United States Department of Labor
Employees' Compensation Appeals Board

J.C., Appellant	)	
and	)	**Docket No. 26-0371**
	)	**Issued: June 29, 2026**
U.S. GOVERNMENT PUBLISHING OFFICE, Washington, DC, Employer	)	

Appearances:
Alan J. Shapiro, 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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 10, 2026 appellant, through counsel, filed a timely appeal from a January 30, 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.[3]

[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.*

[3] The Board notes that, following the January 30, 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.*

ISSUES

The issues are: (1) whether appellant has met his burden of proof to expand the acceptance of his claim to include additional right knee conditions as causally related to, or consequential to, the accepted March 27, 2017 employment injury; and (2) whether OWCP abused its discretion in denying appellant's request for authorization for right total knee replacement surgery.

FACTUAL HISTORY

On March 27, 2017 appellant, then a 53-year-old carpenter, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his right leg while in the performance of duty. He noted that he lifted a box of carpet, turned, and felt a pop in the back of his right leg. OWCP accepted the claim for strain of unspecified muscles and tendons of the right lower leg. Appellant stopped work on the date of injury and returned to work on May 6, 2017.

A magnetic resonance imaging (MRI) scan of the right knee dated April 13, 2017 demonstrated moderate tricompartmental degenerative changes, focal areas of cartilaginous thinning with adjacent marrow edema within the medial femoral condyle and medial tibial plateau, a small dissecting popliteal cyst, and a chronic radial tear through the posterior horn of the medial meniscus.

An x-ray of the right knee dated April 27, 2017 revealed severe patellofemoral arthrosis and narrowing of the medial compartment with minimal maintenance of joint spaces and a genu valgum deformity.

In a medical report dated April 27, 2017, Dr. Ralph T. Salvagno, a Board-certified orthopedic surgeon, noted the history of the March 27, 2017 employment injury and that appellant related no history of right knee pain prior to that date. He documented physical examination findings and reviewed the April 13, 2017 MRI scan and the April 27, 2017 x-ray. Dr. Salvagno diagnosed severe degenerative joint disease of the right knee with Baker's cyst. He opined that appellant most likely experienced pain due to the Baker's cyst rupturing into the calf muscles. Dr. Salvagno recommended bracing and administered a steroid injection.

In a medical report dated May 17, 2017, Dr. Thomas G. Amalfitano, a Board-certified orthopedic surgeon, indicated that appellant related no pain in his right knee since undergoing the steroid injection on April 27, 2017. He noted that "despite his [degenerative joint disease], he is functioning at a very high level." Dr. Amalfitano recommended that appellant return for a follow-up evaluation in six months.

In a follow-up medical report dated September 13, 2017, Dr. Amalfitano noted that appellant related increased discomfort in his right knee after feeling a pop and pain in his posterior knee and calf while riding an exercise bike and that he was using an ambulatory aid. On physical examination, he observed medial joint line tenderness, full range of motion, and no significant effusion, redness, or crepitance.

In an October 12, 2017 medical report, Dr. Roberta Rothen, Board-certified in orthopedic surgery and sports medicine, indicated that appellant related that his right knee pain was "so severe

he reports difficulty with any type of ambulation." She documented physical examination findings, diagnosed right knee degenerative joint disease, and administered a steroid injection.

Appellant underwent additional injections to the right knee on January 24 and August 16, 2018, and January 25 and May 23, 2019, which he indicated provided intermittent relief from his right knee pain. During the August 16, 2018 visit, Dr. Amalfitano indicated that "his rather significant degenerative arthritis in his knee [was] exacerbated by a work-related injury last year."

In a medical report dated September 13, 2019, Dr. Alvaro Cabezas, a Board-certified orthopedic surgeon, noted that appellant related complaints of constant right knee pain of sudden onset two years prior. He documented examination findings and diagnosed unilateral primary osteoarthritis of the right knee.

In a medical report dated November 14, 2019, Michael Shives, a physician assistant, noted that appellant related 10 out of 10 right knee pain, which he attributed to the March 27, 2017 employment injury. He documented examination findings and diagnosed severe degenerative joint disease, which "was not bothering him … until his work injury which is flared up and caused his recent pain." Mr. Shives administered another steroid injection.

Appellant subsequently received steroid and viscosupplementation injections every three-to-six months from March 9, 2020 through October 19, 2022.

