

U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



BRB No. 23-0485

BILLY L. JONES, JR.

Claimant-Petitioner

v.

VIRGINIA INTERNATIONAL
TERMINALS, INCORPORATED

and

SIGNAL MUTUAL INDEMNITY
ASSOCIATION, LIMITED

Employer/Carrier-
Respondents

NOT-PUBLISHED

DATE ISSUED: 07/09/2025

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Pamela A. Kultgen,
Administrative Law Judge, United States Department of Labor.

Tyler S. Leard (Montagna Law), Norfolk, Virginia, for Claimant.

Lawrence P. Postol (Postol Law Firm, P.C.), McLean, Virginia, for
Employer and its Carrier.

Before: GRESH, Chief Administrative Appeals Judge, ROLFE and JONES,
Administrative Appeals Judges.

PER CURIAM

Claimant appeals Administrative Law Judge (ALJ) Pamela A. Kultgen's Decision
and Order Denying Benefits (2022-LHC-00220) rendered on a claim filed pursuant to the

Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §§901-950 (Act).¹ We must affirm the ALJ's findings of fact and conclusions of law if they are rational, supported by substantial evidence, and in accordance with applicable law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant injured both of his shoulders and his neck while working as a hustler driver for Employer on September 10, 2019. He climbed up to get into the cab of a mobile crane and, to avoid hitting his head, had to swing himself into the cab with his head ducked to one side. When he did so, he felt pain in his neck. As he descended from the crane and jumped two feet to the ground, his left arm swung back, and he began feeling stiffness in his neck and pain radiating from his neck into his left shoulder. TR at 16-18, 24; EX 41 at 31-35, 41-42; EX 4; EX 6; CX 13. Claimant treated at Taylor Made Diagnostics the day after the incident, was diagnosed with bilateral shoulder, cervical, and trapezius strains, and was told he could return to work. EX 6; CX 13.

Claimant began treating with Dr. Arthur Wardell on September 13, 2019. He reported neck pain radiating into his shoulders, with the left shoulder being worse than the right. CX 17 at 3; CX 9 at 4. Upon examination, Dr. Wardell found Claimant had left paracervical tenderness and spasm, left trapezius pain, and left scapulothoracic pain. CX 17 at 3. Claimant's left shoulder elevation was limited to 120 degrees, and his right shoulder elevation was limited to 90 degrees. X-rays taken of his shoulders showed no fracture, dislocation, or degenerative changes. Dr. Wardell diagnosed right and left shoulder sprains, ordered ultrasounds of both shoulders, prescribed Tramadol and physical therapy, and advised Claimant to remain out of work. *Id.* at 1-4. Further, Dr. Wardell noted the ultrasounds indicated a partial thickness rotator cuff tear in Claimant's left shoulder and a normal right shoulder. *Id.* at 5-6.

Claimant continued treating with Dr. Wardell for his shoulders and neck injuries, and he remained out of work throughout 2019. MRIs of both shoulders were taken on November 14, 2019. The left shoulder MRI revealed mild left supraspinatus tendinosis, mild degenerative change in the acromioclavicular joint, mild subacromial/subdeltoid bursitis, and no evidence of a rotator cuff tear. EX 10; *but see* CX 17 at 5-6 (September 17, 2019 ultrasound revealed a left rotator cuff tear). The right shoulder MRI showed a small high-grade partial tear, mild supraspinatus tendinosis, and mild thickening and

¹ This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit because Claimant sustained his injuries in Norfolk, Virginia. 33 U.S.C. §921(c); *see Roberts v. Custom Ship Interiors*, 35 BRBS 65, 67 n.2 (2001), *aff'd*, 300 F.3d 510 (4th Cir. 2002), *cert. denied*, 537 U.S. 1188 (2003); 20 C.F.R. §702.201(a).

increased signal of the inferior glenohumeral ligament which the radiologist noted was “suggestive of possible clinical adhesive capsulitis.” EX 9; *but see* CX 17 at 5-6 (September 17, 2019 ultrasound revealed a normal right shoulder). Dr. Wardell reviewed the MRI studies on November 27, 2019, and noted they showed “mild supraspinatus tendinosis, acromioclavicular joint arthritis, and mild subacromial bursitis” in the left shoulder and a “high-grade partial thickness tear over the supraspinatus” in the right shoulder. CX 17 at 21. At that same appointment, he noted Claimant’s left shoulder elevation was “full” and his right shoulder elevation was 120 degrees.² *Id.* Dr. Wardell diagnosed Claimant with a right shoulder rotator cuff tear. *Id.* at 22.

