United States Department of Labor
Employees' Compensation Appeals Board

D.F., Appellant	)	
and	)	**Docket No. 26-0482**
	)	**Issued: September 1, 2026**
DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, Winchester, VA, Employer	)	

Appearances:
Andrew Douglas, 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 April 28, 2026 appellant, through counsel, filed a timely appeal from a February 24, 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 February 24, 2026 decision, appellant submitted additional evidence to OWCP and with her appeal to the Board. 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 her burden of proof to expand the acceptance of her claim to include post-concussion syndrome as causally related to, or consequential to, the accepted October 11, 2018 employment injury.

FACTUAL HISTORY

This case has previously been before the Board.[4] The facts and circumstances as set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are as follows.

On October 15, 2018 appellant, then a 53-year-old analyst, filed a traumatic injury claim (Form CA-1) alleging that, on October 11, 2018, she injured her right ankle, knee, neck, back, and ribcage when she slipped on water as she entered a bathroom while in the performance of duty. She explained that, when she slipped, her right ankle turned and she heard a "pop" in her right knee. As she grabbed for the wall, she hit her head, wrists, and upper body on the wall. Appellant stopped work that day. OWCP accepted the claim for right knee complex tear of medial meniscus, effusion, contusion, and chondromalacia. It subsequently expanded the acceptance of the claim to include additional conditions of generalized anxiety disorder and major depressive disorder, single episode, moderate, undifferentiated somatoform disorder, permanent aggravation of lumbar intervertebral disc degeneration, and right knee unilateral primary osteoarthritis, spondylosis without myelopathy or radiculopathy, and cervical region permanent aggravation. OWCP paid appellant wage-loss compensation benefits on the supplemental rolls effective November 26, 2018, and on the periodic rolls effective April 28, 2019.

On March 21, 2024 appellant, through counsel, requested that her claim be expanded to include an additional diagnosis of post-concussion syndrome.

In an August 20, 2019 report, Dr. Pari Nikpey, a Board-certified neurologist, opined that appellant's post-concussion syndrome and chronic daily headaches/vertigo were caused by her fall at work. She noted that she had explained to appellant and her counsel that she was treating appellant for post-concussion syndrome.

In August 23, 2019 and November 23, 2022 reports, Dr. David B. Miller, a Board-certified family medicine physician, reviewed appellant's medical records and opined that appellant's post-concussion syndrome headaches resulted from the October 11, 2018 fall. In his November 23, 2022 report, Dr. Miller discussed appellant's ongoing symptoms and medical course. He opined that her history, physical and medical records were consistent with chronic post-concussion syndrome as a result of the October 11, 2018 fall.

In a February 28, 2024 medical report and attending physician's report (Form CA-20), Dr. Janelle Snoddy, a Board-certified anesthesiologist, noted appellant's history of injury and her medical course. She explained that appellant experienced post-concussion syndrome, with symptoms of dizziness, persistent headaches, photophobia, and difficulty reading on the computer, which began a week after the injury. Dr. Snoddy indicated that appellant continued to manage

[4] Docket No. 26-0058 (issued April 27, 2026); Docket No. 20-0690 (issued June 2, 2022).

post-concussion syndrome. In the attending physician's report (Form CA-20), Dr. Snoddy related that appellant had objective findings of post-concussion syndrome. She opined that the work injury aggravated and exacerbated symptoms of appellant's preexisting conditions.

On April 8, 2024 OWCP referred the medical record and an April 8, 2024 statement of accepted facts (SOAF) to Dr. Amanda C. Trimpey, a Board-certified occupational medicine physician serving as an OWCP district medical adviser (DMA), to address whether post-concussion syndrome should be an added accepted condition causally related to the employment injury.

In an April 30, 2024 report, Dr. Trimpey recommended that OWCP obtain a second opinion evaluation from a neurologist.

On August 5, 2024 OWCP referred appellant, along with the medical record, the April 8, 2024 SOAF, and a series of questions to Dr. Michael Sellman, a Board-certified neurologist, for a second opinion examination and reasoned opinion regarding whether the acceptance of the claim should be expanded to include the condition of post-concussion syndrome causally related to the October 11, 2018 employment injury.

In an August 5, 2024 report, Dr. Sellman noted his review of the SOAF, appellant's history of injury, and the medical record. He provided his findings on neurological examination. Based on the history, examination, and review of appellant's medical records, Dr. Sellman opined that the post-concussion syndrome diagnosis was not established. He explained that appellant had subjective complaints with a normal objective neurological examination of the head, that two magnetic resonance imaging (MRI) brain scans were normal, and that her neuropsychological testing confirmed that she had no cognitive problems of neurological origin. Dr. Sellman further opined that appellant's primary symptoms of headache and photophobia were influenced by her major depressive disorder, anxiety, and a somatic symptom disorder, she was depressed and this caused symptom amplification. He explained that tension-type headaches were psychological, not neurological, in origin, appellant described her headaches as "squeezing," and he did not record a history which indicated that she had referred pain from her neck to her head. Dr. Sellman also noted that appellant did not have vertigo. He concluded that her subjective neurological symptoms were not debilitating in nature. Dr. Sellman opined that if she continued to have difficulty concentrating and focusing, it was not of neurologic origin but was due to her primary psychiatric disorders. He noted that as appellant has Lyme disease, he would like to review the healthcare records for her Lyme disease treatment as her subjective neurological complaints could also be found in patients with Lyme disease. In an August 5, 2024 work capacity evaluation cardiovascular/pulmonary conditions (Form OWCP-5b), Dr. Sellman opined that appellant could work full duty.

