

**United States Department of Labor
Employees' Compensation Appeals Board**

M.M., Appellant

and

**U.S. POSTAL SERVICE, PETER
STUYVESANT POST OFFICE, New York, NY,
Employer**

Docket No. 25-0870

Issued: December 18, 2025

Appearances:

Paul Kalker, Esq., for the appellant¹

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 September 11, 2025 appellant, through counsel, filed a timely appeal from a September 10, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (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 September 10, 2025 decision, OWCP received additional evidence. 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 OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 10, 2025, as she no longer had disability or residuals causally related to her accepted August 8, 2011 employment injury.

FACTUAL HISTORY

On August 9, 2011 appellant, then a 40-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging she developed a lumbar sprain and bursitis due to factors of her federal employment, including walking, standing, lifting, and repetitive motions. She noted that she first became aware of her conditions and realized their relationship to her federal employment on August 8, 2011. Appellant stopped work on August 9, 2011. OWCP accepted the claim for sprains of the lumbar spine, left knee, and right shoulder, and later expanded its acceptance of the claim to include spondylosis without myelopathy or radiculopathy of the lumbar region and right shoulder impingement syndrome. It paid appellant wage-loss compensation on the supplemental rolls, effective August 9, 2011, and on the periodic rolls, effective October 21, 2012.

Appellant received medical treatment for her conditions, including OWCP-authorized right shoulder arthroscopy, debridement, subacromial decompression, and clavicle excision on November 30, 2012, followed by lumbar medical branch blocks, cervical epidural steroid injections, and several courses of physical therapy.

On November 14, 2017 Dr. Raz Winiarsky, a Board-certified orthopedic surgeon, performed additional OWCP-authorized surgery to appellant's right shoulder, including acromioplasty, synovectomy of the glenohumeral joint, debridement of partial rotator cuff tear, and platelet-rich plasma injection. She thereafter remained under his care for treatment of her right shoulder, including physical therapy, medications, and a referral for a right suprascapular nerve steroid injection by Dr. Jonathan Simhaee, a Board-certified physiatrist, on May 31, 2023.

With regard to her lumbar spine, medical reports dated January 3 and June 8, 2023 from Dr. Jonathan Lewin, a Board-certified orthopedic surgeon, noted that appellant related low back pain with radiation to the left leg, groin, hip, and posterior knee. He obtained x-rays, which revealed worsening degenerative disc disease at L5-S1. Dr. Lewin performed a physical examination and observed tenderness to palpation at L5-S1 and left leg dysesthesia. He diagnosed other intervertebral disc degeneration of the lumbar region. Dr. Lewin opined that appellant had failed conservative treatment, including physical therapy and injections, and recommended that she undergo a posterior spinal fusion at L5-S1.

On June 15, 2023 OWCP referred appellant, along with the case record, a June 14, 2023 SOAF, and a series of questions to Dr. Jonathan Paul, a Board-certified orthopedic surgeon, for a second opinion examination to determine whether she had a current disability or residuals due to her accepted employment condition, and whether lumbar fusion surgery was medically necessary to treat her accepted work-related injury.

In a July 3, 2023 report, Dr. Paul reviewed the history of injury, medical record, and SOAF. On examination of the right shoulder, he observed that appellant was "uncomfortable," had reduced range of motion (ROM) in all planes due to "a good bit of pain," and was "quite tender" in the anterolateral and posterior glenohumeral areas. On examination of the lumbar spine and

lower extremities, Dr. Paul observed that she had reduced ROM, spasm, and tenderness over the left paraspinal lumbar musculature, negative straight leg raise testing, tenderness to the left hip trochanteric bursa, a positive Ober's test on the left, and patellofemoral malalignment in the left knee. He diagnosed frozen right shoulder, lumbar degenerative disease, left knee patellofemoral malalignment, and anterior left knee pain. Dr. Paul opined that appellant sustained a permanent aggravation of an underlying condition, that her subjective complaints corresponded with objective physical examination findings, and that she required further medical treatment. He recommended a trial of in-home Pilates, versus lumbar fusion surgery, and advised that appellant could not return to her date-of-injury job as a letter carrier.

On August 22, 2023 OWCP requested clarification from Dr. Paul regarding appellant's work capabilities.