Meanwhile, on December 4, 2019, Claimant attended a medical examination with Employer’s orthopedic surgeon, Dr. Sheldon Cohn. At the examination, Claimant complained of bilateral shoulder pain, “markedly worse” on the right. EX 11 at 1. His left shoulder elevation was 180 degrees, and his right shoulder elevation was 150 degrees. *Id.* at 2. Dr. Cohn opined Claimant sustained “a mild work-related injury” to both shoulders: “a bit of subacromial bursitis on the left” and “a frozen shoulder on the right.” *Id.* He added that Claimant’s diabetes may be associated with his frozen right shoulder. *Id.*

On January 14, 2020, Claimant returned to Dr. Wardell. He reported bilateral shoulder pain, “more marked on the right than the left,” and received a left shoulder injection. CX 17 at 29-31. On March 17, 2020, Dr. Wardell performed right shoulder manipulation and arthroscopy to address Claimant’s frozen right shoulder and rotator cuff tear. CX 9 at 48. Post-surgically, Claimant remained out of work and reported improvement in his right shoulder symptoms with physical therapy. CX 17 at 46-47, 52-56, 60-62, 64-65. On July 8, 2020, physician assistant Shannon Wallace cleared Claimant for sedentary duty with no use of his right arm, but she recommended additional physical therapy given his complaints of increased stiffness and pain in his right shoulder. *Id.* at 66-68; *see also* CX 9 at 40-41. During this time, Dr. Wardell and his staff did not document any physical examinations of Claimant’s left shoulder, but Claimant testified he “still had pain in the left shoulder” and was “still working both arms in therapy.” TR at 28.

On September 9, 2020, Claimant attended a second examination with Dr. Cohn. Claimant complained of bilateral shoulder pain, worse on the right. EX 15 at 2. His left shoulder elevation was normal, and his right shoulder elevation was 140 degrees. *Id.* Dr. Cohn observed Claimant had “an ongoing frozen shoulder on the right . . . causing the majority of his symptoms” and “mild subacromial bursitis,” and possibly “an early frozen shoulder” on the left. *Id.* He opined Claimant’s right shoulder symptoms were caused or

² Dr. Wardell testified “full” shoulder elevation is 180 degrees. CX 9 at 9; *see also* EX 30 at 17 (Dr. Cohn testifying normal shoulder elevation is 180 degrees).

exacerbated by a combination of factors: the September 10, 2019 work incident, overuse at work, degenerative problems, and diabetes, but that his left shoulder symptoms were not work-related because Claimant hadn't been working for "quite some time," there was no "specific traumatic injury" to the left shoulder, and "any overuse problems" had resolved at that point. Dr. Cohn felt Claimant's left shoulder condition reached maximum medical improvement (MMI) and he expected Claimant's right shoulder condition to reach MMI in approximately two months. *Id.*

Nearing the completion of additional physical therapy, Claimant reported on October 6, 2020, that his right shoulder symptoms had improved, but he was having left shoulder pain and neck pain radiating into both shoulders and arms. CX 17 at 86-87; *see also* TR at 28. Dr. Wardell recommended more physical therapy, a left shoulder MRI, and electrodiagnostic testing of the left upper extremity. *Id.* at 87. The left shoulder MRI showed a "likely shoulder impingement syndrome," "supraspinatus tendinosis," "subscapularis tendon sheath thickening . . . compatible with chronic synovitis and probable mild tendinosis," and "small fluid within the subacromial/subdeltoid bursa." EX 19. Dr. Wardell reviewed the MRI on November 5, 2020, and diagnosed acromioclavicular joint arthritis but no rotator cuff tear. CX 17 at 95.

