United States Department of Labor
Employees' Compensation Appeals Board

J.D., Appellant	)	
and	)	**Docket No. 26-0541**
	)	**Issued: September 15, 2026**
U.S. POSTAL SERVICE, NETWORK DISTRIBUTION CENTER/AUXILIARY SERVICE FACILITY POST OFFICE, Salt Lake City, UT, 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 May 26, 2026 appellant filed a timely appeal from an April 27, 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]

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the April 27, 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.*

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to rescind the acceptance of appellant's claim for bilateral hip and knee primary osteoarthritis; (2) whether appellant has met her burden of proof to establish a medical condition, causally related to factors of her federal employment.

FACTUAL HISTORY

On April 16, 2025 appellant, then a 66-year-old clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained bilateral knee swelling, stiffness, and constant pain due to factors of her federal employment including repetitive standing, walking, and pushing and pulling boxes full of packages for eight hours per day. She noted that she first became aware of this condition and realized its relationship to her federal employment on November 21, 2024. Appellant did not stop work.

OWCP, in an April 21, 2025 development letter, informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to respond.

In a November 6, 2024 report, Dr. Michael W. Johnson, a Board-certified orthopedic surgeon, reviewed x-ray interpretations, performed a physical examination, and diagnosed bilateral knee osteoarthritis.

A November 6, 2024 x-ray report of appellant's right knee related an impression of right knee advanced tricompartmental arthritis. A January 26, 2025 x-ray report of appellant's hips related an impression of mild bilateral hip osteoarthritis.

In an April 9, 2025 report, Dr. Stephanie Plunkett, a Board-certified family practitioner, noted appellant's employment history and job duties. She provided physical examination findings, and reviewed x-ray interpretations. Dr. Plunkett diagnosed bilateral knee and hip osteoarthritis, which she attributed to appellant's cumulative stress from her repetitive work activities. She explained that the degenerative knee joint changes were consistent with a work-related overuse injury aggravated by prolonged weight bearing activities on hard surfaces, which triggered an inflammatory response and promoted cartilage deterioration. Regarding appellant's bilateral hip condition, Dr. Plunkett related that over time, continuous stress and microtrauma caused irritation of the joint, which stimulated the bone remodeling process.

A May 1, 2025 x-ray interpretation of appellant's left knee related an impression of tricompartmental osteoarthritis.

By decision dated May 23, 2025, OWCP accepted appellant's claim for bilateral hip and knee primary osteoarthritis.

On June 18, 2025 OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions to Dr. Michael J. Battaglia, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine whether appellant sustained a

medical condition caused or aggravated by her federal employment. The SOAF noted that the claim had not been accepted.

Dr. Plunkett, in a July 1, 2025 report, again diagnosed bilateral knee and hip osteoarthritis.

Following a review pursuant to 5 U.S.C. § 8128(a), by decision dated August 7, 2025, OWCP rescinded the acceptance of appellant's claim for bilateral hip and knee primary osteoarthritis, as the claim had not been fully developed.

Subsequently OWCP received a July 17, 2025 report from Dr. Battaglia who reviewed the SOAF and medical record, recounted appellant's history of injury, and provided physical examination findings. He concluded that according to appellant's account of her job responsibilities, those duties may have played a role in causing her bilateral knee osteoarthritis, but not her bilateral hip osteoarthritis

By decision dated August 25, 2025, OWCP denied appellant's claim finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted employment factors.

Thereafter, OWCP received an August 18, 2025 report from Dr. Plunkett, which was repetitive of prior reports. Additionally, Dr. Plunkett noted that Dr. Battaglia stated that appellant's work duties likely contributed to an aggravation of her bilateral knee osteoarthritis, which would be compensable under FECA.

OWCP continued to receive reports from Dr. Plunkett which were repetitive of prior reports.

On April 6, 2026 appellant requested reconsideration.

By decision dated April 27, 2026, OWCP denied modification.

LEGAL PRECEDENT -- ISSUE 1

Section 8128 of FECA provides that the Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application.[3] The Board has upheld OWCP's authority under this section to reopen a claim at any time on its own motion and, where supported by the evidence, set aside or modify a prior decision and issue a new decision.[4] The Board has noted, however, that the power to annul an award is not arbitrary and

[3] 5 U.S.C. § 8128.

[4] *See M.O.*, Docket No. 26-0164 (issued March 27, 2026); *S.C.,* Docket No. 19-1045 (issued July 24, 2020); *M.H.,* Docket No. 19-0941 (issued April 29, 2020); *W.H.,* Docket No. 17-1390 (issued April 23, 2018); 20 C.F.R. § 10.610.

that an award for compensation can only be set aside in the manner provided by the compensation statute.[5]

Workers' compensation authorities generally recognize that compensation awards may be corrected, in the discretion of the compensation agency and in conformity with statutory provision, where there is good cause for so doing, such as mistake or fraud. Once OWCP accepts a claim, it has the burden of proof to justify termination or modification of compensation benefits.[6] This also holds true where OWCP later decides that it erroneously accepted a claim.[7]

OWCP bears the burden of proof to justify rescission of acceptance on the basis of new evidence, legal argument, and/or rationale.[8] Probative and substantial positive evidence or sufficient legal argument must establish that the original determination was erroneous. OWCP must also provide a clear explanation of the rationale for rescission.[9]

ANALYSIS -- ISSUE 1

The Board finds that OWCP failed to meet its burden of proof to rescind the acceptance of appellant's claim for bilateral hip and knee primary osteoarthritis.

OWCP's procedures provide that if, after proper development, it finds that the original decision was issued in error, the claims examiner must issue a proposed and final decision rescinding the original finding.[10] Its procedures further provide that a rescission decision should contain a brief background of the claim, discuss the evidence on which the original decision was based, and explain why OWCP finds that the decision should be rescinded. The evidence used to rescind the claim should be thoroughly discussed so that it is clear to the reader how the case was incorrectly adjudicated and why the original decision is now being invalidated. As OWCP failed to follow these procedures prior to the issuance of its August 7, 2025 rescission decision, the Board finds that it failed to meet its burden of proof to rescind acceptance of appellant's claim.[11]

[5] *M.O.*, *id.*; *S.C., id.*; *M.H., id.*; *D.W.,* Docket No. 17-1535 (issued February 12, 2018).

[6] *M.O.*, *id.*; *R.D.,* Docket No. 22-1203 (issued November 19, 2024); *S.R.,* Docket No. 09-2332 (issued August 16, 2010).

[7] *M.O.*, *id.*; *M.H., supra* note 4; *V.R.,* Docket No. 18-1179 (issued June 11, 2019).

[8] *M.O.*, *id.*; *M.H., id.*; *L.G.,* Docket No. 17-0124 (issued May 1, 2018).

[9] *M.O.*, *id.*; *M.H., id.*; *W.H.*, *supra* note 4.

[10] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.19b (version 1.1, issued April 24, 2026).

[11] *See R.D.,* Docket No. 22-1203 (issued November 19, 2024).

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to rescind the acceptance of appellant's claim for bilateral hip and knee primary osteoarthritis.[12]

ORDER

IT IS HEREBY ORDERED THAT the April 27, 2026 decision of the Office of Workers' Compensation Programs is reversed.

Issued: September 15, 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

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