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

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| **C.N., Appellant** | ) | |
| **and** | ) | **Docket No. 26-0684** |
| | ) | **Issued: October 30, 2026** |
| **DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY, Durham, NC, Employer** | ) | |

*Appearances:*
*Wayne Johnson, Esq.*, for the appellant[1]
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

## DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

## ***JURISDICTION***

On July 16, 2026 appellant, through counsel, filed a timely appeal from a June 18, 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 June 18, 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*.

## ***ISSUE***

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted May 7, 2025 employment incident.

## ***FACTUAL HISTORY***

On June 23, 2025 appellant, then a 70-year-old emergency management employee, filed a traumatic injury claim (Form CA-1) alleging that on May 7, 2025, while deployed to an employing establishment joint field office in Asheville, North Carolina, he strained his lower back and developed radiating pain in his left leg when he descended stairs to retrieve supplies in the performance of duty. Appellant stopped work on May 13, 2025.

In support of his claim, appellant submitted a magnetic resonance imaging (MRI) scan of the lumbar spine dated June 3, 2025, which was compared to a prior study of April 25, 2015. The June 3, 2025 scan demonstrated a progression of lumbar degenerative disease since 2015 and a right facet joint synovial cyst at L4-5 contacting the descending right lumbosacral nerve roots.

In a development letter dated June 25, 2025, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP subsequently received an Emergency Medical Services (EMS) report dated May 8, 2025, which indicated that appellant related complaints of left hip and leg pain since May 7, 2025.

In an emergency room report dated May 8, 2025, Dr. Ann R. Sumner Mitchell, Board-certified in emergency medicine, noted that appellant related a history of left hip pain and a limping gait since May 7, 2025. He denied any recent injury and indicated that he had received a steroid injection for his symptoms at an urgent care facility on May 7, 2025. Dr. Mitchell performed a physical examination and observed significant midline tenderness along the lumbar spine, tenderness along the left iliac crest, and pain with range of motion of the left hip. She obtained computerized tomography (CT) scans of the lumbar spine and left hip, which demonstrated multi-level degenerative changes and L5-S1 and disc degeneration with bilateral foraminal stenosis. Dr. Mitchell diagnosed degenerative joint disease and degenerative spinal stenosis of the lumbar spine.

In a report dated June 7, 2025, Dr. Larissa O. Dub, Board-certified in emergency medicine, diagnosed lumbar stenosis, spondylosis, and sciatica.

In a letter dated June 25, 2025, Dr. Amade Bregy, a neurosurgeon, indicated that appellant may require time off from work to attend physical therapy.

In an after-visit summary dated July 1, 2025, Roberto Baldassarre, a physician assistant, diagnosed steroid-induced hyperglycemia.

In an after-visit summary dated July 5, 2025, Dr. Steve Hilwa, Board-certified in emergency medicine, diagnosed acute left-sided low back pain with left-sided sciatica.

In an attending physician's report (Form CA-20) dated July 7, 2025, Dr. Muhammad Hizkil, a Board-certified internist, noted that appellant "sustained injury of the lower back to the left leg while climbing the stairs in the office" on May 7, 2025. He answered "Yes" to indicate that the condition was caused or aggravated by an employment activity and explained that "he [did not] have any preexisting situation until that morning when the incident happened at work."

OWCP also received physical therapy reports.

In a follow-up letter dated July 23, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the June 25, 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.

OWCP subsequently received a medical report dated June 25, 2025, wherein Dr. Bregy noted that appellant related a history that "a few month[s] ago he was at a work event and started to have excruciating low back pain radiating into the left lower extremity with weakness in the left lower extremity." He documented physical examination findings and reviewed the June 3, 2025 lumbar MRI scan, which he found demonstrated a herniated disc at L3-4 with mild right and moderate-to-severe foraminal stenosis at L4-S1. Dr. Bregy diagnosed lumbar radiculopathy, spondylosis, and disc disease.

