

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

L.W., Appellant)
and)
U.S. POSTAL SERVICE, NORTH HOUSTON) Docket No. 25-0651
POST OFFICE, North Houston, TX, Employer) Issued: September 10, 2025
)
)

Appearances:

Appellant, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 23, 2025 appellant filed a timely appeal from a June 2, 2025¹ 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

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish that the acceptance of her claim be expanded to include the additional conditions of right glenohumeral

¹ The Board notes that, while OWCP's June 2, 2025 letter was not accompanied by appeal rights, it constitutes a final adverse decision issued by OWCP. *K.K.*, Docket No. 19-0652 (issued September 19, 2019); *see Henry F. Dyer*, Docket No. 05-452 (issued May 13, 2005).

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the June 2, 2025 decision, appellant submitted additional evidence to OWCP. 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.*

joint effusion and cervical radiculopathy as causally related to the accepted February 17, 2024 employment injury; and (2) whether OWCP properly denied appellant's request for authorization of medical treatment, pursuant to 5 U.S.C. § 8103.

FACTUAL HISTORY

On February 29, 2024 appellant, then a 38-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 17, 2024 she sustained injuries to her cervical spine, neck, and right shoulder and arm when she turned to grab additional mail to place in apartment complex mailboxes while in the performance of duty. She stopped work on that date.

On February 20, 2024 the employing establishment issued an authorization for examination and/or treatment (Form CA-16) for the claimed February 17, 2024 injury. Dr. Raju Mantena, an osteopath Board-certified in pain management, completed an attending physician's report, Part B of the Form CA-16 on February 27, 2024. He diagnosed neck and right shoulder sprains.

In a narrative report dated February 27, 2024, Dr. Mantena diagnosed cervicalgia, cervical radiculopathy, myofascial pain, and shoulder pain. He opined that the diagnosed conditions were a direct result of the accepted February 17, 2024 employment injury. In a duty status report (Form CA-17) of even date, Dr. Mantena repeated his diagnoses.

On March 7, 2024 Dr. Marcus Hayes, a chiropractor, examined appellant due to work-related neck and right shoulder pain. He diagnosed cervical sprain, neck strain, cervical radiculopathy, strain of the right shoulder and upper arm, and right shoulder sprain.

OWCP accepted the claim for unspecified strain of the right shoulder joint, sprain of the ligaments of the cervical spine on April 15, 2024. It paid wage-loss compensation on the supplemental rolls commencing April 6, 2024.

In reports dated March 19 through October 16, 2024, Dr. Mantena diagnosed neck pain, cervical radiculopathy, myofascial pain, muscle spasm, and right shoulder pain. He based his diagnoses on a March 8, 2024 magnetic resonance imaging (MRI) scan which demonstrated right shoulder mild glenohumeral joint effusion. A cervical spine MRI demonstrated disc herniations at C3-4, C4-5, and C6-7. Dr. Mantena opined that appellant's diagnosed conditions were the direct result of her accepted employment injury. He performed a cervical epidural steroid injection on August 13, 2024.

Appellant returned to full-time light-duty work on October 12, 2024.

On October 9, 2024 and January 30, 2025 Dr. Angelo Parameswaran, a Board-certified orthopedic surgeon, recounted appellant's history of injury and diagnosed right shoulder joint effusion based on the March 8, 2024 MRI scan. On physical examination he described limited range of motion of the right shoulder with a positive impingement sign. He requested authorization for formal therapy and a right shoulder subacromial space corticosteroid injection.

On December 13, 2024 OWCP referred appellant, the case record, a statement of accepted facts (SOAF), and a series of questions to Dr. Charles W. Kennedy, Jr., a Board-certified orthopedic surgeon, for a second opinion examination and opinion regarding appellant's ability to return to work, work tolerance limitations, and treatment plan.

Dr. Mantena completed January 24 and February 18, 2025 reports diagnosing cervical sprain, neck strain, cervical radiculopathy, right shoulder sprain, and right shoulder and upper arm strain. He recommended an additional cervical epidural steroid injection.