By decision dated August 12, 2024, OWCP denied expansion of the acceptance of appellant's claim to include the diagnosis of post-concussion syndrome as causally related to, or consequential to, the accepted October 11, 2018 employment injury. It accorded the weight of the medical evidence to Dr. Sellman's August 5, 2024 second opinion report.

On September 10, 2024 appellant, through counsel, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

In a September 12, 2024 report, Dr. Yasmin Ahmed, a Board-certified family practitioner, noted appellant's history of injury. She related that appellant had a history of post-concussion syndrome, and that she presented with progressive balance dysfunction and daily migraines. Dr. Ahmed noted that appellant was scheduled for further evaluation and testing to explore potential vestibular or other neurological causes of her symptoms.

An October 9, 2024 MRI scan of the temporal bone internal auditory canal (IAC) was essentially unremarkable with no findings to explain appellant's symptoms.

By decision dated October 29, 2024, OWCP's hearing representative vacated OWCP's August 12, 2024 decision and remanded the case for OWCP to request a supplemental report from Dr. Sellman as to whether appellant ever incurred post-concussion syndrome either due to, or consequential to, the accepted October 11, 2018 employment injury.

On November 18, 2024, OWCP requested that Dr. Sellman provide a supplemental report with supporting medical rationale as to whether appellant ever incurred post-concussion syndrome either due to, or consequential to, the accepted October 11, 2018 employment injury.

In a November 26, 2024 supplemental report, Dr. Sellman opined that appellant did not sustain a cerebral concussion on October 11, 2018. He explained that she sustained a minor injury when she struck the back of her head against a wall, which was not severe enough to cause a cerebral concussion. Dr. Sellman also noted that she had no loss of consciousness. He opined that appellant's ongoing subjective neurological symptoms were due to multiple significant health conditions which preceded her October 11, 2018 employment injury. Dr. Sellman concluded that appellant never incurred post-concussion syndrome as a result of, or consequential to, the October 11, 2018 employment injury.

By *de novo* decision dated December 23, 2024, OWCP denied expansion of the acceptance of appellant's claim to include the diagnosis of post-concussion syndrome as causally related to, or consequential to, the accepted October 11, 2018 employment injury. It accorded the weight of the medical evidence to Dr. Sellman's second opinion reports.

On December 24, 2024 appellant, through counsel, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated April 7, 2025, OWCP's hearing representative affirmed the December 23, 2024 decision.

On September 1, 2025 appellant, through counsel, requested reconsideration.

In an August 24, 2025 report, Dr. Hoda M. Hachicho, a Board-certified neurologist, related that appellant was first evaluated on July 13, 2023 for chronic headaches following a head injury at work on October 11, 2018. She noted appellant's history of injury and stated that her fall resulted in concussion. Dr. Hachicho related appellant's complaints of severe pounding headaches, nausea, vomiting and sensitivity to light, for which she underwent medical treatment for post-concussion syndrome. She opined that appellant's symptoms were consistent with post-concussion syndrome directly related to the October 2018 fall that resulted in head trauma, subsequent concussion and post-concussion syndromes. Dr. Hachicho explained that appellant

did not have any headaches prior to the October 2018 employment injury and the post-concussion syndrome diagnosis was confirmed by multiple neurologists.

On October 1, 2025, OWCP referred appellant, the medical record, and an updated September 15, 2025 SOAF, which included all the accepted conditions, to Dr. Sellman for reevaluation and an updated opinion as to whether appellant had post-concussion syndrome casually related to, or consequential to, the accepted October 11, 2018 employment injury.

In an October 22, 2025 supplemental report, Dr. Sellman noted that appellant reported little change in her symptoms since he last examined her. He provided his findings on physical examination. Based on the history, examination and record reviewed, Dr. Sellman indicated that appellant continued with subjective neurological symptoms of headache that have been refractory to treatment since her October 11, 2018 injury. He explained that appellant had a normal objective neurological examination and had suffered only a minor head injury/cerebral concussion, noting that cerebral concussion and post-traumatic headache disorder diagnoses were not accepted conditions. Dr. Sellman also indicated that if appellant sustained a cerebral concussion on October 11, 2018 she had "largely resolved any problem related to injury sustained to her head that day." He stated that appellant continued to receive treatment on a regular basis for a major depressive disorder, undifferentiated somatoform disorder, and a generalized anxiety disorder which, as previously discussed, strongly contributed to symptom amplification. Dr. Sellman opined, from a neurology perspective, that appellant had no ongoing accepted conditions involving her head which precluded her from returning to full-duty work. He indicated that he would defer to the opinions of a mental health professional as to whether her accepted psychiatric conditions influenced her ability to return to work. In an accompanying October 22, 2025 work capacity evaluation musculoskeletal conditions (Form OWCP-5c), Dr. Sellman opined that, regarding the head only, appellant was capable of performing her usual job without restriction.

