



# MAKING THE CALL

Strategic Criteria for Disputing and Not Disputing OWCP Claims

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# Course Description

## Interactive Learning

This course provides hands-on experience with various situations and scenarios commonly involved in developing the agency's position on workers' compensation cases.

## Critical Analysis

Participants will learn how to determine if a case merits a dispute and what evidence is required to support the agency's position effectively.

## Practical Tools

The session equips attendees with essential techniques for effective workers' compensation case management in compliance with federal regulations.

# Our Guiding Principles

We recognize most claims are legitimate and support claimants in their recovery. However, ensuring only valid claims and expenses are paid is crucial for all parties.

## **Statutory Obligation**

The Agency must challenge claims failing to meet elements and provide OWCP information for accurate adjudication.

# Basic Elements of a Claim

A claim must meet the following five conditions:

**Time** (20 CFR 10.115(a))

**Civilian Employee** (20 CFR 10.115(b))

**Fact of Injury** (20 CFR 10.115(c))

**Performance of Duty** (20 CFR 10.115(d))

**Causal Relationship** (20 CFR 10.115(e))



# Time



## Filing Deadline

File within 3 years of injury or death.



## Possible Extensions

Time may be extended with sufficient written or verbal notice.



## Notice Requirements

Notice must inform agency of possible work-related injury or illness.



# Civilian Employee

**Defined by U.S. Code & CFR.**



- Federal civilian employees
- Volunteers (e.g., Peace Corps, VISTA, Civil Air Patrol, ROTC) & federal jurors
- Job & Youth Conservation Corps enrollees
- Non-federal law enforcement (select cases)
- Contract, volunteer, and loaned employees (case-by-case)

# Fact of Injury

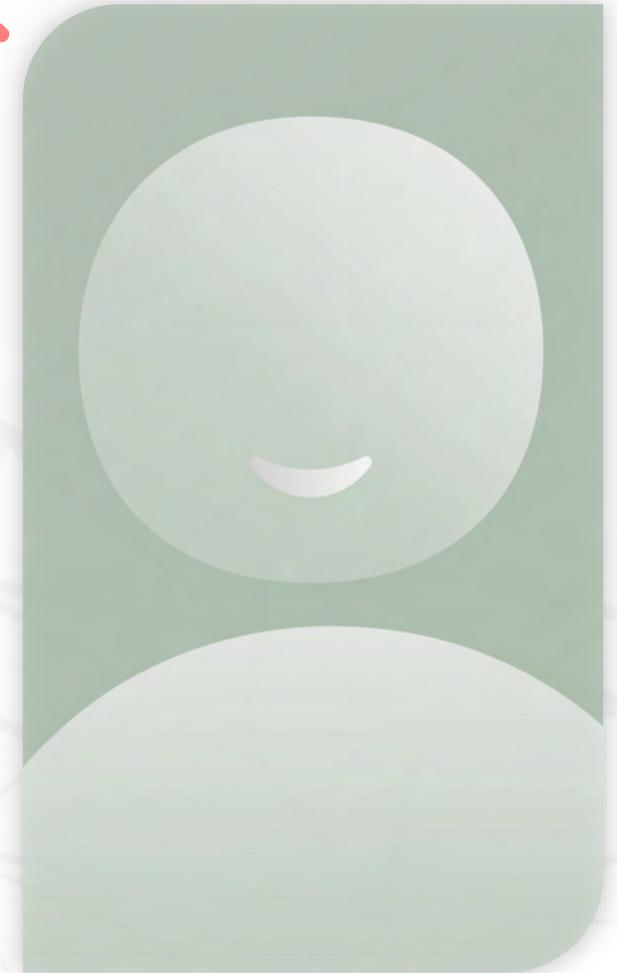
## Factual Component

Did the employee experience the alleged workplace accident or event?

## Medical Component

Did the incident result in a diagnosed injury or illness?

This requires clear, unequivocal medical documentation of a workplace-related traumatic injury or exposure.



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# Performance of Duty: Key Considerations



1

## Hired Duties

Carrying out assigned duties?

2

## Employment Connection

Incident directly related to employment?

3

## Location

On agency premises or employer's errand?

4

## Timing

Reasonable time before or after duty?

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# Causal Relationship



## Medical Opinion

Physician's opinion and rationale required, linking condition to employment.



## Evidence Standard

Requires reliable, probative, and substantial evidence.



## Limitations

Cannot be based on surmise, conjecture, or speculation.



# Statutory Exclusions

## **Willful Misconduct**

Deliberate act, not carelessness.

## **Intoxication**

Must prove intoxication caused the injury.

## **Intent to Injure**

Proven intent to injure self or another.

