multilevel degenerative changes with significant neural foraminal narrowing; C4-5 mild-to-moderate right spinal canal stenosis; C5-6 mild-to-moderate left spinal canal stenosis; minimal anterolisthesis C7-T1.

In a July 13, 2024 encounter note, Dr. Rebekah Crump Austin, a Board-certified neurosurgeon, reviewed appellant's recent cervical MRI scan and related that there was no immediate indication for surgical management. Appellant was referred for physical therapy or pain management.

In a September 16, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information regarding appellant's occupational disease claim, including comments from a knowledgeable supervisor. It afforded the employing establishment 30 days to respond.

In a follow-up letter dated October 16, 2024, 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 September16, 2024 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In a statement dated November 6, 2024, appellant described his job duties, noting that prolonged sitting at a desk, typing, and moving his wrists created constant and persistent strain on his back, wrists, and neck.

By decision dated November 27, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between a diagnosed condition and the accepted factors of his federal employment.

In a report dated October 29, 2025, Dr. Jonathan D. York, a Board-certified neurosurgeon, related that appellant had significant preexisting cervical and lumbar conditions prior to his current employment. He explained that the constant sitting as described by appellant would cause additional wear and tear on his lumbar spine, specifically compression on his lumbar spine which had already developed bilateral sciatic neuritis. This additional wear and tear according to Dr. York required a L5-S1 discectomy on November 29, 2021 and contributed to the foraminal stenosis as seen in a February 14, 2025 MRI scan. Dr. York further explained that appellant had preexisting cervical degenerative disease, but did not begin to experience bilateral upper extremity radicular symptoms until several years later. He attributed the cervical radicular symptoms to appellant's repetitive keying and his constant positioning to operate a keyboard, which placed strain on appellant's cervical region. Dr. York related that appellant's diagnostic studies as well as increased cervical complaints and symptoms showed a progression in appellant's cervical disc disease, with canal narrowing, stenosis, multilevel facet arthropathies which led to bilateral upper extremity radiculopathies. Appellant's nerve root impingement caused by the canal narrowing and stenosis was the cause of his radicular symptoms. Dr. York concluded that appellant's work activities aggravated his cervical and lumbar conditions.

On October 31, 2025 appellant, through counsel requested reconsideration and submitted additional evidence.

In a February 1, 2022 office visit note, Dr. James Wike, a Board-certified anesthesiologist, related that appellant received a cervical facet injection at C3-4, and C4-5. He noted that appellant's cervical pain began in 2007 while he was serving in the military.

An October 3, 2024 x-ray of appellant's lumbar spine related an impression of stable mild-to-moderate degenerative spondylosis.

In a May 5, 2025 report, Dr. York related that he had reviewed appellant's MRI scans. He noted that appellant's radiculopathy was persistent, and while it was certainly related to his previous surgeries as well as his military service in the remote past, he did believe that it was also related to appellant's foraminal stenosis at L5-S1 on the right, and his facet fracture at L5-S1 on the left. Dr. York concluded that appellant's presentation was complex and causality was very difficult to determine; however, prolonged sitting aggravated his preexisting condition.

In a July 14, 2025 progress report, Dr. York related that appellant had undergone a L5-S1 transforaminal lumbar interbody fusion on June 19, 2025. Appellant related almost total relief of his lower back and bilateral leg pain since the surgery, with some remaining sciatic pain.

By decision dated January 16, 2026, OWCP denied modification.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,[4] that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[5] These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.[7]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[8] The opinion of the physician must be based upon a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors.[9]

ANALYSIS

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

In his October 29, 2025 report, Dr. York related appellant's medical history and employment duties and reviewed diagnostic studies. He related that appellant had significant preexisting cervical and lumbar conditions prior to his current employment. However, Dr. York

[3] *Id.*

[4] *E.K.*, Docket No. 25-0641 (issued August 21, 2025); *F.H.,* Docket No. 18-0869 (issued January 29, 2020); *J.P.,* Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron,* 41 ECAB 153 (1989).

[5] *See S.R.,* Docket No. 25-0326 (issued March 11, 2025); *L.C.,* Docket No. 19-1301 (issued January 29, 2020); *J.H.,* Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.,* 40 ECAB 312 (1988).