On December 1, 2025, OWCP requested that Dr. Sellman clarify his October 22, 2025 opinion as he failed to state whether his examination, review of testing results, and pertinent medical records established the diagnosis of post-concussion syndrome.

In a December 24, 2025 addendum report, Dr. Sellman opined that, based on his review of the medical records and his findings on examination, appellant no longer had neurological consequences of an injury to her head on October 11, 2018. He also opined that she no longer had neurological complications of a post-concussion syndrome and all neurological problems related to this injury had been resolved. Dr. Sellman concluded that appellant had no ongoing neurological symptoms involving her head that precluded her from working full duty without restrictions.

In a January 26, 2026 letter, appellant, through counsel, presented arguments regarding Dr. Sellman's December 24, 2025 addendum report.

By decision dated February 24, 2026, OWCP denied modification.

LEGAL PRECEDENT

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally

related to the employment injury.[5] When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the claimant's own intentional misconduct.[6] Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.[7]

To establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, an employee must submit rationalized medical evidence.[8] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.[9]

ANALYSIS

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

OWCP referred appellant to second opinion physician, Dr. Sellman, to determine whether the condition of post-concussion syndrome was causally related to, or consequential to, the accepted October 11, 2018 employment injury. In his initial August 5, 2024 report, Dr. Sellman opined that the post-concussion syndrome diagnosis was not established. OWCP requested that Dr. Sellman clarify his opinion. In a November 26, 2024 supplemental report, Dr. Sellman opined that appellant did not sustain a cerebral concussion on October 11, 2018. He explained that she sustained a minor injury when she struck the back of her head against a wall which was not severe enough to cause a cerebral concussion. Dr. Sellman concluded that appellant never incurred post-concussion syndrome as a result of, or consequential to, the October 11, 2018 employment injury. Following receipt of Dr. Hachicho's report, OWCP again requested that Dr. Sellman review appellant's medical record. In an October 22, 2025 report, Dr. Sellman opined that appellant had suffered a minor head injury/cerebral concussion on October 11, 2018 but she had no ongoing residuals or disability involving her head due to a normal objective neurological examination. OWCP subsequently requested a supplemental report from Dr. Sellman to further clarify whether the diagnosis of post-concussion syndrome was established as causally related to, or consequential to, the accepted October 11, 2018 injury. In a December 24, 2025 addendum report, Dr. Sellman merely explained that, after an examination and review of medical records, appellant no longer had neurological consequences of a head injury on October 11, 2018 or neurological complications of a post-concussion syndrome.

[5] *M.M.,* Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo,* 55 ECAB 200, 204 (2004).

[6] *See J.M.,* Docket No. 19-1926 (issued March 19, 2021); *I.S.,* Docket No. 19-1461 (issued April 30, 2020); *see also Charles W. Downey,* 54 ECAB 421 (2003).

[7] *J.M., id.*; *Susanne W. Underwood (Randall L. Underwood),* 53 ECAB 139, 141 n.7 (2001).

[8] *See V.A.,* Docket No. 21-1023 (issued March 6, 2023); *M.W.,* 57 ECAB 710 (2006); *John D. Jackson,* 55 ECAB 465 (2004).

[9] *E.P.,* Docket No. 20-0272 (issued December 19, 2022); *I.J.,* 59 ECAB 408 (2008).

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.[10] OWCP has an obligation to see that justice is done.[11] Once it undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the issue in the case.[12]

The Board finds that this case must be remanded for further development. OWCP has made repeated attempts to obtain a rationalized medical opinion from Dr. Sellman as to whether appellant sustained a post-concussion syndrome causally related to or consequential to the accepted injury, but Dr. Sellman has not provided a sufficiently rationalized medical opinion. On remand, OWCP shall therefore refer appellant along with the case record and a SOAF to a new second opinion physician for the purpose of obtaining a rationalized medical opinion on the issue.[13] 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 decision.

[10] *See M.S.,* Docket No. 25-0770 (issued November 25, 2025); *A.M.*, Docket No. 24-0899 (issued June 26, 2025); *see also A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

[11] *M.S., id.*; *A.M., id.*; *see A.D.*, Docket No. 21-0143 (issued November 15, 2021).

[12] *L.N.*, Docket No. 22-0497 (issued September 14, 2023); *G.M.*, Docket No. 19-1931 (issued May 28, 2020); *W.W.*, Docket No. 18-0093 (issued October 9, 2018).

[13] *See D.A.,* Docket No. 25-0909 (issued February 18, 2026). *See also J.H.,* Docket No. 19-1476 (issued March 23, 2021); *R.O.,* Docket No. 19-0885 (issued November 4, 2019); *Talmadge Miller,* 47 ECAB 673 (1996).

ORDER

IT IS HEREBY ORDERED THAT the February 24, 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: September 1, 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