In a November 7, 2022 follow-up report, Mr. Shives noted that the October 19, 2022 injection provided no benefit. He also indicated that appellant walked with an altered gait and reported 10 out of 10 right knee pain. Mr. Shives diagnosed severe right knee degenerative joint disease and opined that the March 27, 2017 employment injury caused traumatic arthritis. He referred appellant to Dr. Cabezas for an evaluation for a right total knee replacement.[4]

In reports dated December 6, 2022 through February 4, 2024, Dr. Cabezas noted appellant's right knee complaints and documented examination findings. He recommended weight loss, therapeutic exercises, and administered additional injections. On November 12, 2024, Dr. Cabezas diagnosed unilateral primary osteoarthritis of the right knee and recommended a right total knee replacement.

In a letter dated November 13, 2024, OWCP notified appellant that it had reviewed the November 12, 2024 medical report of Dr. Cabezas. It informed him that the diagnosis of right unilateral primary osteoarthritis was not an accepted condition for his March 27, 2017 employment injury and that right total knee replacement surgery could not be authorized. OWCP advised him of the type of evidence needed to establish an expansion claim.

Appellant subsequently underwent an additional injection to the right knee on December 3, 2024.

On December 3, 2024 OWCP referred the case record, a statement of accepted facts (SOAF), and a series of questions to Dr. Michael M. Katz, a Board-certified orthopedic surgeon

[4] The record reflects that Dr. Cabezas also provided treatment to appellant's left knee, including a left total knee replacement on November 2, 2020.

serving as district medical adviser (DMA), for an opinion regarding whether the recommended right total knee replacement surgery was medically necessary for appellant's accepted March 27, 2017 employment injury. In a report dated December 10, 2024, Dr. Katz reviewed the SOAF and medical record. He opined that appellant's right knee osteoarthritis preexisted the March 27, 2017 employment injury and that the employment injury was not a competent cause to permanently aggravate or accelerate the preexisting condition. Dr. Katz also opined that right total knee replacement surgery was warranted but was not medically necessary for the accepted employment injury.

By decision dated December 13, 2024, OWCP denied expansion of the acceptance of appellant's claim to include unilateral primary osteoarthritis of the right knee.

By separate decision also dated December 13, 2024, OWCP denied authorization for total right knee replacement, finding that the evidence of record was insufficient to establish that the surgery was medically necessary to address the effects of appellant's accepted March 27, 2017 employment injury.

On January 7, 2025 appellant, through counsel, requested a hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, OWCP's hearing representative set aside the December 13, 2024 decisions. The hearing representative remanded the case to OWCP to obtain a second opinion evaluation by a physician in an appropriate field of medicine regarding appellant's expansion claim, including an explanation with rationale as to whether the accepted employment injury in any way contributed to the development, acceleration, or aggravation of the diagnosed condition of right knee osteoarthritis and whether the requested right total knee replacement surgery was medically warranted and causally related to his accepted claim.

On February 21, 2025 OWCP referred appellant, along with the case record and statement of accepted facts (SOAF), to Dr. Kevin F. Hanley, a Board-certified orthopedic surgeon, for a second opinion evaluation.

In a report dated March 19, 2025, Dr. Hanley reviewed the medical record and SOAF and noted that appellant had undergone a right total knee replacement on March 11, 2025. He performed a limited examination of the right knee and observed that he walked with a limp, had postoperative bruising and dressings, and could flex the knee to 95 degrees. Dr. Hanley diagnosed musculoligamentous straining injury affecting the muscles and tendons of the knee on the right side posteriorly in association with possible rupture of a popliteal cyst, which had resolved with no active residuals or objective findings. He also diagnosed degenerative joint disease of the right knee, which he indicated was long-standing, progressive, and present prior to the date of injury as demonstrated on x-rays and an MRI scan shortly after the accepted employment injury. Dr. Hanley indicated that genetic predisposition was the number one factor for the development of degenerative joint disease and that trauma could cause the condition to become symptomatic. He opined that appellant's underlying degenerative process was not in any way materially changed or worsened on a permanent basis as a result of the March 27, 2017 employment injury, noting that the trauma was not intraarticular, that he had returned to his preinjury baseline by May 17, 2017, and that he also had osteoarthritis in his uninjured left knee. Dr. Hanley also opined that the

accepted March 27, 2017 employment injury did not necessitate right total knee replacement surgery.

