United States Department of Labor
Employees' Compensation Appeals Board

J.S., Appellant	)	
and	)	**Docket No. 26-0024**
	)	**Issued: March 3, 2026**
U.S. POSTAL SERVICE, NORTH HOUSTON PROCESSING AND DISTRIBUTION CENTER, North Houston, TX, Employer	)	

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 October 6, 2025, appellant filed a timely appeal from a July 21, 2025 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]

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the July 21, 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.*

ISSUE

The issue is whether appellant has met her burden of proof to establish that the acceptance of her claim should be expanded to include left knee conditions as causally related to, or as a consequence of, her accepted July 29, 2016 employment injury.

FACTUAL HISTORY

On July 29, 2016, appellant, then a 59-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that she sustained right knee and low back injuries that day when she struck her right knee on a metal container and bent downward to grasp her right knee and felt pain while in the performance of duty.

OWCP accepted the claim for right knee contusion. It paid appellant wage-loss compensation on the supplemental rolls commencing September 19, 2016, and on the periodic rolls commencing October 16, 2016.

On October 18, 2016, OWCP expanded its acceptance of the claim to include complex medial meniscal tear of the right knee, injury of other posterior group muscle/tendon at lower leg level, and intervertebral disc disorders with lumbar and lumbosacral radiculopathy.

On October 26, 2016, appellant underwent OWCP-authorized right knee arthroscopic medial and lateral partial meniscectomy, right knee femoral, lateral and medial tibial microfracture repair, and right patellar chondroplasty.

An August 9, 2017 magnetic resonance imaging (MRI) scan of appellant's left knee demonstrated severe tricompartmental osteoarthritis with joint effusion and synovitis, remodeling and high-grade cartilage loss in the lateral compartment, a high-grade, nearly complete anterior cruciate ligament (ACL) tear, and chronic medial collateral ligament (MCL) strain.

In an October 3, 2017 report, Dr. Steven B. Inbody, a Board-certified neurologist, requested that OWCP expand its acceptance of the claim to include post-traumatic osteoarthritis of the left knee, and other internal derangements of left knee.

On May 29, 2018, appellant underwent OWCP-authorized total right knee arthroplasty with medial femoral condyle bone autograft, performed by Dr. Lubor Jarolimek, a Board-certified orthopedic surgeon.

In reports dated April 24 through May 30, 2019, Dr. Inbody requested that OWCP expand its acceptance of the claim to include the additional diagnoses of post-traumatic osteoarthritis of the left knee, internal derangement of the left knee, and sprain and tear of the left ACL. He opined that limited weight bearing on the right knee due to the accepted injury and surgeries resulted in traumatic osteoarthritis of the left knee, superimposed on a history of occupational repetitive stress, which accelerated severe tricompartmental osteoarthritis.

On September 16, 2019, OWCP referred the case record to Dr. Eric M. Orenstein, a Board-certified orthopedic surgeon serving as a district medical adviser (DMA), for review and an opinion regarding whether appellant sustained consequential left knee conditions.

In a September 22, 2019 report, Dr. Orenstein opined that there was no physiologic basis by which the accepted right knee injury resulted in a left ACL tear, left medial collateral ligament (MCL) tear, and post-traumatic osteoarthritis of the left knee. He attributed the left knee conditions to a posited remote, nonoccupational, severe injury to the left knee.

In an October 14, 2019 report, Dr. Inbody continued to opine that appellant had sustained post-traumatic osteoarthritis of the left knee, other internal derangements of the left knee, and a sprain and ACL tear of the left knee as a consequence of the accepted occupational right knee injury.

