

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

_____)	
M.D., Appellant)	
)	
and)	Docket No. 26-0128
)	Issued: March 26, 2026
DEPARTMENT OF COMMERCE, U.S. PATENT)	
AND TRADEMARK OFFICE, Alexandria, VA,)	
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 November 25, 2025, appellant filed a timely appeal from a November 19, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 November 19, 2025 decision, OWCP received additional evidence. 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 right hip condition causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On February 23, 2025, appellant, then a 45-year-old patent examiner (computer engineer), filed an occupational disease claim (Form CA-2) alleging that she developed avascular necrosis and advanced osteoarthritis of the right hip due to factors of her federal employment, including prolonged periods of sitting at a desk while reviewing patent applications in the performance of duty. She noted that she first became aware of her conditions on November 9, 2020, and realized their relationship to her federal employment on January 1, 2024. Appellant stopped work on March 9, 2024, and did not return.

OWCP subsequently received a November 10, 2020 progress report by Dr. Nicholas Romeo, an osteopath Board-certified in orthopedic surgery, wherein he recounted appellant's history of an open reduction and internal fixation (ORIF) of the pelvic ring following pelvic fractures and a left hip dislocation sustained in a motor vehicle collision in 1996. Appellant had no symptoms following the surgery until she developed right groin pain a few months ago, with the onset of acute right groin pain one week prior. Dr. Romeo obtained right hip x-rays which revealed joint space narrowing and dysplasia. He diagnosed right hip dysplasia and prescribed medication and physical therapy.

In a March 19, 2024 report, Dr. Romeo recounted a history of pelvic surgery at age 16, subsequent intermittent right hip pain, and a flare up two years previously which improved with medication and physical therapy. On examination, he found mild tenderness to palpation over the right hip, and mild pain with resisted hip flexion. X-rays of the right hip revealed joint space narrowing of the right hip.³ Dr. Romeo diagnosed right hip osteoarthritis. He prescribed medication.

On April 12, 2024, appellant underwent a right hip interarticular injection.

OWCP also received an April 25, 2024 report by Toni Wilcox, an advanced practice registered nurse and certified nurse practitioner (APRN-CNP), wherein she diagnosed right hip pain, fibromyalgia, and chronic pain syndrome.

³ March 18, 2024 x-rays of the right hip and pelvis revealed osteoarthritic changes of the right hip with narrowing of the superior compartment and some subchondral sclerosis, status post severe past pelvic trauma with ORIF with screw plates involving the left iliac bone and the "pubic symphysis/pubis rami with some residual deformity." The screw plate at the pubic symphysis had "at least one break in it."

In a December 4, 2024 report, Dr. Romeo recounted that appellant's right hip pain had significantly worsened. He diagnosed severe right hip arthritis.⁴ Dr. Romeo recommended total right hip arthroplasty.⁵

A February 8, 2025 magnetic resonance imaging (MRI) scan of the right hip demonstrated "[a]dvanced right hip osteoarthritis, likely related to chronic underlying avascular necrosis of the right femoral head, with a joint effusion and synovitis."

In a March 3, 2025 development letter, 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 60 days to submit the necessary evidence. In a separate development letter of even date, it requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor, regarding appellant's claim. OWCP afforded the employing establishment 30 days to provide the necessary information.

On March 4, 2025, appellant submitted a response to the development questionnaire. She asserted that while employed as a patent examiner during the period September 18, 2006 through March 11, 2024, her position required prolonged sitting for 10 to 14 hours a day, involuntary overtime, and constant computer use. Appellant resigned in March 2024 due to health reasons.

In a March 12, 2025 report, Dr. Romeo recounted a history of pelvic fracture and evidence of right hip dysplasia. Appellant had progressive hip pain, severe degenerative joint disease with complete loss of joint space and flattening of the femoral head. "Her hip has collapse[d] over time with radiographs dating back to November 2020 displaying some narrowing of the joint then radiographs from March 2024 display further narrowing and radiographs from December 2024 display complete loss of joint space and erosion of the head with a now collapse of the head." Dr. Romeo recommended a total right hip arthroplasty.

In a March 16, 2025 statement, appellant asserted that the diagnoses of avascular necrosis of right hip, primary osteoarthritis of hip, and pain in right hip were directly related to the progressive deterioration of her hip joint over time.

OWCP subsequently received a February 28, 2025 employing establishment statement in which J.A., appellant's supervisor, controverted the claim. J.A. contended that for the period June 5, 2022 through March 9, 2024, during which he supervised appellant, she did not report an incident or condition so no accommodation could be offered. He noted that she had the flexibility to take breaks throughout the day as her schedule permitted work between the hours of 4:30 a.m. and 11:59 p.m. Monday through Friday, and 5:30 a.m. to 10:00 p.m. on Saturday and Sunday.

