United States Department of Labor
Employees' Compensation Appeals Board

D.Y., Appellant	)	
and	)	**Docket No. 26-0476**
	)	**Issued: September 11, 2026**
U.S. POSTAL SERVICE, NORTHERN NEW JERSEY METRO PROCESSING & DISTRIBUTION CENTER, Teterboro, NJ, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 27, 2026 appellant filed a timely appeal from an April 22, 2026 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]

ISSUES

The issues are: (1) whether OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective January 30, 2026, as he no longer had disability

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the April 22, 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.*

or residuals causally related to his accepted January 15, 2025 employment injury; and (2) whether appellant has met his burden of proof to establish continuing disability and/or residuals due to the accepted January 15, 2025 employment injury on or after January 30, 2026.

FACTUAL HISTORY

On February 6, 2025 appellant, then a 27-year-old platform mail handler, filed a traumatic injury claim (Form CA-1) alleging that on January 15, 2025, he sprained his left knee when he stepped onto operational towing equipment while in the performance of duty. OWCP accepted the claim for patellar tendinitis of the left knee, and sprain of unspecified site of left knee.[3] It paid appellant wage-loss compensation on the supplemental rolls commencing March 8, 2025, and on the periodic rolls commencing May 18, 2025.

OWCP received a series of reports dated February 11 through June 6, 2025, wherein Dr. Steven S. Moalemi, a Board-certified physiatrist, on examination of appellant's left knee observed swelling and tenderness of the tibial plateau, limited motion, tenderness of the patellar tendon, and a positive Clarke's sign (patellar grind test). Dr. Moalemi diagnosed a left patellar tendon tear and left knee sprain. Commencing April 7, 2025, Dr. Moalemi returned appellant to sedentary or medium-duty work for four hours a day with restrictions.

In reports dated July 2, 2025, Dr. Moalemi opined that physical therapy had improved appellant's left knee symptoms. He continued appellant's work restrictions.

On July 21, 2025 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. Joshua Auerbach, a Board-certified orthopedic surgeon, for a second opinion on the nature of his condition, the extent of disability, and appropriate treatment recommendations.

OWCP received additional reports from Dr. Moalemi dated August 4 through September 9, 2025 wherein he observed continued restricted left knee motion, weakness, and patellar tendon tenderness starting at the distal patella and extending to the tibial plateau. Dr. Moalemi opined on August 5, 2025 that appellant's left knee had not returned to preinjury baseline. In a September 9, 2025 report, Dr. Moalemi explained that appellant experienced pain primarily over the tibial tuberosity due to acute *vs* chronic Osgood-Schlatter's disease, with a large protrusion of the tibial tuberosity.

In reports dated October 10, 2025, Dr. Moalemi indicated that after appellant went pumpkin picking, he experienced increased symptoms in the left tibial tuberosity that had since subsided. On examination, he observed decreased left knee flexion, patellar tendon tenderness starting at the distal patella and extending to the tibial plateau, and a positive Clarke's sign. Dr. Moalemi repeated his prior work restrictions and prescribed additional physical therapy.

OWCP subsequently received a September 24, 2025 report wherein Dr. Auerbach reviewed the medical record and SOAF. On examination of appellant's left knee, he observed range of motion of 0 to 110 degrees as measured with a handheld goniometer, no varus or valgus

[3] A March 7, 2025 magnetic resonance imaging (MRI) scan of the left knee demonstrated an impression of evidence of Osgood-Schlatter's disease with a prominent tibial tubercule, marrow edema of the prominent ossification at the patellar tendon insertion, and a horizontal tear of the posterior horn of the medial meniscus.

instability, a negative patellar grind test, negative McMurray's sign, negative Lachman's sign, no medial or lateral joint line tenderness, a prominent tibial tubercule consistent with Osgood-Schlatter's disease, mild tenderness over the tibial tubercule, no tenderness over the patellar tendon or quadriceps tendon, and no pain with resisted knee extension or flexion. Dr. Auerbach opined that appellant's Osgood-Schlatter's disease was "transiently-exacerbated" by "his soft tissue injury which appears to be a direct blow to the anterior tibial tubercule[,]" but that he had recovered from patellar tendinitis and left knee sprain with no residuals. "The only finding is mild tenderness over the tibial tubercule, but not tenderness over the patellar tendon itself." He characterized the meniscal tear as an incidental finding, as appellant did not have pain over the meniscus or on the medial joint line. Dr. Auerbach noted that appellant had a "completely normal examination, with the exception of mild tenderness over the tibial tubercule[.]" Dr. Auerbach opined that appellant did not require any ongoing treatment, but "should continue with a physical-therapy directed home exercise and stretching program, which he is already doing, to maintain flexibility over time." He returned appellant to full-time, full-duty work with no restrictions. In a work capacity evaluation (Form OWCP-5c) of even date, Dr. Auerbach checked a box marked "Yes" to indicate that appellant could perform his date-of-injury job with no restrictions.