# Analyzing Case Scenarios



**4**

## Case Studies

Real workers' comp scenarios

**5**

## Claim Elements

Highlights claim review elements

**100%**

## Relevance

Practical application of regulations

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# Scenario #1: Parking Garage Incident

## Background

The agency shares its property with a university medical center, including connected buildings and parking garages.

## Incident Report

On Jan 27, 2025, Mr. Ess fell on ice in the parking garage at 7:00am, reporting a traumatic injury on Feb 4.

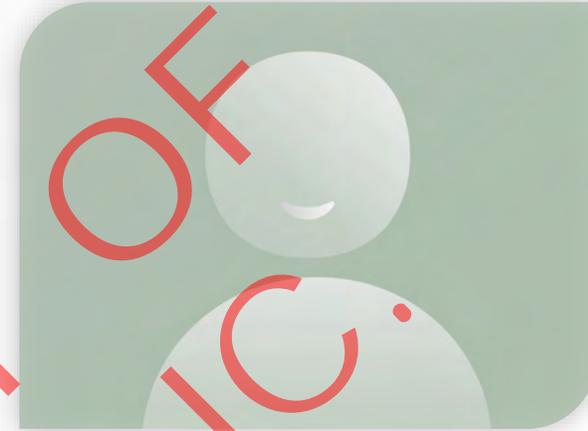


## Key Facts

- Employee's regular work hours: 3:30pm-midnight
- Injury occurred at 7:00/8:00am (time discrepancy noted)
- Injury location: 4th floor parking garage
- Supervisor indicated employee was NOT in performance of duty
- Employee was attending unrelated classes at XYZ University



# Scenario #1: Outcome



## Agency Dispute:

The agency disputed the claim, stating the injury occurred off-premises and was not work-related. Mr. Ess's tour of duty was 3:30 PM to midnight, but the incident happened at 7:00/8:00 AM while he was attending unrelated classes at XYZ University. They also cited a lack of medical evidence and a discrepancy in the reported injury time.

## ✓ OWCP Decision

On April 1, 2025, OWCP denied the claim, stating the evidence did not establish the injury occurred in the performance of duty as required by the Federal Employees' Compensation Act.

**Note:** Claimant has since filed a TORT claim through the regional office.

# Scenario #2: Tool Passing Incident

1

**March 24, 2025**

Maintenance mechanic injured lower back passing tools down crawl space.

2

**March 26, 2025**

Supervisor filed accident report, noting sharp pain.

3

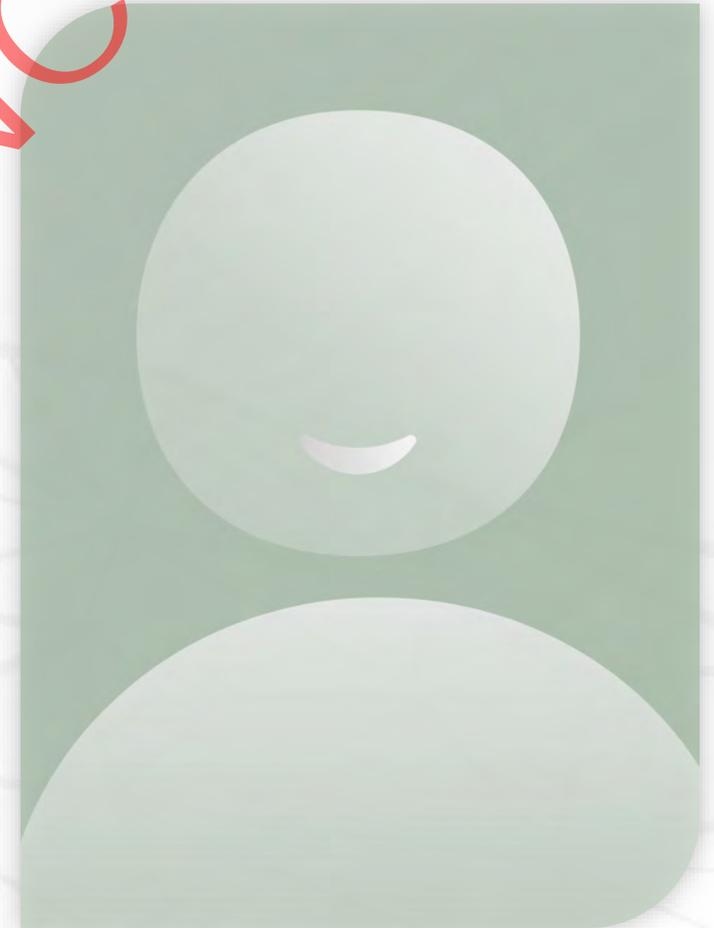
**March 30, 2025**

Claimant filed CA-1; nurse practitioner diagnosed low back strain.