⁴ December 3, 2024 x-rays of the right hip and pelvis revealed advanced/end stage arthritic changes in the right hip joint, markedly progressed since March 19, 2024, and status post multiple prior pelvic fractures of the left iliac bone, stable postoperative changes from pelvic fractures with internal fixation hardware in place.

⁵ OWCP also received a December 10, 2024 after visit summary noting that appellant was seen by Ms. Wilcox regarding right hip pain and a February 18, 2025 after visit summary by Ms. Wilcox which indicated that appellant was treated for avascular necrosis of the right hip bone.

A March 28, 2025 after-visit summary noted that appellant was examined by Dr. Maria Grabnar, Board-certified in psychiatry and pain medicine, for avascular necrosis and osteoarthritis of the right hip.

In an April 1, 2025 report, Dr. James Caviness, a physician Board-certified in occupational medicine and preventive medicine providing consultation to the employing establishment, indicated that appellant had a history of prior right hip necrosis related to the remote motor vehicle accident. He opined that the medical evidence of record was insufficient to establish causal relationship between prolonged sitting while at work and the claimed right hip conditions.

In an April 6, 2025 statement, appellant contended that Dr. Caviness erred in his report as he noted a history of a remote right hip injury whereas the injury involved her left hip.

In an April 17, 2025 follow-up letter, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the March 3, 2025 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 response, appellant submitted statements dated April 22 and May 5, 2025 wherein she contended that prolonged sitting without ergonomic accommodations contributed to the development and worsening of avascular necrosis and severe degenerative joint disease of the right hip.

By decision dated June 9, 2025, OWCP denied appellant's claim, finding that she had not established the implicated factors of her federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On June 10, 2025, appellant requested reconsideration. In statements dated June 10 through July 28, 2025, she asserted that prolonged sitting without ergonomic accommodations contributed to the development of avascular necrosis of the right hip, severe degenerative joint disease of the right hip, and right hip effusion with synovitis.

On July 3, 2025, appellant underwent total right hip arthroplasty, performed by Dr. Romeo.

By decision dated July 31, 2025, OWCP modified the July 9, 2025 decision to accept that the identified employment factors occurred, as alleged. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between the diagnosed right hip conditions and the accepted employment factors.

In reports dated August 13, 2025, Dr. Katherine Burke, an emergency medicine specialist, recounted that appellant's position required 8 to 12 hours a day of sitting at a desk. Appellant leaned toward her dominant right side, which placed additional strain on the right hip. Dr. Burke noted that appellant teleworked and did not utilize ergonomic furniture. She diagnosed unilateral primary osteoarthritis of the right hip osteoarthritis and idiopathic avascular necrosis of the right femur. Dr. Burke opined that appellant's right hip osteoarthritis developed as a direct result of prolonged sitting "without proper lumbar or pelvic support[.]" which placed an increased load on the right hip, causing "abnormal joint wear, accelerated cartilage degeneration, and progressive osteoarthritic changes localized to the right hip." She also opined that the diagnosed idiopathic

aseptic necrosis of the right femur was “directly related to the prolonged, repetitive mechanical compression and compromised vascular microcirculation in the hip joint from years of non-ergonomic, asymmetrical sitting” which placed continuous pressure on the right femoral head, impairing blood flow to the subchondral bone, leading to “ischemia, bone cell death, and collapse of the femoral head.” Dr. Burke noted that the remote motor vehicle accident “was limited to the left side, with no right hip complaints prior to 2020.”

On August 25, 2025, appellant requested reconsideration.

In a September 9, 2025 report, Dr. Burke reiterated prior findings and diagnoses. She prescribed physical therapy.

On September 11, 2025, OWCP referred appellant, together with a statement of accepted facts (SOAF), medical record, and series of questions, to Dr. Michael J. Jurenovich, an osteopath Board-certified in orthopedic surgery, for a second opinion regarding whether appellant’s right hip conditions were caused or aggravated by the accepted employment factors.

In an October 6, 2025 report, Dr. Jurenovich reviewed the medical record and SOAF. On examination, he found a well-healed surgical incision over the right hip. Dr. Jurenovich opined that appellant’s “job duties of working from home at a desk job, which involved sitting all day, led to her diagnosis of avascular necrosis of the right hip.” He returned appellant to full duty with no restrictions and indicated that no further treatment was required as appellant’s July 3, 2025 hip replacement had resolved her condition.

In reports dated October 8 and November 3, 2025, Dr. Burke reiterated prior findings and diagnoses.

On October 27, 2025, OWCP requested that Dr. Jurenovich submit a supplemental report setting forth the mechanism of injury whereby the identified work factors caused the diagnosed medical condition.

