United States Department of Labor
Employees' Compensation Appeals Board

G.W., Appellant	)	
and	)	**Docket No. 25-0716**
	)	**Issued: September 14, 2026**
U.S. POSTAL SERVICE, POST OFFICE, Kansas City, MO, Employer	)	

Appearances:
Appellant, pro se
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 21, 2025 appellant filed a timely appeal from a May 30, 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]

ISSUE

The issue is whether OWCP properly denied appellant's request for authorization for implant neuroelectrodes.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the May 30, 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.*

FACTUAL HISTORY

This case has previously been before the Board on a different issue.[3] The facts and circumstances of the case as set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are as follows.

On August 24, 1963 appellant, then a 23-year-old distribution clerk, filed a traumatic injury claim (Form CA-1) alleging that he had reinjured his back following a September 1962 employment injury.[4] He retired from the employing establishment in 1995. OWCP initially accepted the claim for lumbosacral sprain and authorized medical treatment, including surgical procedures in 1964, 1965, 1994, 1998, 2012, and 2013. By decision dated December 17, 2014, it expanded the acceptance of the claim to include a 1998 lumbar wound infection, pseudo-arthritis at L4-5, lumbar postlaminectomy syndrome at L4-S1, lumbar radiculopathy, and nonunion of fracture.

In an October 24, 2024 report, Dr. Dawood Sayed, a Board-certified anesthesiologist, noted that appellant reported 100 percent pain relief from a previous diagnostic sacroiliac joint injection. He provided an impression of sacroiliitis, noting that clinical findings and imaging studies suggested right sacroiliitis with no other diagnosed or obvious causes of lumbosacral pain, destructive lesions or previously treated causes. Dr. Sayed recommended a right sacroiliac joint minimally invasive posterior stabilization/arthrodesis with allograft revision or addition of a second allograft to further stabilize the joint and improve appellant's pain relief.

On December 13, 2024 OWCP received a medical authorization request from Dr. Sayed for a right-sided implant neuroelectrodes to the lumbar region. The diagnoses were noted as spondylosis without myelopathy or radiculopathy, lumbar region, postlaminectomy syndrome, lumbar radiculitis, and sacroiliac joint dysfunction.

In a development letter dated February 12, 2025, OWCP advised appellant that the evidence of record was insufficient to authorize the requested implant neuroelectrodes as it was not supported by the accepted conditions. It advised him of the type of medical evidence needed and afforded him 30 days to respond.

An April 17, 2024 x-ray of the lumbar spine revealed grade 1 retrolisthesis at L2-3, severe degenerative disc disease at L1-2, moderate at L2-3 through L4-5, and solid posterolateral osseous fusion likely from L2 through the sacrum.

OWCP also received progress reports from Zohra M. Hussaini, an advance practice registered nurse (APRN), dated January 17, April 17 and August 13, 2024 and January 16 and

[3] Docket No. 19-0063 (issued June 21, 2019); Docket No. 22-0301 (issued July 25, 2022); Docket No. 23-0600 (issued September 20, 2023); Docket No. 24-0844 (issued November 21, 2024).

[4] OWCP assigned the present claim OWCP File No. xxxxxx452. On September 7, 1962 appellant filed a Form CA-1 alleging that on that date he sustained an acute lumbosacral sprain when bending over and repositioning mail trays while in the performance of duty. OWCP assigned that claim OWCP File No. xxxxxx227. These claims have been administratively combined by OWCP with the current file, OWCP File No. xxxxxx452, serving as the master file.

February 14, 2025, who provided impressions of sacroiliac joint dysfunction and uncomplicated opioid dependence and from Mackenzie J. Anderson, also an ARPN, dated February 19, 2025, who diagnosed sacroiliitis, lumbar radiculopathy, and postlaminectomy syndrome of the lumbar region.

On April 16, 2025 OWCP referred the case record and a statement of accepted facts (SOAF) to Dr. Arthur S. Harris, a Board-certified orthopedic surgeon serving as the OWCP district medical adviser (DMA), for a review and an opinion of whether the requested implant neuroelectrodes was medically necessary for, and causally related to, appellant's accepted work-related conditions. It asked that Dr. Harris review and specifically comment on Dr. Sayed's October 24, 2024 report.

In an April 20, 2025 report, Dr. Harris noted that since his previous review of the case file on October 18, 2023, appellant had a right sacroiliac joint fusion on October 17, 2023 and a left sacroiliac joint fusion on February 20, 2024. He indicated that on October 24, 2024 Dr. Sayed had recommended a revision right sacroiliac joint fusion. Dr. Harris indicated that Dr. Sayed did not document the results of objective findings on examination or the results of any objective studies which demonstrated incomplete/nonunion of the right sacroiliac joint fusion and there were no reports of record which documented objective evidence of delayed/nonunion of the right sacroiliac joint fusion. Thus, he opined that there was insufficient information in the medical record to make a determination of the medical necessity and reasonableness of the requested surgery as there was no objective evidence which documented evidence of delayed/nonunion of the right sacroiliac joint function.