In reports dated November 7, 2025, Dr. Moalemi observed continued limited left knee flexion, patellar tendon tenderness starting at the distal patella and extending to the tibial plateau, and a positive Clarke's sign. He diagnosed patellar tendinitis of the left knee and a left knee sprain. Dr. Moalemi returned appellant to modified work for four hours a day, with restrictions on kneeling and lifting. He also continued to prescribe physical therapy.

By notice dated November 24, 2025, OWCP advised appellant that it proposed to terminate his wage-loss compensation and medical benefits based on the opinion of Dr. Auerbach that the accepted employment-related conditions had ceased without residuals or disability. It afforded him 30 days to submit additional evidence or argument challenging the proposed termination.

In reports dated December 5, 2025, Dr. Moalemi noted that appellant's attendance at physical therapy twice a week had resulted in improvement. Appellant reported new symptoms of pain above the knee. On examination of the left knee, Dr. Moalemi observed decreased flexion, patellar tendon tenderness along the tibial tubercule, and a positive Clarke's sign. He diagnosed sprain of unspecified site of left knee, and unspecified injury of muscle/tendon at left lower leg. Dr. Moalemi renewed prior work restrictions.

In a December 12, 2025 report, Dr. Moalemi explained that as Osgood-Schlatter's disease typically affected the distal patellar tendon near the tibial tubercule, while patellar tendinitis often affected "the midportion or inferior pole of the patella," treatment needed to address both issues. He opined that appellant's Osgood-Schlatter's disease caused a "persistent tibial tubercule bump, ossicle fragments, chronic traction changes at the tendon insertion, and increased tendon stiffness or altered mechanics." This influenced the patellar tendinitis by increasing tension of the distal patellar tendon, causing irritation at the insertion point. Dr. Moalemi opined that physical therapy was medically necessary based on the persistence and severity of appellant's symptoms, and his response to therapy.

In a January 23, 2026 report, Dr. Ahmad Badri, an osteopath Board-certified in orthopedic surgery, recounted a history of the accepted January 15, 2025 employment injury and appellant's medical course. He related appellant's symptoms of sharp, dull, and burning pain at various locations in the left knee, provoked by walking and prolonged standing. Dr. Badri also reported

episodes where appellant's left knee gave out randomly, "along with popping and snapping sensations." On examination of the left knee, he observed tenderness to palpation along the joint line, pain with deep flexion, a positive McMurray's sign, and positive Thessaly's sign. Dr. Badri diagnosed left knee medial meniscus tear, patellofemoral syndrome, and an anterior cruciate ligament (ACL) strain. He recommended an intra-articular corticosteroid injection. Dr. Badri prescribed medication and physical therapy.

By decision dated January 30, 2026, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. It found that the opinion of Dr. Auerbach constituted the weight of the medical opinion evidence and established that appellant no longer had disability or residuals causally related to the accepted January 15, 2025 employment injury.

OWCP subsequently received reports dated January 9 and February 6, 2026, wherein Dr. Moalemi related appellant's worsening left knee symptoms, with continued limited flexion, positive Clarke's sign, and patellar tendon tenderness along the tibial tubercule. He renewed appellant's work restrictions, prescribed medication, and referred appellant to an orthopedic surgeon.

On February 19, 2026 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.[4]

In reports dated March 6 and April 3, 2026, Dr. Moalemi noted that appellant underwent a steroid injection to the left knee four weeks previously, which did not improve his symptoms. An orthopedic surgeon recommended a surgical procedure. Dr. Moalemi reiterated prior findings and diagnoses and renewed previous work restrictions.

By decision dated April 22, 2026, OWCP's hearing representative affirmed the January 30, 2026 decision.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.[5] After it has determined that, an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to

[4] Appellant initially requested both a review of the written record and an oral hearing before a representative of OWCP's Branch of Hearings and Review. He subsequently clarified that he requested a review of the written record.