[6] *E.K.*, *supra* note 4; *P.A.,* Docket No. 18-0559 (issued January 29, 2020); *K.M.,* Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett,* 41 ECAB 992 (1990).

[7] *See E.K.*, *id.*; *S.R., supra* note 5; *P.L.,* Docket No. 19-1750 (issued March 26, 2020); *R.G.,* Docket No. 19-0233 (issued July 16, 2019); *L.M.,* Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett, id.*

[8] *E.K.*, *id.*; *I.J.,* Docket No. 19-1343 (issued February 26, 2020); *T.H.,* 59 ECAB 388 (2008); *Robert G. Morris,* 48 ECAB 238 (1996).

[9] *P.V.,* Docket No. 25-0547 (issued June 23, 2025); *see S.R., supra* note 5; *D.C.,* Docket No. 19-1093 (issued June 25, 2020); *see L.B.,* Docket No. 18-0533 (issued August 27, 2018).

explained that the constant sitting required by appellant's job duties would cause additional wear and tear on his lumbar spine, specifically compression on his lumbar spine which had already developed bilateral sciatic neuritis. While appellant required a L5-S1 discectomy on November 29, 2021, this additional wear and tear contributed to the foraminal stenosis seen on appellant's February 14, 2025 MRI scan. Dr. York further explained that appellant had preexisting cervical degenerative disease, but did not begin to experience bilateral upper extremity radicular symptoms until several years later. He attributed the cervical radicular symptoms to appellant's repetitive keying and his constant positioning to operate a keyboard, which placed strain on appellant's cervical region. Dr. York further explained that appellant's diagnostic studies as well as his increased cervical complaints and symptoms showed a progression in appellant's cervical disc disease, with canal narrowing, stenosis, multilevel facet arthropathies which led to bilateral upper extremity radiculopathies. Dr. York concluded that appellant's nerve root impingement caused by the canal narrowing and stenosis was the cause of his radicular symptoms, and his work activities aggravated his cervical and lumbar conditions. In his May 5, 2025 report, Dr. York further related that while appellant's radiculopathy was persistent, and was certainly related to his previous surgeries as well as his military service in the remote past, it was also related to appellant's foraminal stenosis at L5-S1 on the right, and his facet fracture at L5-S1 on the left. He concluded that appellant's presentation was complex and causality was very difficult to determine, however, prolonged sitting aggravated his preexisting condition.

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility for the development of the evidence.[10] OWCP has an obligation to see that justice is done.[11] While Dr. York's opinion is not fully rationalized, it is sufficient to require further development of the medical evidence.[12]

The Board shall, therefore, remand the case to OWCP for further development of the medical evidence. On remand, OWCP shall refer appellant, along with a statement of accepted facts, and the case record, to a specialist in the appropriate field of medicine for a reasoned opinion regarding whether appellant sustained lumbar and cervical conditions causally related to or aggravated by the accepted employment factors. If the second opinion physician disagrees with the opinion of Dr. York, he or she must provide a fully-rationalized explanation of why the accepted employment factors are insufficient to have caused or aggravated appellant's medical

[10] *See D.S.*, Docket No. 26-0112 (issued April 29, 2026); *see also A.P.,* Docket No. 17-0813 (issued January 3, 2018); *Jimmy Hammons,* 51 ECAB 219, 223 (1999).

[11] *G.M.,* Docket No. 25-0728 (issued September 12, 2025); *J.H.,* Docket No. 25-0565 (issued June 24, 2025); *L.N.,* Docket No. 25-0173 (issued March 6, 2025); *A.J.,* Docket No. 18-0905 (issued December 10, 2018); *B.C.,* Docket No. 15-1853 (issued January 19, 2016); *E.J.,* Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone,* 41 ECAB 354 (1989).

[12] *D.S.*, *supra* note 10; *B.C.,* Docket No. 15-1853 (issued January 19, 2016); *E.J.,* Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone, id.*; *see also C.A.,* Docket No. 22-0067 (issued October 26, 2023); *D.S.,* Docket No. 17-1359 (issued May 3, 2019); *X.V.,* Docket No. 18-1360 (issued April 12, 2019); *C.M.,* Docket No. 17-1977 (issued January 29, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

conditions. After 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.

ORDER

IT IS HEREBY ORDERED THAT the January 16, 2026 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 12, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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