OWCP received a series of reports dated December 9, 2019 through March 24, 2021 wherein Dr. Jeffrey D. Reuben, an orthopedic surgeon, recounted a history of appellant's July 29, 2016 employment injury and medical treatment. Dr. Reuben diagnosed a left knee ACL tear and left knee osteoarthritis as a direct result of the accepted July 29, 2016 employment injury. He opined that the diagnosed left knee conditions were a "normal progression and consequence" of the employment injury. Imaging studies revealed a left knee injury "consistent with the mechanism of injury she endured."[3]

On March 25, 2021, OWCP referred appellant, together with a statement of accepted facts (SOAF), the medical record, and a series of questions to Dr. Vinod Kumar Panchbhavi, a Board-certified orthopedic surgeon, for a second opinion evaluation regarding the nature and extent of the accepted employment injury, and whether appellant had sustained a consequential injury to the left knee.

In an April 21, 2021 report, Dr. Panchbhavi reviewed the SOAF and appellant's medical record. He described the July 29, 2016 employment injury and noted appellant's current complaints. Dr. Panchbhavi disagreed with Dr. Reuben's opinion as the August 9, 2017 MRI scan revealed significant arthritic changes too advanced to have developed between the accepted July 29, 2016 employment injury and the date of the scan.

On June 22, 2021, OWCP requested that Dr. Reuben review Dr. Panchbhavi's report and indicate any points of disagreement.

In an August 11, 2021 report and an attending physician's report (Form CA-20) of even date, Dr. Reuben repeated his support for causal relationship, and that appellant's imaging studies supported a causal relationship between the accepted employment injury and the diagnosed left knee conditions.[4]

In a December 6, 2021 report, Dr. Jarolimek recounted a history of worsening left knee conditions over several years following total right knee arthroplasty, and that appellant had requested that OWCP include the left knee as compensable. On examination of the left knee, he observed swelling, patellofemoral crepitus, and a genu valgum deformity. Dr. Jarolimek obtained left knee x-rays which revealed complete obliteration of the joint space due to tricompartmental

[3] Dr. Reuben also noted a November 30, 2006 injury "as mentioned above," however, the only injury previously noted was the July 29, 2016 injury.

[4] OWCP continued to receive reports by Dr. Reuben dated September 22, 2021 through July 13, 2022 repeating prior findings and diagnoses.

osteoarthritis, and lateral subluxation of the tibia on the femur. He opined that appellant required left knee arthroplasty.

On May 19, 2022, OWCP determined that a conflict of medical opinion existed between Dr. Reuben, for appellant, and Dr. Panchbhavi, for the government, regarding whether appellant sustained left knee osteoarthritis as a consequence of the accepted July 29, 2016 right knee injury. On August 12, 2022, OWCP referred appellant, along with the medical record, and updated SOAF, and a series of questions to Dr. Stephen J. Ringel, a Board-certified orthopedic surgeon, to resolve the conflict of medical evidence.

In a September 26, 2022 report, Dr. Ringel related appellant's history of injury and medical treatment and noted his review of the SOAF and medical record. He noted an impression of degenerative joint disease of both knees, status post right knee total arthroplasty. Dr. Ringel opined that appellant's left knee osteoarthritis was not a consequence of the accepted right knee employment injury and was not exacerbated or aggravated by the surgery or employment. He noted that there was "no evidence[-]based literature suggesting that injury of one knee followed by surgery and protected weight-bearing of the operated extremity could cause an aggravation of a preexisting condition of the opposite knee." Dr. Ringel asserted that appellant had preexisting left knee osteoarthritis which progressed secondary to the natural effects of aging and appellant's obesity.

In reports dated February 7 through March 29, 2023, Dr. Reuben noted that recent left knee x-rays revealed extensive lateral compartment degenerative changes and genu varum, and that the left knee had been giving out. He related that appellant's left knee pain "began when she had to favor her right knee which subsequently required a total knee replacement."

In a May 22, 2023 report, Dr. Jarolimek diagnosed post-traumatic left knee arthritis "directly related to [appellant's] work-related injury."

