United States Department of Labor
Employees' Compensation Appeals Board

J.P., Appellant	)	
and	)	**Docket No. 26-0543**
	)	**Issued: October 7, 2026**
DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION, Anchorage, AK, Employer	)	

Appearances:
Daniel M. Goodkin, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On May 28, 2026 appellant, through counsel, filed a timely appeal from a March 3, 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 to consider the merits of this case.

[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.*

ISSUE

The issue is whether appellant has met his burden of proof to establish continuing disability or residuals on or after December 13, 2019, causally related to his accepted 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. The relevant facts are as follows.

On November 6, 2002 appellant, then a 57-year-old supervisory personnel management specialist, filed an occupational disease claim (Form CA-2) alleging that he developed coronary heart disease as a result of stress causally related to factors of his federal employment.[4] He noted that he first became aware of his condition and realized its relationship to his federal employment on February 5, 2001. OWCP accepted the claim for post-traumatic stress disorder (PTSD). It paid appellant wage-loss compensation on the supplemental rolls as of February 22, 2002, and on the periodic rolls as of May 29, 2016.

By decision dated December 13, 2019, OWCP terminated appellant's entitlement to wage-loss compensation and medical benefits, effective that date. It found that the opinion of Dr. Douglas P. Robinson, a Board-certified psychiatrist serving as an impartial medical examiner (IME), had resolved the conflict of medical opinion between appellant's treating physician, Dr. Eric Garby, a psychiatrist, and OWCP's second opinion physician, Dr. Mark Ashby, a Board-certified psychiatrist. OWCP determined that Dr. Robinson's opinion represented the special weight of the evidence and established that appellant no longer had disability or residuals causally related to his accepted employment injury.

Appellant, through counsel, subsequently submitted several requests for reconsideration.

By decisions dated December 16, 2020, August 25, 2021, and September 19, 2022, OWCP denied modification.

Appellant appealed to the Board.

By decision dated August 22, 2024, the Board affirmed OWCP's September 19, 2022 decision.[5] The Board found that OWCP met its burden of proof to terminate appellant's wage-

[3] Docket No. 23-0075 (issued August 22, 2024).

[4] A November 5, 2002 notification of personnel action (Standard Form (SF) 50-B) indicated that appellant retired from the employing establishment, effective January 31, 2002. On December 13, 2003 he returned to a temporary position at the employing establishment following an Equal Employment Opportunity Commission settlement agreement. Upon termination of the temporary assignment on December 12, 2005, appellant voluntarily retired from the employing establishment.

[5] Docket No. 23-0075 (issued August 22, 2024).

loss compensation and medical benefits, effective December 13, 2019, as he no longer had disability or residuals causally related to the accepted employment injury. The Board further found that appellant had not met his burden of proof to establish continuing disability or residuals, on or after December 13, 2019, causally related to the accepted employment injury.

On June 23, 2025 appellant, through counsel, requested reconsideration before OWCP. In support thereof, counsel submitted a May 9, 2025 narrative report, wherein Dr. Garby noted appellant's work incidents. He diagnosed the accepted condition of PTSD. Dr. Garby also diagnosed recurrent, severe major depressive disorder. He opined that appellant's workplace environment contributed to the diagnosed conditions.

By decision dated July 8, 2025, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

On August 21, 2025 appellant, through counsel, requested reconsideration. In support thereof, counsel resubmitted Dr. Garby's June 27, 2017 work capacity evaluation for psychiatric/ psychological conditions (Form OWCP-5a), and June 27 and December 2, 2017 and May 9, 2025 narrative reports, which were previously of record.

By decision dated September 9, 2025, OWCP denied modification, finding that appellant failed to submit sufficient medical evidence to establish that he had continuing disability or residuals, on or after December 13, 2019, causally related to his accepted employment injury.

On December 3, 2025 appellant, through counsel, requested reconsideration. Counsel cited Board precedent and alleged errors of due process by OWCP in failing to consider prior legal arguments. Counsel also continued to allege that the statement of accepted facts (SOAF) provided to the IME should have listed additional factors as compensable. Counsel also argued that previously submitted medical evidence, including Dr. Garby's May 9, 2025 report, established that appellant had continuing disability, causally related to his accepted employment injury.

By decision dated March 3, 2026, OWCP denied modification of the September 9, 2025 decision.

LEGAL PRECEDENT

When OWCP properly terminates compensation benefits, the burden shifts to appellant to establish continuing disability or residuals after that date, causally related to the accepted employment injury.[6] To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such causal relationship.[7]

[6] *See A.T.,* Docket No. 26-0401 (issued July 15, 2026); *M.D.,* Docket No. 21-0080 (issued August 16, 2022); *C.P.,* Docket No. 21-0173 (issued March 23, 2022); *S.M.,* Docket No. 18-0673 (issued January 25, 2019); *C.S.,* Docket No. 18-0952 (issued October 23, 2018); *Manuel Gill,* 52 ECAB 282 (2001).

[7] *Id.*

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish continuing disability or residuals, on or after December 13, 2019, causally related to his accepted employment injury.

Preliminarily, the Board notes that findings made in prior Board decisions are *res judicata*, absent any further review by OWCP under section 8128 of FECA.[8] It is, therefore, unnecessary for the Board to consider the evidence appellant submitted prior to the issuance of OWCP's September 19, 2022 decision as the Board considered that evidence in its August 22, 2024 decision.[9]

On reconsideration, counsel submitted a May 9, 2025 narrative report, wherein Dr. Garby diagnosed the accepted condition of PTSD, also diagnosed recurrent severe major depressive disorder, and opined that appellant's workplace environment contributed to the diagnosed conditions. Dr. Garby, however, did not specifically address whether appellant continued to have disability or residuals on or after December 13, 2019 causally related to the accepted employment injury. This evidence from Dr. Garby, therefore, is insufficient to establish continuing disability or residuals, on or after December 13, 2019, causally related to the accepted employment injury.[10]

As the medical evidence of record is insufficient to establish continuing disability or residuals, on or after December 13, 2019, causally related to the accepted employment injury, the Board finds that appellant has not met his burden of proof.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish continuing disability or residuals, on or after December 13, 2019, causally related to his accepted employment injury.

[8] *A.T., supra* note 6; *S.H.,* Docket No. 26-0168 (issued June 8, 2026); *P.N.,* Docket No. 25-0277 (issued March 6, 2025); *G.W.,* Docket No. 22-0301 (issued July 25, 2022); *M.D.,* Docket No. 19-0510 (issued August 6, 2019); *Clinton E. Anthony, Jr.,* 49 ECAB 476, 479 (1988).

[9] *A.T., id.*; *A.T.,* Docket No. 22-0716 (issued February 24, 2023); *G.W., id.*; *M.D., id.*

[10] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the March 3, 2026 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 7, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board