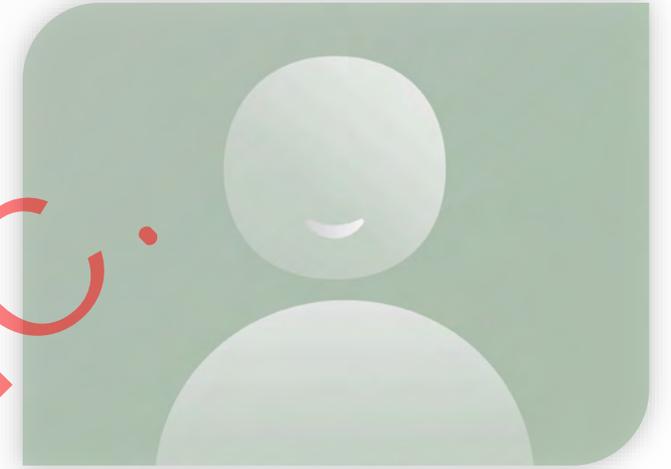
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**April 5, 2025**

MRI showed L4-5 annular tear and central disc protrusion.



# Scenario #2: ECAB Decision



## Analysis

While the Board accepted the appellant felt pain, he failed to establish a diagnosed injury causally related to the incident. This was due to nurse practitioner notes not being probative medical evidence and the MRI scan predating the accepted employment incident.

### ⊗ Key Rule

Medical reports are only probative if from a "physician" as defined by the Act.

**Conclusion:** The Board finds that appellant has not established that he sustained an injury on March 24, 2025, as alleged.

# Scenario #3: Unexplained Fall

## Incident Description

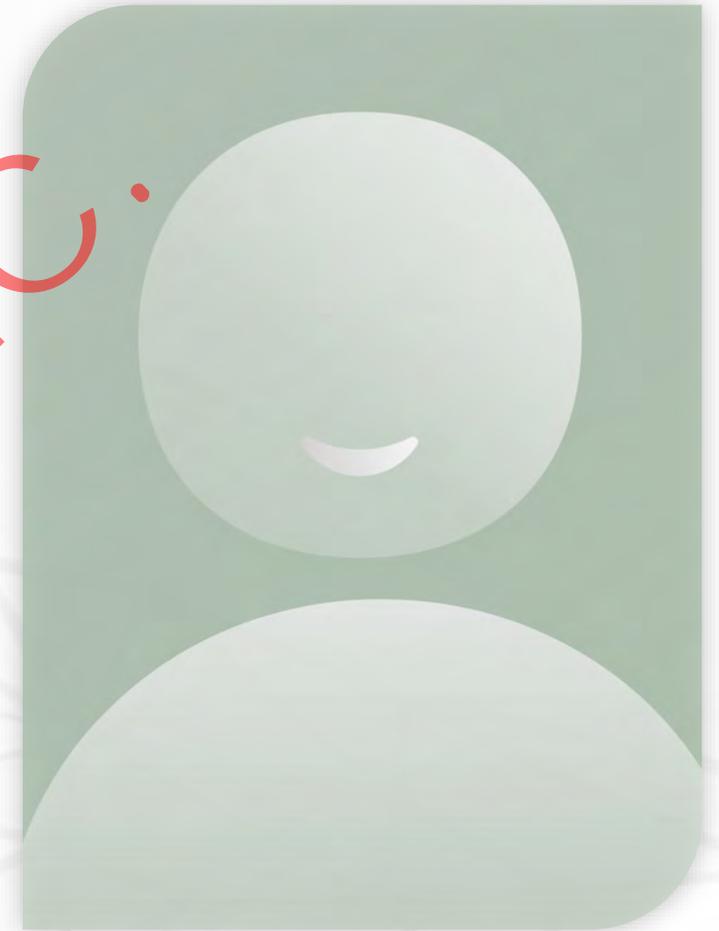
Claimant found on office floor after a coworker heard a "thud."

- No obstacles or trip hazards observed.
- Chair upright; claimant was alone.

## Medical Context

Claimant recently returned after three weeks' absence due to severe respiratory illness.

Significant pre-existing conditions: diabetes, hypertension, asthma, bronchitis, hemophilia C.



❏ Physician: "Difficult to tell which is the primary event, the fainting, or the fall."

# Idiopathic vs. Unexplained Falls

Whether a fall at work is idiopathic or unexplained, it will usually be determined on the basis of the medical evidence. If the medical evidence shows that the employee's fall was caused by a non-occupational, preexisting physical condition, it is idiopathic and not compensable. Absent such evidence, the fall is unexplained and compensable.

## Case Law References

- Gertrude E. Evans, 26 ECAB 195
- Martha G. List, 26 ECAB 200
- Margaret Lublin, 44 ECAB 945 (1993)

## Procedure Manual

DFEC Procedure Manual 2-0804-9 Idiopathic Falls



# Scenario #4: Emotional Condition Claim

## Claim Details

On June 26, 2024, a 54-year-old social worker filed an occupational disease claim (CA-2) for emotional injury.