In a September 13, 2023 report, Dr. Reuben opined that appellant's left knee conditions were "a normal progression of consequence of the injury that she sustained on July 29, 2026." Imaging studies revealed a left knee injury "consistent with the mechanism of injury she endured."[5]

In reports dated February 27 through November 26, 2024, Dr. Kyle F. Dickson, a Board-certified orthopedic surgeon, recounted appellant's history of injury and medical treatment. He also recounted appellant's statements that following her May 29, 2018 right knee arthroplasty, she overused her left knee by not putting weight on her right knee, which led to left knee swelling, pain, weakness, and instability. On examination of the left knee, Dr. Dickson observed genu varum instability. He opined that appellant required a total left knee arthroplasty due to end-stage osteoarthritis, and revision of the right knee total arthroplasty. Dr. Dickson administered a left knee injection on November 26, 2024.

[5] OWCP received additional reports by Dr. Reuben dated March 20, 2024 through February 26, 2025 repeating prior findings and diagnoses.

On August 14, 2024, appellant underwent OWCP-authorized revision of the right knee total arthroplasty, performed by Dr. Dickson.[6]

On March 12, 2025, OWCP referred appellant, together with an updated SOAF, the medical record, and a series of questions to Dr. Charles W. Kennedy, Jr., a Board-certified orthopedic surgeon, for a second opinion evaluation regarding the nature and extent of the accepted employment injury.

In an April 14, 2025 report, Dr. Kennedy reviewed the SOAF and appellant's medical record. He described the July 29, 2016 employment injury and noted appellant's current complaints. Dr. Kennedy asserted that although one of appellant's physicians attributed appellant's left knee conditions to overuse due to the injured right lower extremity, "[o]ver-use syndrome has been proven definitely not to be a medical entity and so the left knee is, just because she is getting degenerative arthritis, she got the same bilateral." He opined that he agreed with Dr. Ringel that appellant's left knee conditions "should not be considered part of this compensable injury."

By decision dated May 1, 2025, OWCP denied expansion of the acceptance of appellant's claim to include left knee osteoarthritis and a left ACL tear as causally related to, or consequential to, the accepted July 29, 2016 employment injury. It accorded the weight of the medical evidence to Dr. Kennedy.[7]

On June 5, 2025, appellant requested reconsideration.

Thereafter, OWCP received reports dated May 27 through July 15, 2025 by Dr. Dickson, in which he characterized Dr. Kennedy's examination and report as "minimal."

In a June 23, 2025 report, Dr. Reuben reviewed Dr. Kennedy's report and indicated his disagreement. He opined that appellant's left knee became symptomatic "because it is her dominant lower extremity as a result of her right knee injury."

By decision dated July 21, 2025, OWCP denied modification.

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.[8] Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[9] A physician's opinion on whether there is a causal relationship between the diagnosed condition and the accepted employment injury

[6] In an April 22, 2025 report, Dr. Dickson recommended a steroid injection to the left knee during recovery from the right knee surgery.

[7] Following issuance of the May 1, 2025 decision, OWCP received additional reports by Dr. Reuben dated from April 28 through June 23, 2025, wherein he repeated prior findings and diagnoses.

[8] *See T.F.,* Docket No. 17-0645 (issued August 15, 2018); *Jaja K. Asaramo,* 55 ECAB 200, 204 (2004).

[9] *E.M.,* Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris,* 48 ECAB 238 (1996).

must be based on a complete factual and medical background.[10] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).[11]

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 intervening cause attributable to a claimant's own intentional misconduct.[12] 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 consequence of a compensable primary injury.[13]

FECA provides that if there is disagreement between an OWCP-designated physician and the employee's physician, OWCP shall appoint a third physician who shall make an examination.[14] For a conflict to arise the opposing physicians' viewpoints must be of virtually equal weight and rationale.[15] Where OWCP has referred the case to an IME to resolve a conflict in the medical evidence, the opinion of such a specialist, if sufficiently well-reasoned and based upon a proper factual background, must be given special weight.[16]