In a Form CA-20 dated July 28, 2025, Dr. Hizkil again noted a history that appellant sustained an injury to his lower back and leg "while climbing the stairs at work in his office." He diagnosed lumbar radiculopathy and lumbar disc herniation and indicated that his "symptoms started after the incident at work."

In a July 28, 2025 response to OWCP's development questionnaire, appellant related that, on May 7, 2025, he "was going to the first floor to get supplies at work and [tripped] at the stairs and [fell] and was rushed to the hospital emergency."

In a follow-up report dated July 29, 2025, Dr. Bregy noted that appellant related ongoing complaints of significant pain and weakness in his left lower extremity. In a Form CA-20 of even date, he diagnosed lumbar radiculopathy and noted that "according to patient was at a work event."

By decision dated September 2, 2025, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between a medical condition and the accepted May 7, 2025 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On October 10, 2025 appellant, through counsel, requested reconsideration of OWCP's September 2, 2025 decision. In support thereof, he submitted a medical report dated October 1, 2025 by Dr. Ali Saberi, a Board-certified internist, who noted a date of injury of May 7, 2025 and that he "had been deployed for several months assessing the damage from the recent floods which required him to do a lot of walking on uneven surfaces and climbing up and down hills." He further noted that while appellant was descending stairs on May 7, 2025, he felt a sharp discomfort coming from his back, and fell, landing on his lower back and buttock. Dr. Saberi documented physician examination findings, reviewed the June 3, 2025 lumbar MRI scan, and diagnosed lumbar intervertebral disc displacement, spinal stenosis with neurogenic claudication,

radiculopathy, and strain. He opined that "the mechanism of injury involved sudden lifting and twisting under high physical demand, which likely exacerbated underlying degenerative changes and precipitated acute disc displacement." Dr. Saberi also opined that "the mechanism of injury, a fall during emergency response, accelerated these degenerative processes and precipitated acute symptoms by increasing mechanical stress on the lumbar spine and its supporting structures." He also opined that appellant "sustained his injury during emergency management duties, the physical demands of his role likely involved repetitive lifting, bending, and sudden movements, which can predispose to disc degeneration and nerve root compromise" and "the strain injury was sustained during his deployment in North Carolina while performing routine but physical demanding operational tasks, such as lifting heavy equipment and prolonged periods of bending or twisting."

OWCP also received additional physical therapy reports and a follow-up report by Dr. Saberi dated November 3, 2025.

By decision dated November 19, 2025, OWCP denied modification of the September 2, 2025 decision.

OWCP subsequently received a CT scan of the lumbar spine dated October 28, 2025, which demonstrated lumbar spondylosis from L2 to L5 and L5 sacralization with trace stepwise retrolisthesis at L2-4.

In a medical report dated November 18, 2025, Dr. Fanor Saavedra-Pozo, a Board-certified neurosurgeon, noted that appellant related complaints of lower back pain with left leg weakness for the "last couple of months." He documented physical examination findings and diagnosed degeneration of intervertebral disc of lumbar region, discogenic back pain, lower extremity pain, spinal stenosis of lumbar region without neurogenic claudication, and lumbar radiculopathy. Dr. Saavedra-Pozo indicated that appellant was a candidate for L3-4 surgical decompression.

OWCP also received additional physical therapy reports and follow-up medical reports dated December 17, 2025 and January 26, 2026 by Dr. Saberi.

In a March 19, 2026 narrative report, Dr. Saberi noted that appellant suddenly experienced a sharp and intense pain originating in his lower back and left leg as he descended stairs to retrieve supplies and equipment. His left leg gave out, and he fell onto his left lower back and buttock. Dr. Saberi indicated that the impact of descending steps created an abrupt eccentric load on already fatigued lumbar stabilizers as the spine transitioned from flexion underload to single-limb weight acceptance, resulting in acute disruption of muscle fibers and fascial support structures, which aggravated appellant's spinal stenosis. The subsequent fall onto his lower back and buttock caused a herniated disc. Dr. Saberi also indicated that extensive walking over uneven terrain, repeated hill climbing, and frequent stair negotiation imposed sustained axial loading, repetitive flexion-extension cycles, torsional stress, and continuous paraspinal muscle activation for lumbar stabilization, which elevated intradiscal pressure and strained the annulus fibrosus. He opined that the diagnosed lumbar strain and resulting functional impairment were causally related to the accepted May 7, 2025 employment incident.

