

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

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K.A., Appellant )  
and ) Docket No. 25-0645  
DEPARTMENT OF HOMELAND SECURITY, )  
TRANSPORTATION SECURITY ) Issued: September 8, 2025  
ADMINISTRATION, Las Vegas, NV, Employer )  
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)

*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  
JANICE B. ASKIN, Judge

**JURISDICTION**

On June 25, 2025 appellant filed a timely appeal from a February 28, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that following the February 28, 2025 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.*

## **ISSUE**

The issue is whether appellant has met her burden of proof to expand the acceptance of her claim to include cervical radiculopathy as causally related to the accepted February 18, 2024 employment injury.

## **FACTUAL HISTORY**

On February 21, 2024 appellant, then a 35-year-old transportation security officer, filed a traumatic injury claim (Form CA-1) alleging that on February 18, 2024,<sup>3</sup> she sustained neck, left shoulder, and left upper extremity injuries when a male passenger she was assisting arose from his wheelchair, lost his balance, and fell onto her, pushing her left shoulder, while in the performance of duty.

By decision dated July 1, 2024, OWCP accepted the claim for left shoulder contusion and bicep tendinopathy of the left shoulder. It paid appellant wage-loss compensation on the supplemental rolls effective July 5, 2024, and on the periodic rolls effective December 1, 2024.

On July 5, 2024 Dr. Bratton performed OWCP-authorized arthroscopic debridement, arthroscopic subacromial decompression, and open biceps tenodesis of appellant's left shoulder.

In an October 7, 2024 report, Dr. Bratton related that in December 2015, appellant underwent suboccipital craniotomy with cervical laminectomy/Chiari decompression. On examination, he observed a positive Spurling test, with radiating pain and numbness in the left hand recreated with motion of cervical spine to the left and to the right. Dr. Bratton diagnosed cervical radiculopathy. He opined that appellant's physical examination and history was consistent with cervical radiculopathy, with radiation of pain and numbness in the left hand. Dr. Bratton prescribed physical therapy.

In a November 5, 2024 work capacity evaluation (Form OWCP-5c) and an attending physician's report (Form CA-20) of even date, Dr. Bratton related the history of appellant's June 2023 and February 2024 employment incidents. He diagnosed left biceps tendinopathy and cervical radiculopathy. Dr. Bratton returned appellant to sedentary work as she was unable to perform her date-of-injury position due to continued "radiating pain from the neck to down the arm with some numbness in the hand." In a November 7, 2024 duty status report (Form CA-17), he diagnosed left biceps tendinopathy and cervical radiculopathy.

On December 11, 2024 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. Michael T. Monroe, a Board-certified orthopedic surgeon, for a second opinion examination to determine the nature and extent of any employment-related disability and whether the acceptance of her claim should be expanded to include cervical radiculopathy.

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<sup>3</sup> Appellant has a prior claim before OWCP. Under OWCP File No. xxxxxx471, OWCP accepted that appellant sustained a left shoulder strain due to an April 14, 2022 employment incident. It has not administratively combined appellant's claims.

On December 18, 2024 Dr. Bratton ordered an electromyogram and nerve conduction velocity (EMG/NCV) study of appellant's left upper extremity.

In a December 30, 2024 Form OWCP-5c and a Form CA-17 of even date, Dr. Bratton diagnosed left biceps tendinopathy and cervical radiculopathy, with concern for cervical nerve root impingement. In a December 30, 2024 Form CA-20, he related that the April 2022 employment injury caused "cervical pathology."

In an undated report received by OWCP on January 1, 2025, Dr. Bratton related a history of June 2023 and February 18, 2024 employment injuries. He diagnosed cervical radiculopathy, but noted that a cervical magnetic resonance imaging (MRI) scan was pending. Dr. Bratton opined that after and as a result of the two employment injuries, appellant reported a pulling sensation and radiating pain from the neck down the left upper extremity with some numbness in the left hand. He noted that, "[t]here is concern for cervical nerve root impingement" and opined that appellant's radiating neck pain "could be related to cervical radiculopathy with radiating pain and numbness in the hand."

