United States Department of Labor
Employees' Compensation Appeals Board

K.W., Appellant	)	
and	)	
DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS, FEDERAL DETENTION CENTER-MIAMI, Miami, FL, Employer	)	**Docket No. 26-0349** **Issued: June 16, 2026**

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 March 3, 2026, appellant filed a timely appeal from a January 23, 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]

ISSUE

The issue is whether appellant has met her burden of proof to expand the acceptance of her claim to include left knee osteophyte, bilateral knee primary osteoarthritis, left knee effusion, and

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the January 23, 2026 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.*

left knee post-traumatic osteoarthritis as causally related to, or consequential to, the accepted March 10, 2000 employment injury.

FACTUAL HISTORY

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

On March 10, 2000, appellant, then a 26-year-old corrections officer, filed a traumatic injury claim (Form CA-1) alleging that on that date she developed right knee pain when she stepped on a clothing hanger causing her to slip and fall while in the performance of duty. She stopped work on the date of injury and returned to work on March 14, 2000. OWCP accepted the claim for right knee lateral collateral ligament sprain, right knee medial meniscus tear, right knee chondromalacia, right knee osteophyte, and right knee post-traumatic osteoarthritis. On June 8, 2000, appellant underwent right knee arthroscopy, anterior cruciate ligament (ACL) reconstruction, partial medial and lateral meniscectomies, and extensive synovectomy.

In a report dated May 21, 2024, appellant's treating physician, Dr. Brett P. Frykberg, a Board-certified orthopedic surgeon, recounted appellant's history of injury and medical treatment. He reported left knee physical examination findings of moderate medial patellofemoral joint tenderness and moderate patellar crepitation; and range of motion (ROM) of 5 to less than 120 degrees of flexion. Dr. Frykberg diagnosed primary osteoarthritis, post-traumatic osteoarthritis, pain, osteophytes, and effusion of the bilateral knees. He opined that appellant's claim should be expanded to include consequential exacerbation of the left knee. Dr. Frykberg explained that appellant's offloading of her right knee when it was painful exacerbated her preexisting left knee conditions.

In statements dated June 13, July 23, and September 27, 2024, appellant requested expansion of the acceptance of her claim to include left knee conditions based on Dr. Frykberg's May 21, 2024 report. In the September 27, 2024 request, she recounted a 1991 left knee injury with subsequent surgical repair, asymptomatic until the accepted right knee injury caused overuse of the left lower extremity.

On October 31, 2024 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Arnold G. Smith, an orthopedic surgeon, for a second opinion regarding the nature and extent of appellant's accepted conditions and any related disability, and whether the acceptance of her claim should be expanded to include left knee primary osteoarthritis, left knee osteophyte, left knee effusion, and post-traumatic osteoarthritis of the bilateral knees as causally related to the March 10, 2000 employment injury.

In a report dated November 23, 2024, Dr. Smith recounted his review of the SOAF and medical evidence. He indicated that he had found no reference to a left knee injury, but that appellant had continued loss of right knee flexion with damage to the medial compartment.

[3] Docket No. 25-0707 (issued September 10, 2025).

By decision dated December 19, 2024, OWCP denied expansion of the acceptance of the claim to include left knee osteophyte, bilateral knee primary osteoarthritis, left knee effusion, and bilateral knee post-traumatic osteoarthritis as causally related to, or consequential to, the accepted March 10, 2000 employment injury. It relied on Dr. Smith's opinion as the weight of the medical evidence.

On December 30, 2024, appellant requested reconsideration.

On February 4, 2025, OWCP obtained an addendum report by Dr. Smith wherein he noted that appellant continued to report right knee pain despite having undergone surgical treatment. On examination, he noted tenderness to palpation of the bilateral knees.

On March 19, 2025, OWCP referred appellant, along with a SOAF, medical record, and a series of questions, for a second opinion examination with Dr. Brian C. Leung, a Board-certified orthopedic surgeon.

In a report dated April 3, 2025, Dr. Leung recounted the history of appellant's March 10, 2000 employment injury and noted that appellant had undergone a left knee ACL reconstruction in 1991. He noted the accepted diagnoses of right knee collateral ligament sprain, right knee medial meniscus tear, right knee osteophyte, right knee chondromalacia, and right knee unilateral post-traumatic osteoarthritis. On examination of the left knee, Dr. Leung observed tenderness over the medial joint space. Review of appellant's left knee x-ray revealed severe tricompartmental knee osteoarthritis, joint space narrowing, subchondral sclerosis, and interference screws present on tibia and femur consistent with prior ACL reconstruction. Dr. Leung related that appellant's subjective complaints of bilateral knee pain, swelling, clicking and catching, as well as bilateral knee medial join space tenderness, corresponded with her objective findings. He opined that the employment injury directly caused appellant's right knee osteoarthritis, but he found no evidence that it caused her left knee osteoarthritis. Rather, appellant's prior left knee surgery "may have contributed to her left knee osteoarthritis."