ANALYSIS

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

Appellant's treating physician, Dr. Inbody, initially requested in reports dated from October 3, 2017 to October 14, 2019 that the acceptance of appellant's claim be expanded to include left knee conditions. He opined that limited weight bearing on the right knee due to the accepted July 29, 2016 employment injury and surgeries had resulted in traumatic osteoarthritis of the left knee, superimposed on a history of occupational repetitive stress, and had accelerated severe tricompartmental osteoarthritis. In multiple reports dated from December 9, 2019 through June 23, 2025, appellant's treating physician, Dr. Reuben diagnosed a left knee ACL tear and left knee osteoarthritis as a result of the accepted July 29, 2016 employment injury. He opined that based on imaging studies the diagnosed left knee conditions were a "normal progression and consequence" of the employment injury. Dr. Jarolimek, another treating physician, in a May 22, 2023 report, opined that appellant's post-traumatic left knee arthritis was "directly related to [her] work-related injury." Dr. Dickson, in reports dated February 27 through November 26, 2024,

[10] *M.V.,* Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams,* 41 ECAB 345, 352 (1989).

[11] *Id.*

[12] *See S.M.,* Docket No. 19-0397 (issued August 7, 2019); *Mary Poller,* 55 ECAB 483, 487 (2004).

[13] *A.T.,* Docket No. 18-1717 (issued May 10, 2019); *Susanne W. Underwood (Randall L. Underwood),* 53 ECAB 139 (2001).

[14] 5 U.S.C. § 8123(a); *see* 20 C.F.R. § 10.321; *Shirley L. Steib,* 46 ECAB 309, 317 (1994).

[15] *K.G.*, Docket No. 25-0792 (issued September 26, 2025); *H.B.,* Docket No. 19-0926 (issued September 10, 2020); *D.P.,* Docket No. 23-0374 (issued August 19, 2024); *Darlene R. Kennedy,* 57 ECAB 414, 416 (2006); *James P. Roberts,* 31 ECAB 1010 (1980).

[16] 20 C.F.R. § 10.321. *See also J.H.,* Docket No. 22-0981 (issued October 30, 2023); *James P. Roberts, id.*; *Gary R. Sieber,* 46 ECAB 215, 225 (1994).

diagnosed end-stage osteoarthritis of the left knee. He opined that appellant overused her left knee following the accepted employment right knee injury, which led to development of left knee conditions.

OWCP's physicians, however, concluded that appellant's left knee conditions were not causally related or a consequence of the accepted July 29, 2026 accepted employment injury. In a September 22, 2019 report, Dr. Orenstein opined that there was no physiologic basis by which the accepted right knee injury resulted in appellant's left knee conditions. In an April 21, 2021 report, Dr. Panchbhavi related that appellant's August 9, 2017 MRI scan of the left knee revealed significant arthritic changes too advanced to have developed between the accepted July 29, 2016 employment injury and the date of the scan. Dr. Kennedy, opined in an April 14, 2025 report, that appellant's left knee conditions were due solely to arthritic degeneration as overuse syndrome was not a recognized medical entity.

The Board thus finds that a conflict exists between appellant's treating physicians and OWCP's physicians regarding expansion of the acceptance of appellant's claim to include left knee conditions as causally related to or as a consequence of the accepted July 29, 2016 employment injury.[17] As noted above, if there is a disagreement between an employee's physician and an OWCP physician, OWCP will appoint an IME who shall make an examination.[18] The case will therefore be remanded to OWCP for referral of appellant to an IME for resolution of the conflict in medical evidence in accordance with 5 U.S.C. § 8123(a).[19] Following this and other such further development as OWCP deems necessary, it shall issue a *de novo* decision.

CONCLUSION

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

[17] *See K.G.*, *supra* note 15; *S.T.,* Docket No. 21-0906 (issued September 2, 2022).

[18] *K.G.*, *id.*; *see V.B.,* Docket No. 19-1745 (issued February 25, 2021); *S.S.,* Docket No. 19-1658 (issued November 12, 2020); *C.S.,* Docket No. 19-0731 (issued August 22, 2019).

[19] *K.G.*, *supra* note 15; *V.B., id.*; *S.M.,* Docket No. 19-0397 (issued August 7, 2019).

ORDER

IT IS HEREBY ORDERED THAT the July 21, 2025 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: March 3, 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