In a supplemental report and work capacity evaluation (Form OWCP-5c) dated September 22, 2023, Dr. Paul indicated that appellant could perform full-time sedentary-duty work with no reaching above shoulder height and no more than 2.5 hours per day of lifting, pushing, and pulling up to 10 pounds.

In medical reports dated July 26, October 18, and November 27, 2023, Dr. Winiarsky noted that appellant related ongoing complaints of sharp pain in the right shoulder, weakness in the right arm, and radicular pain from the right arm into the hand, which she attributed to the August 8, 2011 employment injury. He performed physical examinations and observed limited ROM and strength due to pain and positive O'Brien's and Neer's tests in the right shoulder and pain in the medial and lateral joint lines of the left knee. Dr. Winiarsky diagnosed right shoulder impingement syndrome and adhesive capsulitis and left knee internal derangement. He indicated that appellant was totally disabled from all work due to the August 8, 2011 employment injury. In the November 27, 2023 report, Dr. Winiarsky explained that adhesive capsulitis significantly restricted her ROM and impaired tasks that involved lifting, reaching, and manipulation. He also noted that appellant's left knee pain caused difficulty with weight-bearing activities.

In a medical report dated November 21, 2023, Dr. Lewin noted that appellant's lumbar spine examination was unchanged and continued to recommend fusion surgery.

On November 30, 2023 the employing establishment offered appellant a modified city carrier position as a shuttle driver based upon the opinions of Dr. Paul. She declined the job offer and submitted a December 4, 2023 narrative letter by Dr. Winiarsky, who opined that she was totally disabled from all work due to an inability to sit for prolonged periods due to her lumbar spine and an inability to control a vehicle due to lack of movement, reduced ROM, and medication side effects with respect to the right shoulder.⁴

On February 13, 2024 OWCP determined that a conflict in the medical evidence existed between appellant's treating physician, Dr. Winiarsky, and OWCP's second opinion examiner, Dr. Paul, regarding appellant's work capabilities. It referred her, along with the medical record, the June 14, 2023 SOAF, and a series of questions, to Dr. Frank Corrigan, a Board-certified orthopedic surgeon, to serve as an impartial medical examiner (IME) to resolve the conflict.

⁴ In medical reports dated January 22 through June 17, 2024, Dr. Winiarsky continued to find appellant totally disabled from all work.

In a July 25, 2024 report, Dr. Corrigan, the IME, indicated that he reviewed the medical record and SOAF. He noted appellant's subjective complaints of pain and weakness in the right shoulder, numbness in her right shoulder and right fourth and fifth digits, back pain which radiated to the back of her left knee, shooting pain in the left knee, and swelling in her left foot. Upon physical examination of the spine, Dr. Corrigan noted pain on motion and a reduced ROM, negative straight leg raise, and normal motor strength of the lower extremities. On examination of the right shoulder, he observed that appellant experienced pain on motion performing ROM, no tenderness to palpation or ligament instability, negative Neer's and Hawkins' tests, and full strength. On examination of the left shoulder, Dr. Corrigan observed reduced ROM with forward flexion and internal rotation. He measured appellant's bilateral grip strength, which was zero in all five hand positions on the right. Dr. Corrigan also examined her left knee, which he observed was normal except for tenderness at the lateral joint line. He diagnosed sprains of the lumbar spine, left knee, and right shoulder; spondylosis without myelopathy or radiculopathy of the lumbar region; and right shoulder impingement syndrome. Dr. Corrigan opined that the work-related conditions had resolved, and appellant's current subjective symptoms, objective examination findings, and current pathology were the result of the natural progression of degenerative pathology. He explained that any pathology within her right shoulder that occurred between the date of the first surgery in 2012 and the date of the second surgery in 2017 could not have logically occurred as a result of her work-related duties, as she was not employed by the employing establishment during that time. Dr. Corrigan also indicated that appellant's examination findings were unreliable and "self-imposed," noting reduced ROM in the unaffected left shoulder "for no reason" and no effort made during grip strength testing of the right hand. He opined that she was not in need of further medical treatment and could return to full-duty work without restrictions.

In an August 14, 2024 follow-up report, Dr. Winiarsky performed a physical examination of the right shoulder and observed reduced right rotator cuff strength due to pain, reduced ROM, and positive O'Brien's and Neer's tests. On examination of the left knee, he observed pain in the medial and lateral joint lines. Dr. Winiarsky diagnosed impingement syndrome and adhesive capsulitis of the right shoulder and left knee internal derangement. He indicated that appellant remained totally disabled.