In a January 16, 2025 report, Dr. Monroe related the history of appellant's February 18, 2024 employment injury and provided physical examination findings. He diagnosed left shoulder impingement, and status post left shoulder arthroscopic debridement with biceps tenodesis. Dr. Monroe opined that appellant's worsening left shoulder symptoms indicated an "exacerbation of her previous shoulder injury" from which she had active residuals of "pain with limitation in lifting with her left shoulder as well as severe limitations in active range of motion and weakness in abduction." He noted, however, that it was unlikely that appellant had "new pathology from the new industrial injury." Dr. Monroe further found that while appellant had some symptoms indicative of cervical radiculopathy, including intermittent pain from the neck and shoulder extending into the hand, there were not yet adequate objective findings to establish the diagnosis. He recommended an MRI scan of the cervical spine and electrodiagnostic studies of the left upper extremity to establish a diagnosis. Dr. Monroe concluded that appellant could perform full-time light-duty work with no lifting, pushing, pulling, or overhead activity with the left upper extremity. He completed a January 16, 2025 Form OWCP-5c, reiterating his opinion regarding appellant's work capacity.

In a February 13, 2025 report, Dr. Bratton noted his review of Dr. Monroe's second opinion report. He opined that appellant's symptoms of diffuse pain throughout essentially the entire left upper extremity were "unlikely to be just due to the shoulder itself." Dr. Bratton diagnosed primary cervical radiculopathy. He recommended an MRI scan of the cervical spine and EMG study of the left upper extremity. Dr. Bratton returned appellant to restricted duty and prescribed additional physical therapy.

By decision dated February 28, 2025, OWCP denied expansion of the acceptance of appellant's claim to include cervical radiculopathy as causally related to, or as a consequence of, her accepted employment injury. It accorded the weight of the medical evidence to the second opinion of Dr. Monroe.

## **LEGAL PRECEDENT**

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>4</sup>

The medical evidence required to establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, is rationalized medical opinion evidence.<sup>5</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>6</sup> Additionally, the opinion of the physician must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the specific employment factor(s) identified by the claimant.<sup>7</sup>

## **ANALYSIS**

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

On December 11, 2024 OWCP referred appellant to Dr. Monroe for a second opinion examination to determine, in part, whether the acceptance of appellant's claim should be expanded to include cervical radiculopathy. In his January 16, 2025 report, Dr. Monroe related that while appellant had some symptoms indicative of cervical radiculopathy, including intermittent pain from the neck and shoulder extending into the hand, there were not yet adequate objective findings to establish the diagnosis. He recommended an MRI scan of the cervical spine and electrodiagnostic studies of the left upper extremity to establish a diagnosis.

The Board notes that proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.<sup>8</sup> Once it undertakes development of the record by referring appellant for a second opinion examination, it had an obligation to do a complete job in procuring medical evidence that will resolve the relevant issues in the case.<sup>9</sup> While OWCP began to develop the evidence by referring

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<sup>4</sup> *L.M.*, Docket No. 23-1040 (issued December 29, 2023); *J.R.*, Docket No. 20-0292 (issued June 26, 2020); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

<sup>5</sup> *C.S.*, Docket No. 23-0746 (issued December 11, 2023); *T.C.*, Docket No. 19-1043 (issued November 8, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>6</sup> *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>7</sup> *M.M.*, Docket No. 24-0553 (issued July 30, 2025); *D.W.*, Docket No. 22-0136 (issued October 10, 2023); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>8</sup> *K.B.*, Docket No. 23-0272 (issued October 26, 2023); *see E.W.*, Docket No. 17-0707 (issued September 18, 2017).

<sup>9</sup> *J.M.*, Docket No. 21-0569 (issued December 6, 2021); *see R.L.*, Docket No. 20-1069 (issued April 7, 2021); *W.W.*, Docket No. 18-0093 (issued October 9, 2018); *Peter C. Belkin*, 56 ECAB 580 (2005).

appellant to Dr. Monroe for a second opinion examination to determine whether appellant's claim should be expanded to include cervical radiculopathy, it failed to complete its obligation to resolve the issue in the case as it did not obtain the diagnostic studies recommended by Dr. Monroe.<sup>10</sup>

On remand, OWCP shall authorize the recommended diagnostic studies and obtain a supplemental opinion from Dr. Monroe. After this and such further development as is deemed necessary, OWCP shall issue a *de novo* decision.<sup>11</sup>

### **CONCLUSION**

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

### **ORDER**

**IT IS HEREBY ORDERED THAT** the February 28, 2025 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 8, 2025  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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<sup>10</sup> See *X.Y.*, Docket No. 19-1290 (issued January 24, 2020); *K.G.*, Docket No. 17-0821 (issued May 9, 2018).

<sup>11</sup> On return of the case record OWCP shall combine OWCP File No. xxxxxx471 with the present claim under OWCP File No. xxxxxx730.