By decision dated July 17, 2025, OWCP denied modification.

Appellant appealed to the Board. By decision dated September 10, 2025, the Board set aside OWCP's July 17, 2025 decision, finding that the case was not in posture for decision as Dr. Leung's opinion was conclusory in nature and, therefore, insufficiently rationalized to represent the weight of the medical evidence. The Board directed OWCP to obtain a well-rationalized supplemental opinion by Dr. Leung explaining whether appellant's left knee conditions were causally related to, or consequential to, the accepted employment injury. Thereafter, OWCP was to issue a *de novo* decision.

On October 22, 2025, OWCP requested that Dr. Leung submit a supplemental report explaining whether appellant's left knee conditions were causally related to, or consequential to, the accepted March 10, 2000 employment injury.

In an October 28, 2025 supplemental report, Dr. Leung reiterated that appellant's left knee ACL reconstruction prior to the accepted employment injury "may have contributed to [appellant's] left knee osteoarthritis." He concluded that there was no evidence of record that her

left knee osteoarthritis was caused by, or consequential to, the accepted March 10, 2000 employment injury.

By *de novo* decision dated January 23, 2026, OWCP denied expansion of the acceptance of the claim to include left knee osteophyte, bilateral knee primary osteoarthritis, left knee effusion, and bilateral knee post-traumatic osteoarthritis as causally related to, or consequential to, the accepted March 10, 2000 employment injury. It relied on Dr. Leung's opinion as the weight of the medical evidence.

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]

To establish causal relationship between a condition and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.[5] The opinion of the physician must be one of reasonable certainty, and must explain the nature of the relationship between the diagnosed condition and the accepted employment injury.[6]

In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury. The basic rule is that a subsequent injury, whether 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]

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.[8]

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[4] *N.M.*, Docket No. 26-0021 (issued March 11, 2026); *S.P.*, Docket No. 25-0669 (issued November 25, 2025); *S.L.*, Docket No. 24-0220 (issued May 15, 2024); *N.U.*, Docket No. 22-1329 (issued April 18, 2023); *J.R.*, Docket No. 20-0292 (issued June 26, 2020); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

[5] *S.L.*, *id.*; *B.W.*, Docket No. 21-0536 (issued March 6, 2023); *D.E.*, Docket No. 20-0936 (issued June 24, 2021); *S.L.*, Docket No. 19-0603 (issued January 28, 2020).

[6] *Id.*

[7] *See L.M.*, Docket No. 23-0605 (issued December 5, 2023); *D.L.*, Docket No. 21-0047 (issued February 22, 2023); *D.H.*, Docket Nos. 20-0041 & 20-0261 (issued February 5, 2021).

[8] *D.F.*, Docket No. 25-0528 (issued June 9, 2025); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *M.B.,* Docket No. 20-1275 (issued January 29, 2021); *see R.D.,* Docket No. 18-1551 (issued March 1, 2019).

ANALYSIS

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

On prior appeal, the Board remanded the case to obtain a supplemental opinion from Dr. Leung regarding the cause of appellant's left knee conditions. In an October 28, 2025 supplemental report, Dr. Leung reiterated his prior opinion that appellant's left ACL reconstruction "may have contributed" to her left knee osteoarthritis. As his opinion is speculative and equivocal in nature, it is of diminished probative value.[9] Dr. Leung did not provide the requested medical rationale needed to resolve the expansion issue. The Board thus finds that his opinion is insufficient to constitute the weight of the medical evidence.[10]

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter.[11] While the claimant has the responsibility to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.[12] Accordingly, once OWCP undertook development of the evidence by referring appellant to Dr. Leung, it had an obligation to obtain a proper evaluation that sufficiently addresses the issues in this case.[13]

The case shall, therefore, be remanded for further development. On remand, OWCP shall refer appellant, along with a SOAF, and the case record, to a new second opinion specialist in the appropriate field of medicine for a reasoned opinion on the issue of expansion. 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.

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[9] *J.W.*, Docket No. 26-0141 (issued April 24, 2026); *J.M.,* Docket No. 24-0221 (issued June 26, 2024).

[10] *J.W.*, *id.*; *K.W.*, *id*.

[11] *See B.W.,* Docket No. 21-0785 (issued September 1, 2022); *N.L.,* Docket No. 19-1592 (issued March 12, 2020); *M.T.,* Docket No. 19-0373 (issued August 22, 2019); *B.A.,* Docket No. 17-1360 (issued January 10, 2018).

[12] *Id*.; *see also Donald R. Gervasi,* 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

[13] *J.W.*, *supra* note 9; *L.R.*, Docket No. 23-0508 (issued January 13, 2026); *see V.P.,* Docket No. 22-0706 (issued November 3, 2022); *E.M.,* Docket No. 20-1153 (issued August 4, 2022).

ORDER

IT IS HEREBY ORDERED THAT the January 23, 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 16, 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