By December 2020, Claimant began complaining of worsening left shoulder symptoms to Dr. Wardell and his staff. Dr. Wardell recommended continued physical therapy and continued sedentary work restrictions. CX 17 at 104. On February 2, 2021, Dr. Wardell diagnosed left shoulder post traumatic AC joint arthropathy and bursitis, and noted Claimant was a candidate for left shoulder surgery. *Id.* at 107.

On April 6, 2021, Claimant underwent left shoulder manipulation and arthroscopy. CX 17 at 125. During surgery, Dr. Wardell observed a partial rotator cuff tear and "significant lack of passive motion." *Id.* at 123. Postoperatively, he diagnosed left shoulder adhesive capsulitis and a partial rotator cuff tear. *Id.* at 125, 128. Following surgery, Claimant participated in physical therapy with no improvement in tightness and pain in his left shoulder. Dr. Wardell recommended he undergo a second manipulation. *Id.* at 139-157. On September 17, 2021, Dr. Wardell opined Claimant is permanently and totally disabled from all waterfront work. *Id.* at 150.

On August 4, 2021, Claimant attended a third examination with Dr. Cohn. Claimant reported his right shoulder "was doing quite well" but his left shoulder "was quite stiff." On examination, Claimant's left shoulder elevation was 100. EX 29 at 5. In his report, Dr. Cohn reiterated and confirmed his previous observations and opinions regarding Claimant's bilateral shoulders. He specifically disagreed with Dr. Wardell's opinion that Claimant sustained bilateral shoulder sprains and opined that Claimant developed "a bit of bursitis in both of his shoulders" and later developed pain and adhesive capsulitis (frozen

shoulder) in his right shoulder due to the bursitis. However, given the latency between the work incident and development of adhesive capsulitis in Claimant's left shoulder, Dr. Cohn opined Claimant's left shoulder condition was not work-related. *Id.* at 5-6.

On January 11, 2022, Claimant underwent a second left shoulder manipulation and was postoperatively diagnosed with arthrofibrosis. CX 17 at 166. Following surgery, Claimant's range of motion briefly improved with physical therapy, but his left shoulder pain did not. *Id.* at 179-180.

On March 18, 2022, Claimant was examined by Employer's orthopedic surgeon, Dr. Chad R. Manke. Dr. Manke opined Claimant's left shoulder adhesive capsulitis is related to his diabetes and was not caused or aggravated by the work injury. EX 49.

At the hearing, Claimant testified his left shoulder "is still aching, pain[ing]," and he was still participating in physical therapy, but his shoulder was not improving. TR at 31-32. Since his work accident and having retired through his union in September 2021, Claimant has not returned to work on the waterfront. *Id.* at 30-31, 45, 53. He testified he does not think he could perform the duties of his usual employment as a hustler driver due to his injuries. *Id.* at 32-40.

Employer initially accepted Claimant's injuries as compensable and authorized medical treatment for Claimant's bilateral shoulder and neck injuries and paid temporary total disability (TTD) compensation from September 14, 2019, through August 29, 2021. EXs 1, 27, 32; J. Stips. At the formal hearing, the parties clarified the remaining issues were whether Claimant's current left shoulder condition is related to the September 2019 work incident and whether Claimant is entitled to ongoing TTD benefits and medical treatment for his left shoulder condition. TR at 5; *see also* J. Stip. 19.³

In her Decision and Order Denying Benefits (D&O), the ALJ determined Claimant invoked the Section 20(a) presumption, 33 U.S.C. §920(a), that his left shoulder injury is work-related, and Employer produced substantial evidence to rebut the presumption through Drs. Cohn's and Manke's medical opinions and testimony. D&O at 24-28. Upon weighing the evidence as a whole, the ALJ found the evidence in equipoise and concluded Claimant did not meet his burden of establishing by a preponderance of the evidence that

³ The parties stipulated that Claimant sustained a temporary exacerbation of his pre-existing neck condition in the work accident, that the temporary exacerbation resolved, and that his current neck condition is caused solely by his pre-existing neck condition. TR at 5; J. Stips.

his current left shoulder condition is work-related. Therefore, she denied compensation and medical benefits after August 29, 2021. *Id.* at 35.