OWCP subsequently received a May 12, 2025 lumbar spine magnetic resonance imaging (MRI) scan report. The previous noninstrumental spinal fusion and posterior decompression from L3 through S1 revealed slight progression of adjacent segment degenerative disc disease at L2-3 with grade 1 retrolisthesis and left subarticular/foraminal disc protrusion, progression of moderate overall spinal canal stenosis and moderate left neural foraminal stenosis, and compression of the traversing left L3 nerve root. Similar degenerative changes at L1-2 with mild spinal canal and moderate bilateral neural foraminal stenosis were noted.

By decision dated May 30, 2025, OWCP denied authorization for implant neuroelectrodes. It found that the evidence of record was insufficient to establish that this procedure was medically necessary to address the effects of appellant's employment injury.

LEGAL PRECEDENT

Section 8103(a) of FECA[5] provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed by or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.[6] In interpreting this section of FECA, the Board has recognized that OWCP has broad discretion in

[5] 5 U.S.C. § 8103(a).

[6] *Id.*; *see J.K.,* Docket No. 20-1313 (issued May 17, 2021); *Thomas W. Stevens,* 50 ECAB 288 (1999).

determining whether a particular type of treatment is likely to cure or give relief.[7] The only limitation on OWCP's authority is that of reasonableness.[8]

While OWCP is obligated to pay for treatment of employment-related conditions, appellant has the burden of proof to establish that the expenditures were incurred for treatment of the effects of an employment-related injury or condition.[9] Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.[10] In order for a surgical procedure to be authorized, appellant must establish that the procedure was for a condition causally related to the employment injury and that the procedure was medically warranted.[11] Both of these criteria must be met in order for OWCP to authorize payment.[12]

Abuse of discretion is shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.[13]

ANALYSIS

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

Dr. Harris opined in his April 20, 2025 opinion that there was no objective evidence which documented evidence of delayed/nonunion of the right sacroiliac joint function. Thereafter, OWCP received a May 12, 2025 lumbar spine MRI scan report, which documented objective findings of the previous noninstrumented spinal fusion and posterior decompression from L3 through S1 and findings at L1-2. This new evidence is relevant to the issue of whether or not there is any objective evidence of delayed/nonunion of the right sacroiliac joint function. As such, OWCP should have referred the recent lumbar spine MRI scan report to Dr. Harris for an addendum report and a rationalized medical opinion on the issue of whether the requested implant

[7] *R.C.,* Docket No. 18-0612 (issued October 19, 2018); *W.T.,* Docket No. 08-812 (issued April 3, 2009).

[8] *D.C.,* Docket No. 18-0080 (issued May 22, 2018); *Mira R. Adams,* 48 ECAB 504 (1997).

[9] *R.M.,* Docket No. 19-1319 (issued December 10, 2019); *J.T.,* Docket No. 18-0503 (issued October 16, 2018); *Debra S. King,* 44 ECAB 203, 209 (1992).

[10] *K.W.,* Docket No. 18-1523 (issued May 22, 2019); *C.L.,* Docket No. 17-0230 (issued April 24, 2018); *M.B.,* 58 ECAB 588 (2007); *Bertha L. Arnold,* 38 ECAB 282 (1986).

[11] *T.A.,* Docket No 19-1030 (issued November 22, 2019); *Zane H. Cassell,* 32 ECAB 1537, 1540-41 (1981); *John E. Benton,* 15 ECAB 48, 49 (1963).

[12] *Cathy B. Millin,* 51 ECAB 331, 333 (2000); *J.L.,* Docket No. 18-0990 (issued March 5, 2019); *R.C.,* 58 ECAB 238 (2006).

[13] *D.S.,* Docket No. 18-0353 (issued February 18, 2020); *E.L.,* Docket No. 17-1445 (issued December 18, 2018); *L.W.,* 59 ECAB 471 (2008); *P.P.,* 58 ECAB 673 (2007); *Daniel J. Perea,* 42 ECAB 214, 221 (1990).

neuroelectrodes was for treatment of a condition causally related to the employment injury and whether the procedure was medically warranted.[14]

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter.[15] While the claimant has the responsibility to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.[16] As it undertook development of the evidence by referring the medical authorization request to its DMA, Dr. Harris, it had an obligation to do a complete job and obtain a proper evaluation and report that would resolve the issue in this case.[17]

The case must, therefore, be remanded for further development. On remand, OWCP shall refer the case record, including the May 12, 2025 lumbar spine MRI scan, for a supplemental opinion from the DMA, Dr. Harris. Following 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.

[14] OWCP has broad discretionary authority in the administration of FECA and must exercise its discretion to achieve the objectives of section 8103. *T.B.*, Docket No. 15-0061 (issued October 27, 2015); *Marjorie S. Greer*, 39 ECAB 1099 (1988); *see also L.M.*, Docket No 15-0818 (August 4, 2015).

[15] *B.S.,* Docket No. 24-0579 (issued July 5, 2024); *N.L.*, Docket No. 19-1592 (issued March 12, 2020); *M.T.*, Docket No. 19-0373 (issued August 22, 2019); *B.A.*, Docket No. 17-1360 (issued January 10, 2018).

[16] *S.S.*, Docket No. 18-0397 (issued January 15, 2019); *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

[17] *G.M.*, Docket No. 19-1931 (issued May 28, 2020); *W.W.*, Docket No. 18-0093 (issued October 9, 2018).

ORDER

IT IS HEREBY ORDERED THAT the May 30, 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: September 14, 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