## Alleged Causes

- Supervisor's off-site meeting about her
- May 6, 2024, letter relieving supervisory duties
- No discussion of unsatisfactory performance

## Claimed Symptoms

Uncontrolled crying, difficulty concentrating, eating, and sleeping.

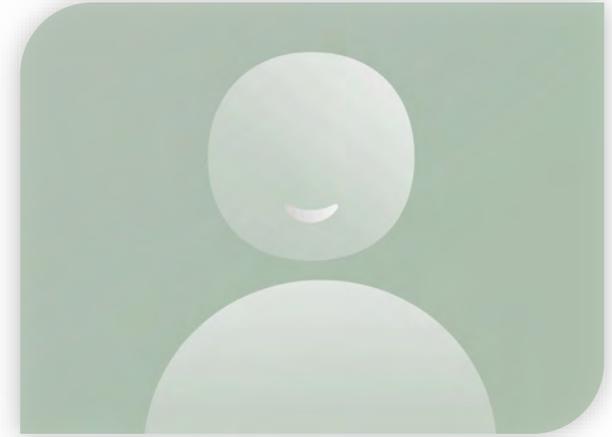
## Supervisor's Response

No "off-site" meeting occurred.

Duties were revised for EAP and Homeless Coordinator roles, not due to poor performance.

## Claimant's Allegations

Claimant alleged supervisor "targeted" her through actions like avoiding eye contact, going around her to talk to staff, and perceived retaliation for safety questions.



# Scenario #4: ECAB Decision

## Analysis

The issue was whether the appellant established a compensable work factor for her emotional claim. Administrative actions are not compensable without evidence of error or abuse.

### Key findings:

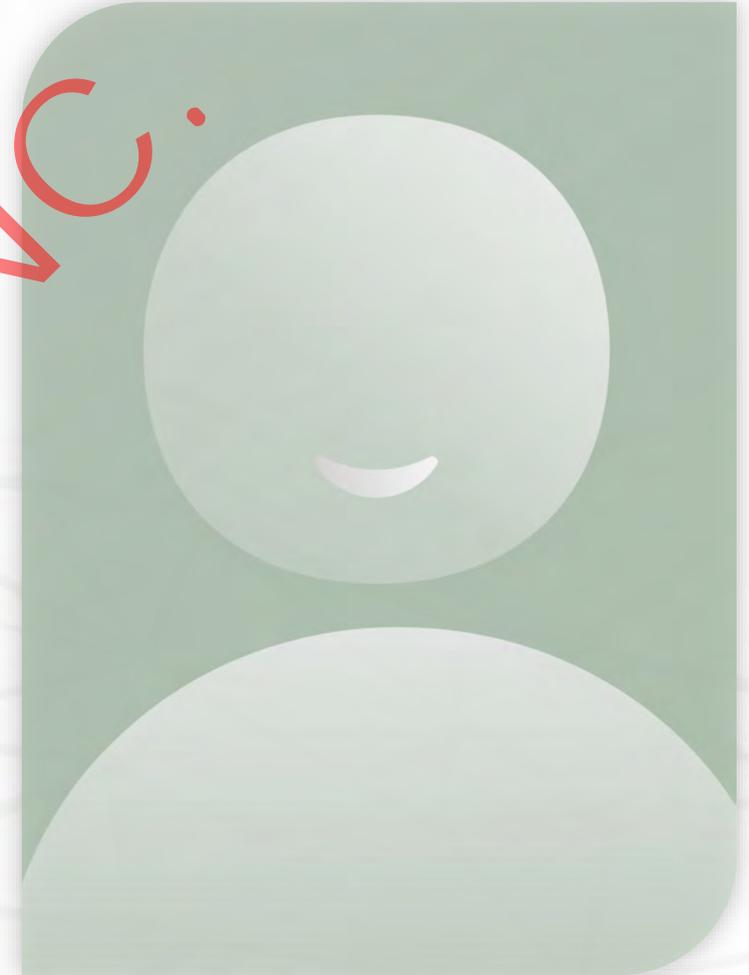
- No probative evidence of error or abuse
- Supervisor's explanation for duty changes accepted
- "Off-site meeting" lacked sufficient evidence



### Critical Point

Appellant's perception of retaliation is insufficient to establish a compensable work factor.

**Conclusion:** The Board found no injury causally related to compensable work factors.



# References/ Resources



## Online

DOL Website: [www.dol.gov/dol/esa/dfec](http://www.dol.gov/dol/esa/dfec)



## Regulations

20 CFR Part 10; 5 U.S.C. Chapter 81



## Precedents

ECAB Decisions