In a February 3, 2025 report, Dr. Kennedy reviewed the SOAF and medical history and related that his physical examination revealed decreased sensation in the right hand, and loss of range of motion of the cervical spine and right shoulder. He determined that appellant's right⁴ shoulder and cervical spine conditions were causally related to the accepted employment injury. Dr. Kennedy opined that she was not a candidate for surgery but recommended a right shoulder cortisone injection.

On February 4, 2025 Dr. Rubin S. Bashir, a physician specializing in pain management, examined appellant due to significant neck pain and right upper extremity paresthesias which began following her accepted February 17, 2024 employment injury. He diagnosed cervicalgia, cervical radiculopathy, and prolapsed cervical disc based on the March 8, 2024 MRI scan.

In a development letter dated February 19, 2025, OWCP informed appellant of the deficiencies of her request for authorization of right shoulder corticosteroid injection as the authorization was not related to the accepted conditions. It advised her of the type of medical evidence necessary and afforded her 30 days to submit the necessary evidence.

On February 27, 2025 appellant underwent an additional cervical MRI scan which demonstrated multilevel cervical spondylotic changes including spinal stenosis and disc protrusions at C4-5, C5-6, and C6-7.

On March 12 and April 9, 2025 Dr. Mantena related appellant's complaints of right shoulder pain with significant loss of range of motion, and cervical pain with paresthesias into the right arm. He repeated his prior diagnoses and requested that the acceptance of appellant's claim be expanded to include the additional diagnoses of right shoulder glenohumeral joint effusion and cervical radiculopathy.

In an April 14, 2025 letter, the office of Dr. Mantena requested that the acceptance of appellant's claim be expanded to include, right shoulder glenohumeral joint effusion and cervical radiculopathy.

On April 15, 2025 OWCP requested a supplemental report from Dr. Kennedy addressing the additional diagnosed conditions of right shoulder glenohumeral joint effusion, and cervical radiculopathy. In an April 23, 2025 report, Dr. Kennedy opined that right shoulder glenohumeral joint effusion should be accepted as part of the compensable injury based on the history of injury and his physical examination, but determined that cervical radiculopathy was not present as appellant had a normal neurological cervical spine examination. He again recommended a right shoulder cortisone injection.

On May 5, 2025 OWCP expanded acceptance of the claim to include recurrent dislocation of the right shoulder.

⁴ The Board notes that although Dr. Kennedy referenced the left side, the restrictions are for the right upper extremity. As such, this appears to be a typographical error.

In a May 7, 2025 report, Dr. Mantena related that appellant was to undergo an anterior cervical discectomy and fusion for cervical radiculopathy. On May 12, 2025 he provided OWCP with two letters of even date, noting the correct diagnosis code for right shoulder glenohumeral joint effusion.

On May 13, 2025 OWCP requested a supplemental report from Dr. Kennedy addressing whether the additional condition of right shoulder glenohumeral joint effusion was causally related to the February 17, 2024 employment injury.

Dr. Kennedy completed a May 19, 2025 report opining that appellant sustained a right shoulder strain with mild joint effusion of the glenohumeral joint and no rotator cuff or labral tear.

In a May 28, 2025 letter, OWCP related that it had received a request for authorization for spine surgery. It denied authorization as the requested surgery was not related to appellant's accepted employment conditions.

By decision dated June 2, 2025, OWCP denied expansion of the acceptance of the claim to include right shoulder glenohumeral joint effusion as causally related to the accepted February 17, 2024 employment injury. OWCP further denied authorization for medical treatment, pursuant to 5 U.S.C. § 8103.

LEGAL PRECEDENT -- ISSUE 1

When 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.⁵

To establish causal relationship between the condition, as well as any attendant disability claimed and the accepted employment injury, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁶ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the accepted employment injury.⁷ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁸

Section 8123(a) of FECA provides that, if there is disagreement between an OWCP-designated physician and the employee's physician, OWCP shall appoint a third physician who shall make an examination.⁹ When there exist opposing medical reports of virtually equal weight

⁵ See *A.M.*, Docket No. 22-0707 (issued October 16, 2023); *V.P.*, Docket No. 21-1111 (issued May 23, 2022); *S.B.*, Docket No. 19-0634 (issued September 19, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

⁶ *K.B.*, Docket No. 22-0842 (issued April 25, 2023); *T.K.*, Docket No. 18-1239 (issued May 29, 2019).

⁷ *D.C.*, Docket No. 25-0621 (issued July 15, 2025); *R.P.*, Docket No. 18-1591 (issued May 8, 2019).

⁸ *Id.*

⁹ 5 U.S.C. § 8123(a); see also 20 C.F.R. § 10.321.

and rationale and the case is referred to an impartial medical examiner 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.¹⁰

ANALYSIS -- ISSUE 1

The Board finds that appellant has met her burden of proof to establish right glenohumeral joint effusion as causally related to the accepted February 17, 2024 employment injury.

In his reports dated April 23 and May 19, 2025, Dr. Kennedy, OWCP's second opinion physician, opined that right shoulder glenohumeral joint effusion should be accepted as part of the compensable injury based on the history of injury, his physical examination, and diagnostic studies. The Board finds that this report represents the weight of the medical evidence as it is based on a proper factual and medical history, and contains a detailed explanation that the right shoulder glenohumeral joint effusion was caused by the accepted February 17, 2024 employment injury.¹¹ As the medical evidence of record is sufficient to expand the acceptance of the claim to include right shoulder glenohumeral joint effusion, the Board finds that appellant has met her burden of proof in this regard.

The Board further finds that the case is not in posture for a decision with regard to whether appellant's diagnosed cervical radiculopathy was causally related to the February 17, 2024 employment injury.

Commencing on February 27, 2024, Dr. Mantena, appellant's treating physician, diagnosed cervical radiculopathy, based on his physical examination and a cervical spine MRI which demonstrated disc herniations at C3-4, C4-5, and C6-7. He opined that cervical radiculopathy was caused by appellant's accepted employment injury. Dr. Kennedy, conversely, indicated that his examination did not identify cervical radiculopathy as appellant had a normal neurological cervical spine examination. The Board therefore finds that a conflict exists in the medical evidence as to whether appellant's cervical radiculopathy condition should be accepted between appellant's treating physician, Dr. Mantena, and Dr. Kennedy.

The Board finds that the case must be remanded because there exists an unresolved conflict in medical opinion evidence regarding whether appellant's cervical radiculopathy condition should be accepted pursuant to 5 U.S.C. § 8123(a). OWCP shall refer appellant, together with the case record and an updated SOAF, to a specialist in the appropriate field of medicine for an impartial medical examination to resolve the conflict. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

¹⁰ See *D.M.*, Docket No. 22-1139 (issued January 19, 2023); *K.D.*, Docket No. 19-0281 (issued June 30, 2020); *Y.A.*, 59 ECAB 701 (2008); *James P. Roberts*, 31 ECAB 1010 (1980).

¹¹ See *S.L.*, Docket No. 24-0312 (issued May 14, 2024); *M.B.*, Docket No. 21-0555 (issued March 4, 2022); *F.A.*, Docket No. 20-1652 (issued May 21, 2021); *K.V.*, Docket No. 18-0947 (issued March 4, 2019); *Michael S. Mina*, 57 ECAB 379 (2006); *Kathryn Haggerty*, 45 ECAB 383 (1994) (the opportunity for and thoroughness of examination, the accuracy and 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 are facts, which determine the weight to be given to each individual report).

CONCLUSION

The Board finds that appellant has met her burden of proof to establish right glenohumeral joint effusion as causally related to the accepted February 17, 2024 employment injury.¹² The Board also finds, however, that the case is not in posture for a decision regarding whether the acceptance of appellant's claim should be expanded to include the additional condition of cervical radiculopathy.¹³

ORDER

IT IS HEREBY ORDERED THAT the June 2, 2025 decision of the Office of Workers' Compensation Programs is reversed in part and remanded in part.

Issued: September 10, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

¹² The Board notes that the employing establishment provided a February 20, 2024 Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

¹³ In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.