[5] *See D.D.,* Docket No. 24-0201 (issued April 23, 2024); *T.C.,* Docket No. 19-1383 (issued March 27, 2020); *R.P.,* Docket No. 17-1133 (issued January 18, 2018); *S.F.,* 59 ECAB 642 (2008); *Kelly Y. Simpson,* 57 ECAB 197 (2005).

the employment.[6] Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[7]

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.[8] To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.[9]

Section 8123(a) of FECA provides that if there is a disagreement between the physician making the examination for the United States and the physician of an employee, the Secretary shall appoint a third physician (known as a referee physician or impartial medical examiner (IME)) who shall make an examination.[10] For a conflict to arise, the opposing physicians' opinions must be of virtually equal weight and rationale.[11] In situations where the case is properly referred to an IME for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.[12]

ANALYSIS -- ISSUE 1

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective January 30, 2026.

On July 21, 2025 OWCP referred appellant, along with the medical record, a SOAF, and a series of questions, to Dr. Auerbach for a second opinion examination to determine the nature of his condition, the extent of disability, and appropriate treatment recommendations.

Dr. Auerbach, in a September 24, 2025 report, related appellant's history of injury and noted his review of the SOAF and medical record. He reported his findings on examination of the left knee, including a negative patellar grind test, negative McMurray's sign, and no medal joint line tenderness. Dr. Auerbach assessed resolved patellar tendinitis, resolved left knee sprain, and a transient exacerbation of Osgood-Schlatter's disease. He found a "completely normal

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[6] *See D.D., id*.; *R.P., id.*; *Jason C. Armstrong,* 40 ECAB 907 (1989); *Charles E. Minnis,* 40 ECAB 708 (1989); *Vivien L. Minor,* 37 ECAB 541 (1986).

[7] *D.D., id.*; *K.W.,* Docket No. 19-1224 (issued November 15, 2019); *see M.C.,* Docket No. 18-1374 (issued April 23, 2019); *Del K. Rykert,* 40 ECAB 284, 295-96 (1988).

[8] *D.D., id.*; *A.G.,* Docket No. 19-0220 (issued August 1, 2019); *A.P.,* Docket No. 08-1822 (issued August 5, 2009); *T.P.,* 58 ECAB 524 (2007); *Kathryn E. Demarsh,* 56 ECAB 677 (2005).

[9] *D.D., id.*; *K.W., supra* note 7; *see A.G., id.*; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002).

[10] 5 U.S.C. § 8123(a); *see E.L*., Docket No. 20-0944 (issued August 30, 2021); *R.S*., Docket No. 10-1704 (issued May 13, 2011); *S.T*., Docket No. 08-1675 (issued May 4, 2009); *M.S*., 58 ECAB 328 (2007).

[11] *T.G.*, Docket No. 24-0803 (issued July 24, 2026); *P.R*., Docket No. 18-0022 (issued April 9, 2018); *James P. Roberts,* 31 ECAB 1010 (1980).

[12] *T.G.*, *id.*; *see D.M*., Docket No. 18-0746 (issued November 26, 2018); *R.H*., 59 ECAB 382 (2008); *James P. Roberts*, *id*.

examination, with the exception of mild tenderness over the tibial tubercule[.]" Dr. Auerbach opined that appellant did not require any ongoing treatment but should continue home exercise. In an accompanying Form OWCP-5c of even date, he returned appellant to his date-of-injury job with no restrictions.

Contrarily, Dr. Moalemi, in reports dated February 11 through December 5, 2025, found a positive Clarke's test (patellar grind test), and that the accepted patellar tendinitis and left knee sprain remained active. In a December 12, 2025 report, he explained the pathophysiologic relationship between the accepted patellar tendinitis and Osgood-Schlatter's disease, and the ensuing necessity of continued physical therapy to address the patellar tendon. Dr. Moalemi further found that appellant was not able to return to his date-of-injury position due to ongoing residuals of the accepted left knee injury.

Additionally, Dr. Badri, in his January 23, 2026 report, noted abnormal findings of the left knee including a positive McMurray's sign, and tenderness to palpation along the joint line. He indicated that appellant required additional medical treatment and physical therapy.

As explained above, if there is a disagreement between an employee's treating physician and an OWCP referral physician, OWCP will appoint an IME who shall make an examination.[13] As a conflict in medical opinion existed between Drs. Moalemi and Badri, for appellant, and Dr. Auerbach, for the government, at the time of the January 30, 2026 termination of appellant's wage-loss compensation and medical benefits, the Board finds that OWCP failed to meet its burden of proof.[14]

CONCLUSION

The Board finds that OWCP has not met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective January 30, 2026.

[13] *Id.*

[14] In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the April 22, 2026 decision of the Office of Workers' Compensation Programs is reversed.

Issued: September 11, 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