On appeal, Claimant challenges the ALJ's finding that Employer rebutted the presumption, her conclusion upon weighing the evidence as a whole, and her denial of disability and medical benefits after August 29, 2021.⁴ Employer responds, urging affirmance of the ALJ's denial of benefits.

Claimant first contends the ALJ erroneously found Employer rebutted the Section 20(a) presumption. In challenging the ALJ's finding, Claimant asserts Drs. Manke's and Cohn's opinions do not constitute substantial evidence to rebut the presumption because they are not well-reasoned, not well-documented, and not entitled to any weight.

Once a claimant invokes the Section 20(a) presumption of causation, the burden shifts to the employer to rebut the presumption of causation by introducing substantial evidence showing the claimant's employment did not cause, contribute to, or aggravate the claimant's condition. *Metro Machine Corp. v. Director, OWCP [Stephenson]*, 846 F.3d 680, 684 (4th Cir. 2017); *Ceres Marine Terminals, Inc. v. Director, OWCP [Jackson]*, 848 F.3d 115, 121 (4th Cir. 2016); *Newport News Shipbuilding & Dry Dock Co. v. Holiday*, 591 F.3d 219, 225-226 (4th Cir. 2009); *Universal Maritime Corp. v. Moore*, 126 F.3d 256, 262 (4th Cir. 1997); *Rose v. Vectrus Systems Corp.*, 56 BRBS 27, 33 (2022) (en banc); *O'Kelley v. Dep't of the Army/NAF*, 34 BRBS 39, 41 (2000); *Bolden v. G.A.T.X. Terminals Corp.*, 30 BRBS 71, 72 (1996).

In this case, the ALJ rationally found Drs. Cohn's and Manke's medical opinions and testimony sufficient to rebut the presumption. D&O at 25-28. Both doctors stated the adhesive capsulitis (frozen shoulder) that developed in Claimant's left shoulder is independent of the initial work-related left shoulder injury and was not caused or aggravated by the September 2019 work accident. Dr. Manke opined Claimant's left shoulder condition is "most likely" related to his diabetes because he did not sustain a sufficient traumatic injury in the work accident that could cause frozen shoulder. EX 49; EX 52 at 14-16. Dr. Manke explained it could possibly be postoperative adhesive capsulitis, but because Claimant had it "going into" his first left shoulder surgery, it was

⁴ The parties stipulated Claimant sustained a work-related injury to his shoulders and neck on September 10, 2019. Employer paid temporary total disability (TTD) benefits from September 11, 2019, to August 29, 2021, at a rate of \$1,471.78 per week. Employer also paid an unknown amount in medical benefits. D&O at 3; TR at 5; J. Stips. Employer's liability for treatment of, and compensation for, the undisputed work-related injuries was not raised before the ALJ and is not at issue.

“most likely diabetes-related.” EX 52 at 16. Dr. Cohn opined in his September 2020 report that Claimant’s left shoulder symptoms were not work-related because Claimant hadn’t been working for “quite some time,” there was no “specific traumatic injury” to the left shoulder, and “any overuse problems” had resolved at that point. EX 15 at 2. In his August 2021 report, he opined Claimant developed a left frozen shoulder which “is quite common in people with diabetes,” but it was “totally unrelated to his developing pain at work” on the day of the work accident and before. EX 29 at 5.

Contrary to Claimant’s contention, the employer’s burden on rebuttal is one of production, not persuasion and is not dependent on credibility. *Moore*, 126 F.3d at 262; *Rose*, 56 BRBS at 36; *Suarez v. Serv. Employees Int’l, Inc.*, 50 BRBS 33, 36 n.4 (2016); *Cline v. Huntington Ingalls, Inc.*, 48 BRBS 5, 7 (2013); *see also Hawaii Stevedores, Inc. v. Ogawa*, 608 F.3d 642, 651 (9th Cir. 2010) (At the rebuttal stage, “the ALJ’s task is to decide, as a legal matter, whether the employer submitted evidence that could satisfy a reasonable factfinder that the claimant’s injury was not work-related.”). In addition, it is well settled that a medical opinion of non-causation rendered to a reasonable degree of medical certainty is sufficient to rebut the presumption. *See O’Kelley*, 34 BRBS at 41-42. As Drs. Cohn’s and Manke’s opinions “could allow a reasonable factfinder to infer” Claimant’s left shoulder condition is not work-related, *Stephenson*, 846 F.3d at 684 (emphasis omitted), they constitute substantial evidence sufficient to rebut the Section 20(a) presumption. *Holiday*, 591 F.3d at 226; *Moore*, 126 F.3d at 263. Accordingly, we affirm the ALJ’s finding that Employer rebutted the presumption relating Claimant’s left shoulder condition to his employment.