In a medical report dated September 6, 2024 and a narrative rebuttal report dated September 9, 2024, Dr. Lewin indicated that his opinion of appellant's spine condition remained unchanged. He continued to recommend surgery. Dr. Lewin disagreed with Dr. Corrigan's opinion that appellant's reduced ROM in the lumbar spine and right shoulder were self-imposed, noting the extensive treatment records of Dr. Winiarsky, which clearly supported genuine physical impairments. He also indicated that the progression of her condition was due to her work duties, and that she was not capable of returning to her pre-injury position.

OWCP submitted a September 13, 2024 SOAF, the August 14, 2024 report of Dr. Winiarsky, and the September 9, 2024 narrative report by Dr. Lewin to Dr. Corrigan for his review and comment.

In a supplemental report dated April 23, 2025, Dr. Corrigan reviewed the SOAF, the August 14, 2024 report of Dr. Winiarsky, and the September 9, 2024 narrative letter by Dr. Lewin. He noted that there were no medical findings that indicated the accepted work-related conditions of sprains of the lumbar spine, left knee, and right shoulder; spondylosis without myelopathy or radiculopathy of the lumbar region; and right shoulder impingement syndrome were still active or

causing objective symptoms. Dr. Corrigan reiterated his examination findings and his opinion that the progression of appellant's condition could not have occurred as a result of her employment.

OWCP also received additional reports by Dr. Winiarsky dated September 25, 2024 through May 19, 2025, which indicated no change in appellant's condition or disability.

In a notice dated June 6, 2025, OWCP proposed to terminate appellant's wage-loss compensation and medical benefits because she no longer had disability or residuals causally related to her accepted August 8, 2011 employment injury. It found that the special weight of the medical evidence rested with Dr. Corrigan, the IME, who found that she no longer had disability or residuals causally related to her accepted August 8, 2011 employment injury. OWCP afforded appellant 30 days to submit additional evidence or argument, in writing, if she disagreed with the proposed termination.

OWCP thereafter received a June 10, 2025 attending physician's report (Form CA-20) by Dr. Winiarsky, who indicated that appellant was totally disabled due to limited ROM in the right shoulder and L5-S1 strain and disc derangement. In an August 25, 2025 medical report, he recommended a home health aide for 20 hours per week to assist her with her activities of daily living.

By decision dated September 10, 2025, OWCP finalized the notice of proposed termination of appellant's wage-loss compensation and medical benefits, effective that date. It found that the special weight of medical evidence rested with Dr. Corrigan, the IME, who indicated in his April 23, 2025 report that appellant no longer had disability or residuals causally related to her accepted August 8, 2011 employment injury.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of benefits.⁵ It may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.⁶ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁷ The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.⁸ To terminate authorization for medical treatment, OWCP must establish that the employee no longer has residuals of an employment-related condition, which require further medical treatment.⁹

⁵ *A.D.*, Docket No. 18-0497 (issued July 25, 2018); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁶ *A.G.*, Docket No. 18-0749 (issued November 7, 2018); *see also I.J.*, 59 ECAB 408 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

⁷ *R.R.*, Docket No. 19-0173 (issued May 2, 2019); *T.P.*, 58 ECAB 524 (2007); *Del K. Rykert*, 40 ECAB 284 (1988).

⁸ *L.W.*, Docket No. 18-1372 (issued February 27, 2019); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

⁹ *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *A.P.*, Docket No. 08-1822 (issued August 5, 2009).

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 IME) who shall make an examination.¹⁰ For a conflict to arise the opposing physicians' viewpoints must be of "virtually equal weight and rationale."¹¹ When OWCP has referred the case to an IME for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.¹²

ANALYSIS

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 10, 2025, as she no longer had disability or residuals causally related to her accepted August 8, 2011 employment injury.