On April 11, 2025 OWCP requested that appellant provide Dr. Hanley's March 19, 2025 report to his attending physician for review and comment with medical rationale. It provided him 30 days to submit the requested evidence. No further evidence was received.

By decisions dated May 13, 2025, OWCP denied appellant's expansion claim and his request for authorization for right total knee replacement surgery.

On May 13 and 20, 2025, appellant, through counsel, requested a review of the written record by an OWCP hearing representative with respect to the May 13, 2025 decisions.

By decision dated June 24, 2025, an OWCP hearing representative affirmed the May 13, 2025 decisions.

On November 7, 2025 appellant, through counsel, requested reconsideration of the June 24, 2025 decision. In support thereof, he submitted a November 4, 2025 narrative medical report by Dr. Joshua B. Macht, Board-certified in internal medicine, who noted the history of the March 27, 2017 employment injury and his review of medical records. Dr. Macht documented physical examination findings and diagnosed strain of unspecified tendon at the right lower leg and a traumatic aggravation of right knee osteoarthritis. He opined that the March 27, 2017 employment injury aggravated and accelerated underlying right knee osteoarthritis, noting that appellant experienced immediate pain, stiffness, and swelling in his previously asymptomatic right knee following the employment incident. Dr. Macht explained that traumatic injuries with associated swelling and inflammation render underlying osteoarthritis symptomatic and accelerate the course of the condition. He opined that the right total knee replacement surgery was causally related to and medically necessary for the March 27, 2017 employment injury.

On January 20, 2026 OWCP requested that Dr. Hanley review Dr. Macht's November 4, 2025 report and submit a supplemental opinion to clarify his prior report.

By decision dated January 30, 2026, OWCP denied modification of the June 24, 2025 decision.

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] 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

[5] *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).

explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[6]

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.[7]

ANALYSIS -- ISSUE 1

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

On January 20, 2026 OWCP requested a supplemental report from Dr. Hanley clarifying his opinion. However, it issued its January 30, 2026 denial prior to receiving the requested report from Dr. Hanley.

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence to see that justice is done.[8] Once it undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.[9]

In this case, OWCP issued its January 30, 2026 decision denying appellant's expansion claim prior to receiving the requested supplemental second opinion report.[10] Thus, it was premature for OWCP to issue its January 30, 2026 decision.[11]

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

[7] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

[8] *See M.S.*, Docket No. 23-1125 (issued June 10, 2024); *E.B.*, Docket No. 22-1384 (issued January 24, 2024); *J.R.*, Docket No. 19-1321 (issued February 7, 2020); *S.S.*, Docket No. 18-0397 (issued January 15, 2019).

[9] *Id.*; *see also R.M.*, Docket No. 16-0147 (issued June 17, 2016).

[10] *D.G.*, Docket No. 25-0654 (issued July 22, 2025); *S.R.*, Docket No. 24-0880 (issued October 31, 2024); *W.H.*, Docket No. 24-0855 (issued November 26, 2024).

[11] *See W.L.*, Docket No. 26-0029 (issued February 26, 2026).

The case must therefore be remanded to OWCP for further development.[12] On remand, OWCP shall obtain the supplemental second opinion report from Dr. Hanley.[13] Following this, and other such further development as deemed necessary, it shall issue a *de novo* decision.[14]

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the January 30, 2026 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 29, 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

[12] *See id*., *D.G.*, *supra* note 10, *S.R.*, *supra* note 10. *See also F.A*., Docket No. 22-0167 (issued December 16, 2022); *T.C*., Docket No. 17-1906 (issued January 10, 2018); *X.Y*., Docket No. 19-1290 (issued January 24, 2020); *K.G*., Docket No. 17-0821 (issued May 9, 2018).

[13] *L.N*., Docket No. 24-0690 (issued November 4, 2024); *D.D*., Docket No. 24-0203 (issued May 2, 2024); *J.W*., Docket No. 22-0223 (issued August 23, 2022); *R.O*., Docket No. 19-0885 (issued November 4, 2019); *Talmadge Miller*, 47 ECAB 673 (1996).

[14] In light of the Board's disposition of Issue 1 involving the expansion to include additional right knee conditions, it is premature to address Issue 2 regarding whether OWCP abused its discretion in denying appellant's request for authorization for right total knee replacement surgery.