Claimant next asserts the ALJ erred in finding he did not establish by a preponderance of the evidence that his frozen left shoulder, surgeries, and ongoing left shoulder symptoms are related to the work injury. He contends the ALJ erred in affording the opinions of Drs. Cohn and Manke any weight and in concluding Dr. Wardell’s opinion does not conclusively establish a causal connection between Claimant’s left frozen shoulder and the work injury.

Once the Section 20(a) presumption is rebutted, as in this case, it no longer applies, and the issue of causation must be resolved on the record as a whole with the claimant bearing the burden of persuasion. *Moore*, 126 F.3d at 262; *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171, 174-175 (1996); *see also Director, OWCP v. Greenwich Collieries*, 512 U.S. 267, 271 (1994). The ALJ has the authority and discretion to weigh the evidence, accepting any medical opinion in whole or in part, and to draw reasonable inferences therefrom. *Newport News Shipbuilding & Dry Dock Co. v. Cherry*, 326 F.3d 449, 452 (4th Cir. 2003); *Pittman Mech. Contractors, Inc. v. Director, OWCP [Simonds]*, 35 F.3d 122, 127 (4th Cir. 1994). The Benefits Review Board may not reweigh the evidence or disregard the ALJ’s choice between reasonable inferences. *Burns v. Director, OWCP*, 41 F.3d 1555,

1561-1562 (D.C. Cir. 1994); *Mijangos v. Avondale Shipyards, Inc.*, 948 F.2d 941, 944 (5th Cir. 1991) (“The choice between reasonable inferences . . . may not be disturbed if it is supported by the evidence.”). Nor will the Board interfere with an ALJ’s credibility determinations unless they are “inherently incredible or patently unreasonable.” *Santoro*, 20 BRBS at 173; *see also Newport News Shipbuilding & Dry Dock Co. v. Tann*, 841 F.2d 540, 543 (4th Cir. 1988). If the ALJ’s conclusion upon weighing the evidence is rational and supported by substantial evidence, it must be affirmed. 33 U.S.C. §921(b)(3); *Tann*, 841 F.2d at 543.

The ALJ gave great weight to Claimant’s testimony regarding his symptoms and physical abilities. D&O at 30. She also gave great weight to Dr. Wardell’s opinion, in part, because he is Claimant’s treating physician, but also because his opinion is consistent with his treatment notes and Claimant’s credible testimony.⁵ Additionally, she gave great weight to Dr. Cohn’s opinion because it is well-reasoned and his testimony “logical[ly]” explains why Claimant’s frozen left shoulder condition is not related to Claimant’s employment and the work accident.⁶ *Id.* at 33-34. By contrast, the ALJ gave “little weight”

⁵ Dr. Wardell opined Claimant’s left frozen shoulder is related to the work accident:

There was an injury to the left shoulder, which turned out to be the rotator cuff tear that I found at the later arthroscopy and found during the ultrasound study. That injury to the left shoulder resulted in inflammation. That inflammation was characterized by an inflammation about the capsule of the shoulder. That inflammation in the presence of diabetes predisposed the capsule to scarring. And over the course of time, the left shoulder became more inflamed and more scarred in. That is, the initial injury resulted in the freezing or the adhesions in the left shoulder.

CX 9 at 19; *see also* CX 14 (Dr. Wardell Letter dated March 29, 2022).