OWCP determined that there was a conflict in the medical opinion evidence between Dr. Winiarsky, appellant's treating physician, and Dr. Paul, an OWCP second opinion examiner, regarding appellant's work capabilities. It properly referred appellant, pursuant to 5 U.S.C. § 8123(a), to Dr. Corrigan for an impartial medical examination and an opinion to resolve the conflict. In July 25, 2024 and April 23, 2025 reports, Dr. Corrigan, serving as the IME, indicated that he reviewed the medical record and SOAF. He noted appellant's subjective complaints and documented physical examination findings in the spine, shoulders, hands, and left knee. Dr. Corrigan diagnosed sprains of the lumbar spine, left knee, and right shoulder; spondylosis without myelopathy or radiculopathy of the lumbar region; and right shoulder impingement syndrome. He opined that the work-related conditions had resolved, and appellant's subjective symptoms, objective examination findings, and current pathology were the result of the natural progression of degenerative conditions. Dr. Corrigan explained that there were no medical findings that indicated the accepted work-related conditions were still active or causing objective symptoms. He also explained that appellant's examination findings were unreliable and "self-imposed," noting reduced ROM in the unaffected left shoulder "for no reason" and no effort made during grip strength testing of the right hand. Dr. Corrigan opined that she was not in need of further medical treatment and could return to full-duty work without restrictions.

The factors that comprise the evaluation of medical opinion evidence include the opportunity for and thoroughness of physical examination, the accuracy, or completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹³ Dr. Corrigan based his opinion on a proper factual and medical history and physical examination findings. He explained that appellant's physical examination revealed that the accepted employment-related conditions

¹⁰ 5 U.S.C. § 8123(a); *see R.S.*, Docket No. 10-1704 (issued May 13, 2011); *S.T.*, Docket No. 08-1675 (issued May 4, 2009).

¹¹ *H.B.*, Docket No. 19-0926 (issued September 10, 2020); *C.H.*, Docket No. 18-1065 (issued November 29, 2018); *Darlene R. Kennedy*, 57 ECAB 414, 416 (2006); *James P. Roberts*, 31 ECAB 1010 (1980).

¹² *S.S.*, Docket No. 19-0766 (issued December 13, 2019); *W.M.*, Docket No. 18-0957 (issued October 15, 2018); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts*, *id.*

¹³ *See P.J.*, Docket No. 22-0905 (issued November 15, 2022); *K.R.*, Docket No. 22-0019 (issued July 11, 2022); *Nicolette R. Kelstrom*, 54 ECAB 570 (2003); *Anna M. Delaney*, 53 ECAB 384 (2002).

had resolved, and that appellant could return to her pre-injury position without restrictions. Accordingly, the Board finds that Dr. Corrigan's opinion constitutes the special weight of the medical opinion evidence and establishes that appellant no longer had employment-related disability or residuals causally related to the accepted August 8, 2011 employment injury.¹⁴

Appellant submitted a June 10, 2025 Form CA-20 by Dr. Winiarsky, who indicated that appellant was totally disabled due to limited ROM in the right shoulder and L5-S1 strain and disc derangement. In an August 25, 2025 medical report, he recommended a home health aide for 20 hours per week to assist her with her activities of daily living. These reports, however, are of limited probative value as they fail to provide sufficient medical rationale explaining how and/or why appellant had continuing disability or residuals as of September 10, 2025 causally related to the accepted August 8, 2011 employment injury.¹⁵ Accordingly the opinion of Dr. Winiarsky is insufficient to overcome the special weight of the medical evidence accorded to Dr. Corrigan,¹⁶ or to create a conflict in medical opinion with Dr. Corrigan.¹⁷

As the medical evidence of record establishes that appellant no longer had disability or residuals as of September 10, 2025, causally related to the accepted August 8, 2011 employment injury, the Board finds that OWCP met its burden of proof.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 10, 2025, as she no longer had disability or residuals causally related to her accepted August 8, 2011 employment injury.

¹⁴ See *D.G.*, Docket No. 19-1259 (issued January 29, 2020); see also *D.T.*, Docket No. 10-2258 (issued August 1, 2011); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

¹⁵ See *E.H.*, Docket No. 23-0503 (issued July 20, 2023); *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *J.F.*, Docket No. 17-1716 (issued March 1, 2018).

¹⁶ See *L.K.*, Docket No. 20-0443 (issued August 8, 2023).

¹⁷ See *A.B.*, Docket No. 25-0504 (issued June 20, 2025); *S.G.*, Docket No. 23-0652 (issued October 11, 2023).

ORDER

IT IS HEREBY ORDERED THAT the September 10, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 18, 2025
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