United States Department of Labor
Employees' Compensation Appeals Board

M.K., Appellant	)	
and	)	**Docket No. 26-0551**
	)	**Issued: September 9, 2026**
U.S. POSTAL SERVICE, CENTERVILLE POST OFFICE, Centerville, UT, Employer	)	

Appearances:
Appellant, pro so
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 May 26, 2026 appellant filed a timely appeal from a March 17, 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]

ISSUE

The issue is whether appellant has met his burden of proof to establish a medical condition causally related to the accepted factors of his federal employment.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the March 17, 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*.

FACTUAL HISTORY

On May 1, 2025 appellant, then a 40-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that he developed grade 2 spondylolisthesis at L4-5 with disc collapse due to factors of his federal employment, including lifting and carrying heavy packages, and frequently bending and twisting while sorting and delivering mail over the past 20 years. He noted that he first became aware of his condition and realized its relationship to his federal employment on April 24, 2025. Appellant did not stop work.

In an accompanying statement, appellant indicated that his job duties included repetitive lifting and carrying packages weighing up to 70 pounds, prolonged standing and driving, awkward body positioning inside his postal vehicle, bending, twisting, and reaching. He noted that he had a history of low-grade back pain for years, which developed into severe pain with impaired sensation of his right lower extremity on April 24, 2025.

In a medical report dated April 25, 2025, Jesse Jorgensen, a physician assistant, noted that appellant related complaints of right posterior lower back/hip pain, worsened by standing and walking. He also noted a history of similar pain following a high school wrestling injury. Mr. Jorgensen documented physical examination findings, obtained an x-ray of the pelvis, and referred appellant for an orthopedic evaluation.

In a medical report dated April 29, 2025, Dr. Paul Johnson, a Board-certified orthopedic surgeon, noted that appellant related complaints of weakness and severe pain in his lower back, weakness in his right leg, and contractions in the right quadriceps. He performed a physical examination and observed tenderness to palpation of the lumbar musculature, numbness in the L4 and L5 distribution, reduced motor strength in the tibialis anterior, and reduced motor strength with knee extension in the right lower extremity. Dr. Johnson obtained x-rays, which demonstrated grade 2 spondylolisthesis at L4-5 and disc space collapse. He diagnosed lumbar radiculopathy and recommended a magnetic resonance imaging (MRI) scan of the lumbar spine.

An MRI scan of the lumbar spine dated May 5, 2025 demonstrated degenerative arthrosis, anterolisthesis with resultant mild canal stenosis, bilateral subarticular recess stenosis, and mild-to-moderate foraminal narrowing at L4-5 with a right subarticular/foraminal extrusion encroaching upon the transiting right L5 nerve.

In a follow-up report dated May 6, 2025, Dr. Johnson reviewed the lumbar MRI scan and recommended lumbar fusion surgery.

On May 15, 2025 Dr. Johnson performed posterior spinal fusion with application of local autograft bone, anterior lateral lumbar discectomy and interbody fusion, placement of interbody titanium cage and allograft, and posterior percutaneous instrumentation at L4-5. His postoperative diagnoses were spondylolisthesis of L4-5, lumbar stenosis, and radiculopathy.

On May 21, 2025 OWCP referred appellant, the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. Qing-Min Chen, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine whether he sustained a medical condition causally related to the accepted factors of his federal employment.

In a development letter dated June 4, 2025, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a

questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence.

In a report dated July 25, 2025, Dr. Chen reviewed the medical record and SOAF and documented physical examination findings. He diagnosed grade 2 spondylolisthesis with foraminal stenosis and nerve root compression on the right. Dr. Chen opined that there was no specific work injury or evidence of occupational disease due to overuse, aggravation, or acceleration. He explained that "walking and working as a mail carrier does not cause this particular condition or aggravate it" and "there is no evidence of aggravation given the fact that we do not have a mechanism of injury." Dr. Chen indicated that some patients are predisposed to having disc breakdown and degenerative spondylolisthesis that occurs over time, otherwise "every mail carrier would have this problem."

In a follow-up letter dated September 4, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It afforded an additional 15 days 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 reports dated May 5 through August 16, 2025 by Dr. Stephanie Plunkett, Board-certified in family medicine, who indicated that appellant related complaints of mild, intermittent right hip and low back pain over the last 20 years, which worsened on April 24, 2025 to the point that he could barely stand or walk. Dr. Plunkett noted that his job duties included casing, sorting, collecting, and delivering mail since 2005, which involved strenuous, repetitive lifting and carrying up to 70 pounds, bending, twisting, and reaching. She also noted that during the last year, one of appellant's postal customers had started an in-home business and he had to collect over 100 packages per day from her home. Dr. Plunkett reviewed his medical records, documented physical examination findings, and diagnosed disc extrusion at L4-5, lumbar spondylolisthesis, and lumbar radiculopathy causally related to appellant's job duties over the last 20 years. She explained that the cumulative physical stress and biomechanical demands of his job duties contributed to progressive degenerative changes in his lumbar spine.