⁶ At his deposition, Dr. Cohn testified Claimant’s frozen left shoulder was not work-related because Claimant “didn’t really develop a lot of stiffness in the left shoulder until quite some time later.” EX 30 at 40-41. He explained the onset of frozen shoulder “is pretty painful” and “usually seems to occur pretty quickly,” so Claimant would have experienced pain and stiffness “much earlier than one year after the work injury” if the condition was work-related. *Id.* at 40-42. Further, he clarified that while he thought Claimant’s right shoulder adhesive capsulitis was related to the work accident, he did not think the left shoulder adhesive capsulitis was related to the work accident because Claimant did not develop stiffness in his left shoulder “within a couple of weeks following

to Dr. Manke's medical opinions and testimony. She found that while Dr. Manke's opinion rebutted the presumption because he "refuted the cause of Claimant's left shoulder condition," his statements regarding the need for the left shoulder surgeries lack certainty and undermine his credibility as an expert.⁷ *Id.* at 35. Nonetheless, she noted Dr. Manke reached the same causation conclusion as Dr. Cohn, who she afforded great weight. *Id.* Based on Drs. Wardell's and Cohn's opinions, the ALJ found Claimant sustained a left shoulder injury in the work accident. However, after discussing Dr. Wardell's and Dr. Cohn's opinions separately and listing her observations about each opinion, the ALJ found "both parties proffered equal evidence supporting a causal connection between Claimant's injury and the incident, or lack thereof." *Id.* Having ascribed equal weight to Dr. Wardell's and Dr. Cohn's opposing opinions on causation, she determined the relevant evidence is in equipoise and concluded Claimant did not meet his burden of establishing a compensable injury and entitlement to benefits under the Act. *Id.*; see *Santoro*, 30 BRBS at 175.

We are unable to determine whether substantial evidence supports the ALJ's decision that the evidence is in equipoise because she did not explain how she arrived at that conclusion, and therefore we vacate it. 33 U.S.C. §§921(b)(3). The Administrative Procedure Act (APA) imposes a duty of explanation upon the ALJ requiring all decisions to include a statement of "findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion present on the record." 5 U.S.C.

his beginning to have pain on the ladder" as occurred with the right shoulder. *Id.* at 39-40; EXs 15, 29.

⁷ Dr. Manke opined Claimant's adhesive capsulitis is related to his diabetes and not the work injury. EX 52 at 14-16. He testified adhesive capsulitis is "very common" in diabetics – approximately 30% to 50% of individuals with diabetes will get it – and diabetes is the number one cause of adhesive capsulitis in his patients. Further, he explained adhesive capsulitis can also be idiopathic or caused by trauma, such as a broken shoulder, "violent yank," or "like . . . a car accident," but "[t]here was no massive trauma to the arm" on the day of the work accident. *Id.* at 10, 13-15, 23-24. Although he testified postoperative adhesive capsulitis "is also very common," Dr. Manke did not think Claimant's frozen shoulder was caused by the left shoulder surgeries because Claimant had adhesive capsulitis before his first left shoulder surgery. *Id.* at 16.

When asked whether he had an opinion regarding the need or cause for the right and left shoulder surgeries, Dr. Manke stated he did not have an opinion because the surgeries occurred "well before" he examined Claimant, and he preferred to defer to the physicians who examined Claimant closer in time to the work accident and surgeries or to Dr. Wardell. *Id.* at 10, 15-16, 18-19.

§557(c)(3)(A); *Island Creek Coal Co. v. Blankenship*, 123 F.4th 684, 691 (4th Cir. 2024); *see v. Wash. Metro. Area Transit Auth.*, 36 F.3d 375, 384 (4th Cir. 1994). Although the ALJ addressed the relevant evidence, she considered each physician’s opinion in isolation and did not explain if and how each medical opinion affects conflicting evidence in the record, how the evidence interacts on the record as a whole, and how the record as a whole ultimately supports her conclusion that “neither party sufficiently proves or disproves a nexus between Claimant’s frozen shoulder and his longshore work,” even though those two possible conclusions are the only conclusions supported by the credited evidence, respectively. D&O at 28.