On March 20, 2026 appellant, through counsel, requested reconsideration of OWCP's November 19, 2025 decision.

OWCP also received follow-up medical reports dated March 9 through May 27, 2026 by Dr. Saberi, who reiterated his prior findings and conclusions.

An x-ray of the lumbar spine dated May 21, 2026 demonstrated mild degenerative changes of the lumbar spine. A CT scan of the lumbar spine of even date demonstrated multilevel degenerative disc disease, bulges, and facet arthropathy, most significant at L3-5.

By decision dated June 18, 2026, OWCP denied modification of the November 19, 2025 decision.

## ***LEGAL PRECEDENT***

An employee seeking benefits under FECA[4] has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed, 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.[5] These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.[6]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient evidence to establish that the employment incident caused an injury.[7]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[8] The opinion of the physician must be based on a complete factual and medical background of the employee, 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 incident identified by the claimant.[9]

[4] 5 U.S.C. § 8101 *et seq*.

[5] *C.G.*, Docket No. 20-0058 (issued September 30, 2021); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

[6] *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[7] *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

[9] *A.S.*, Docket No. 19-1955 (issued April 9, 2020); *Leslie C. Moore*, 52 ECAB 132 (2000).

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.[10]

## ***ANALYSIS***

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

In support of his claim, appellant submitted a narrative report dated March 19, 2026 by Dr. Saberi, who diagnosed lumbar intervertebral disc displacement, spinal stenosis with neurogenic claudication, radiculopathy, and strain. He noted that appellant suddenly experienced a sharp and intense pain originating in his lower back and left leg as he descended stairs to retrieve supplies and equipment, at which time his left leg gave out and he fell on his buttock. Dr. Saberi explained that the impact of descending steps created an abrupt eccentric load on already fatigued lumbar stabilizers as the spine transitioned from flexion underload to single-limb weight acceptance, resulting in acute disruption of muscle fibers and fascial support structures, which aggravated appellant's spinal stenosis and caused a herniated disc. He concluded that the diagnosed lumbar strain and resulting functional impairment were causally related to the accepted May 7, 2025 employment incident.

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 for the development of the evidence and to see that justice is done.[11] While the Board finds that the March 19, 2026 report of Dr. Saberi is not fully rationalized, it is sufficient to require further development of the evidence.[12]

On remand, OWCP shall refer appellant to a specialist in the appropriate field of medicine, along with the case record, and an updated SOAF, for an evaluation and a well-rationalized opinion as to whether appellant has a medical condition causally related to the accepted May 7, 2025 employment incident. If the second opinion physician disagrees with the opinion of Dr. Saberi, he or she must provide a fully-rationalized explanation of why the accepted employment incident is insufficient to have caused or contributed to appellant's medical condition. 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 a decision.

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[10] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (version 1.2, issued May 4, 2026); *M.B.,* Docket No. 20-1275 (issued January 29, 2021); *see R.D.,* Docket No. 18-1551 (issued March 1, 2019).

[11] *See D.J.,* Docket No. 26-0621 (issued September 24, 2026); *B.H.,* Docket No. 26-0479 (issued August 25, 2026); *A.K.,* Docket No. 20-1426 (issued March 8, 2021); *B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.,* Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone,* 41 ECAB 354 (1989).

[12] *Id.*

## ***ORDER***

**IT IS HEREBY ORDERED THAT** the June 18, 2026 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: October 30, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board