In a November 6, 2025 addendum report, Dr. Jurenovich opined that after reviewing the medical record and his findings on examination, there was “insufficient evidence to definitively state that avascular necrosis [was] the result of [appellant’s] work-related injury.” He explained that of the more than 20 possible causes for avascular necrosis of the hip, the most common was idiopathic, “which is the likely case here.” Dr. Jurenovich noted that his findings on examination and the medical record did not “provide definitive evidence” that sitting at work with little activity caused the condition. He opined that osteoarthritis was the result of appellant’s obesity. Dr. Jurenovich opined that the right hip arthroplasty resolved the diagnosed right hip osteoarthritis and avascular necrosis of the right hip.

By decision dated November 19, 2025, OWCP denied modification of the July 31, 2025 decision. It accorded Dr. Jurenovich’s opinion the weight of the medical evidence.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁶ 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,⁷ 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.⁸ 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.⁹

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.¹⁰

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

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.¹³

⁶ *Supra* note 1.

⁷ *T.A.*, Docket No. 25-0802 (issued December 11, 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).

⁸ *T.A.*, *id.*; *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).

⁹ *T.A.*, *id.*; *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).

¹⁰ *T.A.*, *id.*; *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.*

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

¹² *V.S.*, Docket No. 25-0836 (issued February 26, 2026); *D.D.*, Docket No. 25-0751 (issued August 27, 2025); *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *E.J.*, Docket No. 24-0777 (issued September 12, 2024); *R.D.*, Docket No. 18-1551 (issued March 1, 2019).

ANALYSIS

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

In an October 6, 2025 report, Dr. Jurenovich, an OWCP second opinion physician, diagnosed avascular necrosis of the right hip. He opined that the accepted factor of prolonged sitting while at work caused avascular necrosis of the right hip. In a November 6, 2025 addendum report, Dr. Jurenovich opined that there was insufficient evidence to establish causal relationship between the accepted employment factor and the development of avascular necrosis. He concluded that appellant's avascular necrosis of the hip was "likely" due to idiopathic causes, and that right hip osteoarthritis was caused by obesity. However, as Dr. Jurenovich did not set forth his medical rationale for changing his opinion on causal relationship, his opinion is of diminished probative value.¹⁴ Additionally, his opinion that avascular necrosis was likely due to idiopathic causes is speculative in nature, and therefore of limited probative value.¹⁵

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.¹⁶ Accordingly, once OWCP undertakes development of the medical evidence, it must resolve the relevant issues in the case.¹⁷ In a situation where OWCP secures an opinion from a second opinion physician and the opinion from such second opinion physician requires clarification or elaboration, it has the responsibility to secure a supplemental report from the physician for the purpose of correcting the defect in the original opinion.¹⁸

Accordingly, this case will be remanded to OWCP for further development of the medical evidence. As Dr. Jurenovich was unable to clarify his opinion as to whether the accepted employment factors aggravated appellant's diagnosed right hip conditions, OWCP shall refer

¹⁴ *R.S.*, Docket No. 26-0053 (issued February 18, 2026); *C.L.*, Docket No. 25-0593 (issued July 15, 2025); *K.J.*, Docket No. 21-0020 (issued October 22, 2021); *L.R.*, Docket No. 16-0736 (issued September 2, 2016); *J.R.*, Docket No. 12-1099 (issued November 7, 2012); *Douglas M. McQuaid*, 52 ECAB 382 (2001).

¹⁵ *A.P.*, Docket No. 26-0065 (issued February 27, 2026); *S.L.*, Docket No. 23-0152 (issued May 16, 2023); *see L.L.*, Docket No. 21-0981 (issued July 1, 2022); *C.A.*, Docket No. 21-0601 (issued November 15, 2021); *J.P.*, Docket No. 19-0216 (issued December 13, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

¹⁶ *See N.B.*, Docket No. 23-0690 (issued December 5, 2023); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹⁷ *See K.A.*, Docket No. 23-0773 (issued November 1, 2024); *S.A.*, Docket No. 18-1024 (issued March 12, 2020); *L.B.*, Docket No. 19-0432 (issued July 23, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

¹⁸ *G.L.*, Docket No. 23-0584 (issued April 1, 2024); *M.F.*, Docket No. 23-0881 (issued December 6, 2023); *G.T.*, Docket No. 21-0170 (issued September 29, 2021); *Ayanle A. Hashi*, 56 ECAB 234 (2004) (when OWCP refers a claimant for a second opinion evaluation and the report does not adequately address the relevant issues, OWCP should secure an appropriate report on the relevant issues).

appellant to a new second opinion physician.¹⁹ After this and other such further development as deemed necessary, it 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 November 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 26, 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

¹⁹ *S.F.*, Docket No. 23-0509 (issued January 24, 2024); *J.F.*, Docket No. 23-0963 (issued December 8, 2023); *S.G.*, Docket No. 22-0014 (issued November 3, 2022); *G.T.*, *id.*; *see also D.L.*, Docket No. 20-0886 (issued November 9, 2021).