In a report dated August 19, 2025, Bryce Pace, a physician assistant, noted that appellant related improvement of nerve pain after surgery but ongoing stiffness and pain in the upper musculature of the spine.

In reports dated September 16 and October 7, 2025, Dr. Plunkett reviewed and disagreed with the opinions of Dr. Chen.

In a work capacity evaluation (Form OWCP-5c) dated October 7, 2025, Dr. Plunkett released appellant to return to work six hours per day with restrictions.

OWCP also received physical therapy reports.

By decision dated October 29, 2025, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted factors of his federal employment.

OWCP continued to receive evidence, including a medical report and Form OWCP-5c dated November 11, 2025 by Dr. Plunkett, who released appellant to return to full-duty work without restrictions.

On February 24, 2026 appellant requested reconsideration of OWCP's October 29, 2025 decision. In support thereof, he submitted a narrative medical report dated February 16, 2026 by Dr. Plunkett, who noted examination findings and diagnosed lumbar radiculopathy, spondylolisthesis, and disc displacement. Dr. Plunkett opined that the biomechanical sequence of cumulative lumbar loading and microtrauma over many years led to structural disc degeneration and collapse with nerve root compression. Appellant also submitted follow-up reports and OWCP-5c forms by Dr. Plunkett dated December 15, 2025 through February 18, 2026.

By decision dated March 17, 2026, OWCP denied modification of its October 29, 2025 decision.

LEGAL PRECEDENT

The employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,[4] 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 each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.[7]

The medical evidence required to establish causal relationship between a diagnosed condition and the accepted employment factors 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

[3] *Supra* note 1.

[4] *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden*, *Sr.*, 40 ECAB 312 (1988).

[6] *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[7] *S.R.,* Docket No. 24-0839 (issued October 30, 2024); *T.W.*, Docket No. 20-0767 (issued January 13, 2021); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *S.C.*, Docket No. 18-1242 (issued March 13, 2019).

[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).

rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.[9]

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]

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.[11] For a conflict to arise the opposing physicians' viewpoints must be of virtually equal weight and rationale.[12]

ANALYSIS

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

In a July 25, 2025 report, Dr. Chen, OWCP's referral physician, reviewed the medical record and SOAF and documented physical examination findings. He diagnosed grade 2 spondylolisthesis with foraminal stenosis and nerve root compression on the right. Dr. Chen opined that there was no specific work injury or evidence of occupational disease due to overuse, aggravation, or acceleration.

Conversely, in a May 5, 2025 report, Dr. Plunkett, an attending physician, noted that appellant's job duties included casing, sorting, collecting, and delivering mail since 2005, which involved strenuous, repetitive lifting and carrying up to 70 pounds, bending, twisting, and reaching. She diagnosed a disc extrusion at L4-5, lumbar spondylolisthesis, and lumbar radiculopathy and opined that the conditions were causally related to appellant's job duties over the last 20 years. Dr. Plunkett explained that the cumulative physical stress and biomechanical demands of appellant's work duties contributed to progressive degenerative changes in his lumbar spine. In a February 16, 2026 report, she explained that the biomechanical sequence of cumulative lumbar loading and microtrauma over many years led to structural disc degeneration and collapse with nerve root compression.

The Board finds that there is a conflict in the medical evidence, as Dr. Chen and Dr. Plunkett provided conflicting opinions regarding whether appellant's diagnosed lumbar conditions were causally related to the accepted employment factors. Because there is an unresolved conflict in medical opinion regarding whether appellant sustained a lumbar condition causally related to the accepted employment factors, pursuant to 5 U.S.C. § 8123(a), the case shall

[9] *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[10] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *M.B.,* Docket No. 20-1275 (issued January 29, 2021); *see R.D.,* Docket No. 18-1551 (issued March 1, 2019).

[11] 5 U.S.C. § 8123(a).

[12] 20 C.F.R. § 10.321; *P.B.,* Docket No. 20-0984 (issued November 25, 2020); *R.C.,* 58 ECAB 238 (2006); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts,* 31 ECAB 1010 (1980).

be remanded to OWCP for referral of appellant, together with the case record and a SOAF, to a specialist in the appropriate field of medicine for an impartial medical examination to resolve the conflict.[13] 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.

ORDER

IT IS HEREBY ORDERED THAT the March 17, 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 9, 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

[13] *Supra* notes 11-12.