When addressing Dr. Wardell’s opinion, the ALJ described why she found his opinion did not “conclusively establish” that Claimant’s left frozen shoulder is a continuation of his initial left shoulder sprain: Dr. Wardell’s treatment notes showed improvement in Claimant’s left shoulder as compared to his right shoulder,⁸ Dr. Wardell’s work restrictions did not include Claimant’s left shoulder, the MRI did not indicate an age of injury and could have shown a condition that developed after Claimant’s initial injury had resolved,⁹ and Dr. Wardell’s concession that he primarily relied on Claimant’s subjective complaints of pain,¹⁰ but the ALJ did not weigh Dr. Wardell’s opinion against

⁸ The ALJ observed Dr. Wardell’s treatment notes indicated Claimant’s left shoulder symptoms had improved within one year of his work accident, and there were no documented left shoulder complaints for three months following Dr. Wardell’s July 2020 release for Claimant to return to sedentary work. In addition, she noted Dr. Wardell later diagnosed a left rotator cuff tear as Claimant’s new left shoulder symptoms worsened, and he first diagnosed work-related adhesive capsulitis in Claimant’s left shoulder on April 21, 2021. D&O at 31. The ALJ concluded this “reasonably *suggest[s]*” Claimant’s original injury had healed, and his current condition developed independently of his work accident. *Id.* at 32 (emphasis added).

⁹ The ALJ considered Dr. Wardell’s testimony that the radiology findings do not indicate an age of injury and that the initial ultrasound findings may have existed before Claimant’s work injury and without his having any symptoms. D&O at 32. She reasoned this “*could* lead a reasonable factfinder to conclude” either that Dr. Wardell is credible because he acknowledged shortcomings in the evidence or that Claimant’s frozen shoulder may have developed after his initial injury had resolved, and his initial shoulder injury may not be work-related. *Id.* (emphasis added).

¹⁰ Dr. Wardell opined Claimant’s left rotator cuff tear, the inflammation in his capsule, and the development of adhesive capsulitis requiring manual manipulation all stemmed from the work accident. He testified his opinion is based primarily on Claimant’s being asymptomatic before his work accident and his onset of symptoms and pattern of

other evidence in the record. D&O at 30-33. Beyond summarizing Dr. Cohn's medical reports and testimony and determining his opinion is well-reasoned and entitled to "great weight," the ALJ considered his opinion in isolation and did not compare it with Claimant's "credible testimony" or Dr. Wardell's supposedly equally credible but purportedly diametrically opposed opinion.

Further, it is not clear why or how the ALJ found Dr. Wardell's and Dr. Cohn's conflicting opinions to be equally entitled to great weight. She detailed multiple aspects of Dr. Wardell's opinion that appear to undermine the persuasive value of his opinion, *see supra* notes 8-9, and she mentioned two other aspects that could affect her conclusion with respect to Dr. Cohn's opinion.¹¹ Nevertheless, despite pointing out flaws in their reports that could bear on the weight given to their opinions, the ALJ found the flaws do not have any effect and gave both physicians' opinions great weight. D&O at 33-34. In sum, the ALJ's assessment of the medical evidence ultimately amounts to a conclusion without an adequate rationale. *See Newport News Shipbuilding and Dry Dock Co. v. Gregory*, 114 F.3d 1176 (4th Cir. 1997) (unpublished table decision). Because we cannot "understand what the ALJ did and why [s]he did it," or how the evidence could be in equipoise based on her statements and findings, we remand the case for her to weigh the evidence as a whole and provide further explanation comporting with the APA and applying the preponderance of the evidence standard. *Blankenship*, 123 F.4th at 691 (quoting *Lane Hollow Coal Co. v. Dir.*, *OWCP*, 137 F.3d 799, 803 (4th Cir. 1998)).

pain following the accident, and on Dr. Wardell's own subjective examination findings. CX 9 at 28-35.

¹¹ The ALJ seemed to indicate Dr. Cohn's limited contact with Claimant and his opinion that Claimant's left shoulder reached MMI in September 2020, which supports the conclusion that Claimant sustained an initial work-related left shoulder injury, may undermine the persuasive value of Dr. Cohn's opinion. D&O at 33-34.

Accordingly, we vacate the ALJ's Decision and Order Denying Benefits and remand the case to the ALJ for further analysis in accordance with this decision.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge