

**United States Department of Labor  
Employees' Compensation Appeals Board**

L.S., Appellant	)	
	)	
and	)	<b>Docket No. 26-0085</b>
	)	<b>Issued: March 17, 2026</b>
DEPARTMENT OF THE ARMY, U.S.	)	
MILITARY ENTRANCE PROCESSING	)	
COMMAND, Miami, FL, Employer	)	
	)	

*Appearances:* *Case Submitted on the Record*  
Wayne Johnson, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On November 14, 2025 appellant, through counsel, filed a timely appeal from a May 19, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>3</sup>

---

<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> The Board notes that following the May 19, 2025 decision, appellant submitted additional evidence to OWCP. 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 a medical condition causally related to the accepted factors of her federal employment.

## **FACTUAL HISTORY**

On May 3, 2021 appellant, then a 57-year-old personnel clerk/human resource assistant, filed an occupational disease claim (Form CA-2) alleging that her cervical, thoracic and lumbar spine herniated discs were aggravated by factors of her federal employment, which required constant repetitive activities. She noted that she first became aware of her conditions and realized their relation to her federal employment on August 16, 2019.<sup>4</sup> Appellant did not stop work.

In a development letter dated May 4, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to provide the requested evidence. No evidence was received.

On May 25, 2021 the employing establishment challenged appellant's claim as no medical evidence had been submitted.

By decision dated July 20, 2021, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish the implicate employment factors. It concluded, therefore, that the requirements had not been met to establish an injury as defined under FECA.

On August 19, 2021 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on December 6, 2021. The hearing representative afforded appellant 30 days to submit additional evidence in support of the claim. No additional evidence was received.

By decision dated January 11, 2022, OWCP's hearing representative modified OWCP's July 20, 2021 decision to find that appellant had established the alleged factors of her federal employment. However, the claim remained denied as the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted employment factors. Therefore, appellant had not established an injury under FECA.

On January 11, 2023 appellant, through counsel, requested reconsideration and submitted additional medical evidence.

In a November 19, 2021 report, Dr. Robert R. Reppy, an osteopath Board-certified in family practice, related a history of appellant's February 14, 2014 employment injury under OWCP File No. xxxxxx814. He also noted that a March 7, 2014 magnetic resonance imaging (MRI) scan of appellant's cervical spine showed a deformity of the ventral cord due to disc disease at C3-4, C5-6, and C6-7, and a March 7, 2014 MRI scan of the thoracic spine showed a broad-based disc protrusion deforming the ventral thecal sac at T3-4 and T5-6. Dr. Reppy opined that

---

<sup>4</sup> OWCP assigned the present claim OWCP File No. xxxxxx314. Appellant has a previously accepted traumatic injury claim (Form CA-1) under OWCP File No. xxxxxx814 for a lumbar back sprain sustained on February 14, 2014.

appellant's present condition was a direct result of the February 14, 2014 employment injury, explaining that the impact of falling backwards onto the floor was "more than enough" to generate sufficient force to cause her conditions. He also explained that appellant's symptoms did not start until the February 14, 2014 employment injury.

In a January 5, 2023 report, Dr. Reppy stated that appellant was previously diagnosed with cervical disc disease with radiculopathy to the upper extremities, lumbar disc disease with radiculopathy to the lower extremities, and coccydynia injury. He noted that she continued to work and opined that her repeated work activities permanently aggravated her conditions as documented by MRI scan, nerve conduction studies, and positive examination findings with loss of range of motion and palpation for muscle spasms. Dr. Reppy explained that appellant strained her neck using the computer which caused her discs to further weaken and her computer work put a load on her back. He stated that her job did not allow her to avoid prolonged sitting and ability to change positions and, when she did move, it was to do lifting, which aggravated her back.

By decision dated April 3, 2023, OWCP modified the January 11, 2022 decision, finding that the evidence of record was insufficient to establish that a diagnosed medical condition causally related to the accepted employment factors.

On April 3, 2024 appellant, through counsel, requested reconsideration. Counsel argued that the prior claim under OWCP File No. xxxxxx314 should be combined with the present claim.<sup>5</sup>

On April 22, 2024 OWCP administratively combined the present claim, OWCP File No. xxxxxx314, with appellant's prior claim under OWCP File No. xxxxxx814. It designated the current claim as the master file.

By *de novo* decision dated April 24, 2024, OWCP denied modification of the April 3, 2024 decision.

Thereafter, OWCP received medical evidence from Dr. Daniel Tuckerman, a Board-certified internist. In a September 17, 2024 initial evaluation report, Dr. Tuckerman related that on physical examination of appellant's cervical spine she had stiffness and pinching on flexion, pain on extension and rotation, she could not bend laterally, and her trapezius muscles were tight. Appellant had spasms of the thoracic spine. Her lumbar spine flexion was severely limited with pain, and she had stiffness with extension. Dr. Tuckerman also noted numerous findings from diagnostic testing, which included an October 2, 2024 MRI scan of the thoracic spine, November 18, 2023 MRI scan of the lumbar spine, and November 18, 2023 MRI scan of the cervical spine.

Dr. Tuckerman noted appellant's duties as a medical technician, related the history of appellant's February 14, 2014 employment injury under OWCP File No. xxxxxx814, and noted that appellant had worked as a human resource assistant since 2016. He described appellant's accepted 2014 injury as a fall to the ground after her chair rolled back. Dr. Tuckerman stated that falling to the ground after a chair rolled back would cause neck, mid-back and low back pain due to the sudden impact and twisting forces. He stated that prior to the February 14, 2014 employment injury appellant denied any neck or back pain. Dr. Tuckerman additionally stated that the

---

<sup>5</sup> *Id.*

repetitive tasks required of a medical technician placed extra stress on the spine and muscles, which over time led to muscle imbalances, joint stress and spinal degeneration. He stated that appellant's current human resource assistant position involved prolonged sedentary tasks, repetitive movements and poor ergonomic practices. Dr. Tuckerman opined that the mechanical fall of February 14, 2014, plus the additional years appellant served as a human resource assistant directly caused muscle spasm, cervical disc disorder with radiculopathy, intervertebral disc disorders with radiculopathy, thoracic region and aggravated her thoracic spondylosis, spinal stenosis, thoracic region, and lumbar facet arthropathy. In opining that the February 14, 2014 fall directly caused the ongoing muscle spasms of her back, he explained that trauma from the February 14, 2014 fall led to immediate injury-induced spasms and, if combined with poor mechanics, would lead to chronic muscle imbalances, which increased the likelihood of spasms from prolonged sitting. Dr. Tuckerman further related that when appellant fell on February 14, 2014, the impact of the fall was strong enough to directly cause her cervical discs to bulge and her current role as a human resource assistant further aggravated this condition. He explained that sitting at a desk with forward head posture would increase strain on the cervical spine and place extra pressure on the cervical discs and would worsen a herniation by forcing the disc material further outward. Dr. Tuckerman also stated that 2014 diagnostic testing revealed a thoracic bulging disc. He explained how the February 14, 2014 employment injury plus the additional cumulative years appellant spent working directly compromised the disc integrity and nerve function of her thoracic spine as the prolonged sitting placed continuous axial loading and static stress on an already vulnerable thoracic spine. Dr. Tuckerman also indicated that when appellant fell backward, it aggravated her thoracic spondylosis as a fall would worsen inflammation, aggravate compressed nerves and could overstretch muscles, tendons and ligaments surrounding the thoracic spine. He thus opined that the February 14, 2014 fall placed additional stress on appellant's already degenerated discs and caused further breakdown and irritation, which intensified pain and reduced her range of motion. Dr. Tuckerman additionally opined that the February 14, 2014 fall reduced appellant's spinal stability, aggravated her spinal stenosis, and ultimately made it more symptomatic. He also opined that the frequent bending, twisting and heavy lifting of appellant's position, especially if done without proper ergonomic techniques, also stressed the facet joints and over time accelerated her lumbar facet arthropathy. Additionally prolonged poor posture, such as slouching while working and lifting improperly, would add extra stress on the lumbar spine. Thus, Dr. Tuckerman opined that the physical demands of appellant's current position coupled with the February 14, 2014 acute trauma and the work duties of her former position directly damaged her facet joints.

Dr. Tuckerman also provided work capacity evaluation (Form OWCP-5c) reports dated September 20, November 1, and December 12, 2024, and January 17, February 14, and March 28, 2025, wherein he opined that appellant was able to perform her usual job with restrictions.

An October 2, 2024 MRI scan of the thoracic spine revealed upper thoracic levoscoliosis with thoracolumbar dextroscoliosis. Specific findings on T1 through T12 nerve roots revealed disc bulges, a light anterolisthesis, narrowing of the neural foramina, and stenosis with cord deformity on several levels.

On May 10, 2025 appellant requested reconsideration.

By decision dated May 19, 2025, OWCP denied modification.

## LEGAL PRECEDENT

An employee seeking benefits under FECA<sup>6</sup> 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,<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup>

---

<sup>6</sup> *Supra* note 2.

<sup>7</sup> *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *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).

<sup>8</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>9</sup> *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).

<sup>10</sup> *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.*

<sup>11</sup> *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>12</sup> *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

<sup>13</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *K.M.*, Docket No. 25-0649 (issued August 19, 2025); *K.G.*, Docket No. 18-1598 (issued January 7, 2020); *M.S.*, Docket No. 19-0913 (issued November 25, 2019).

## ANALYSIS

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

In his September 17, 2024 report, Dr. Tuckerman related the history of appellant's accepted February 14, 2014 employment injury, and related appellant's duties as a human resource assistant, following the 2014 injury. He opined that the mechanical fall of February 14, 2014 plus the additional years appellant served as a human resource assistant directly caused muscle spasm, cervical disc disorder with radiculopathy, intervertebral disc disorders with radiculopathy, thoracic region and aggravated her thoracic spondylosis, spinal stenosis, thoracic region, and lumbar facet arthropathy. Dr. Tuckerman explained that the impact of the February 2014 employment fall was strong enough to directly cause her cervical discs to bulge and her current role as a human resource assistant further aggravated this condition, as sitting at a desk with forward head posture would increase strain on the cervical spine and place extra pressure on the cervical discs and would worsen a herniation by forcing the disc material further outward. He also explained how the February 14, 2014 employment injury plus the additional cumulative years appellant spent working directly compromised the disc integrity and nerve function of her thoracic spine as the prolonged sitting placed continuous axial loading and static stress on an already vulnerable thoracic spine. Dr. Tuckerman also indicated that when appellant fell backward, it aggravated her thoracic spondylosis as a fall would worsen inflammation, aggravate compressed nerves and could overstretch muscles, tendons and ligaments surrounding the thoracic spine. He thus opined that the February 14, 2014 fall placed additional stress on appellant's already degenerated discs and caused further breakdown and irritation. Dr. Tuckerman further explained that appellant's February 14, 2014 fall reduced her spinal stability, aggravated her spinal stenosis and ultimately made it more symptomatic. Thereafter, appellant's job duties also stressed her facet joints and over time accelerated her lumbar facet arthropathy. While Dr. Tuckerman's September 17, 2024 report is insufficient to establish appellant's claim, it is sufficient to require further development of the medical evidence.<sup>14</sup>

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 in the development of the evidence.<sup>15</sup> OWCP has an obligation to see that justice is done.<sup>16</sup>

This case must, therefore, be remanded for further development. On remand, OWCP shall refer appellant, along with the medical record and a statement of accepted facts, to a specialist in the appropriate field of medicine for a second opinion examination and report regarding whether appellant sustained an additional medical conditions causally related to the accepted employment injury of February 14, 2014 and/or a medical condition causally related to the employment factors

---

<sup>14</sup> See *Z.S.*, Docket No. 25-0138 (issued January 22, 2025); *R.B.*, Docket No. 20-0498 (issued August 27, 2020); *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); *John J. Carlone*, 41 ECAB 354 (1989); *William J. Cantrell*, 34 ECAB 1223 (1983).

<sup>15</sup> *Id.* See also *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

<sup>16</sup> See *B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

accepted as of August 16, 2019.<sup>17</sup> If the referral physician disagrees with the opinion of Dr. Tuckerman, he or she must provide a fully-rationalized opinion explaining why appellant's diagnosed conditions are not causally related. 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 May 19, 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 17, 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

---

<sup>17</sup> See *R.B.*, *supra* note 14; *C.C.*, Docket No. 19-1631 (issued February 12, 2020).