United States Department of Labor
Employees' Compensation Appeals Board

C.B., Appellant	)	
and	)	**Docket No. 26-0082**
	)	**Issued: August 21, 2026**
DEPARTMENT OF VETERANS AFFAIRS, BILOXI VA MEDICAL CENTER, Biloxi, MS, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
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 November 12, 2025 appellant, through counsel, filed a timely appeal from an October 24, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (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 October 24, 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 appellant has met her burden of proof to expand the acceptance of her claim to include an additional condition as causally related to, or consequential to, the accepted September 20, 2023 employment injury.

FACTUAL HISTORY

On September 25, 2023 appellant, then a 53-year-old diagnostic radiology/magnetic resonance imaging (MRI) technician, filed a traumatic injury claim (Form CA-1) alleging that on September 20, 2023 she injured her right shoulder when she reached above her head to gather supplies while in the performance of duty.[4] She stopped work on the date of injury and returned to full-time modified-duty work as an imaging department front desk receptionist on December 5, 2023. OWCP accepted the claim for right shoulder strain and right rotator cuff sprain and tear. It paid appellant wage-loss compensation on the supplemental rolls from November 15 through December 4, 2023.

In a May 16, 2024 narrative report, Dr. Gerard E. Boutin, a psychologist, noted that appellant related complaints of severe emotional distress, panic attacks, and profuse sweating, which she attributed to physical pain, being ostracized and confined in a small workspace measuring four by six feet in the front reception area, retaliation for pursuing a FECA claim, being held to a double standard, and miscoding her leave as absent without leave (AWOL). He diagnosed chronic pain due to trauma; major depressive disorder, recurrent severe without psychotic features; diffuse traumatic brain injury (TBI) with loss of consciousness of 30 minutes or less; attention deficit hyperactivity disorder (ADHD) predominantly inattentive type; and sleep apnea. Dr. Boutin opined that appellant was suffering significant depression and anxiety due to her accepted shoulder injuries and that her emotional condition had been exacerbated by a hostile work environment.

On July 9, 2024 appellant, through counsel, requested expansion of the acceptance of her claim to include chronic pain due to trauma, recurrent severe major depressive disorder, diffuse TBI, ADHD and sleep apnea.

OWCP subsequently received additional evidence, including medical reports dated April 12 through August 15, 2024, wherein Dr. Terry B. Clay, a Board-certified orthopedic surgeon, noted that appellant related shoulder pain with any overhead activities, limited function due to shoulder pain, inability to participate in activities she previously enjoyed, significant difficulties with small tasks around her home, and that she changed jobs due to her physical limitations from the September 20, 2023 employment injury.

In an August 8, 2024 narrative report, Dr. Boutin noted that he had treated appellant for a TBI since 2019 and clarified that the diagnoses of diffuse TBI, ADHD, and sleep apnea were

[4] OWCP assigned the present claim OWCP File No. xxxxxx405. Appellant also filed a Form CA-1 alleging a separate injury to her left shoulder on September 20, 2023, which OWCP accepted for left shoulder rotator cuff strain and sprain, glenoid labrum tear, and impingement syndrome under OWCP File No. xxxxxx321. OWCP has administratively combined OWCP File Nos. xxxxxx321 and xxxxxx405, with the latter serving as the master file. Appellant also previously filed a Form CA-1 for a July 1, 2016 assault, which OWCP accepted for acute stress reaction under OWCP File No. xxxxxx396. OWCP has not administratively combined OWCP File No. xxxxxx396 with OWCP File Nos. xxxxxx405 and xxxxxx321.

unrelated to the September 20, 2023 employment injury. He opined that the September 20, 2023 employment injury was the predominant cause of her chronic pain and major depression. Dr. Boutin explained that pain and depression cause a vicious cycle where the pain worsens the symptoms of depression and then the resulting depression worsens feelings of pain. He indicated that appellant's chronic pain led to her isolating herself and prevented her from engaging in activities she previously enjoyed, which caused a downward spiral of low self-esteem and increased depression and anxiety. Dr. Boutin opined that her depression and chronic pain were directly related to her medical injury which was exacerbated by the treatment she received in the workplace.

OWCP subsequently referred appellant, together with a statement of accepted facts (SOAF), the medical record, and a series of questions to Dr. Robert Scott Benson, a Board-certified psychiatrist, for a second opinion evaluation regarding whether appellant's accepted employment injury caused or contributed to her psychiatric conditions.[5]

In a January 9, 2025 report, Dr. Benson related appellant's history of injury and medical treatment, provided examination findings, and diagnosed adjustment disorder with anxiety and depressed mood. He opined that there was no evidence that the accepted employment event caused or contributed to her previously diagnosed major depressive disorder or diffuse TBI with loss of consciousness. Dr. Benson noted that appellant's report of depression was unreliable and that there was no evidence of residuals of her TBI. He further noted that "[a]ny decision regarding chronic pain, due to trauma is deferred to Orthopedic treating doctors who have evaluated and treated the reported injuries to her shoulders." Dr. Benson also found that there was "no report of symptoms in this evaluation that would support a diagnosis of [ADHD], predominately inattentive type," and, while she has problems with sleep, she did not report any previous diagnoses of sleep apnea or related treatment. He therefore concluded that appellant did not have a psychiatric condition causally related to her accepted employment injury. Rather, her adjustment disorder with mixed anxiety and depressed mood was due to current conflict with her coworkers and supervisors. Dr. Benson indicated that appellant could return to her date-of-injury position from a psychiatric perspective.

On February 28, 2025 OWCP requested that Dr. Benson clarify his opinion.

In a supplemental report dated March 12, 2025, Dr. Benson reiterated that appellant's symptoms met the criteria for a diagnosis of adjustment disorder, but "there is not adequate information provided to me to establish her claim that employment issues are the cause."

[5] OWCP also referred appellant, along with a SOAF and a series of questions to Dr. Stephen Enguidanos, a Board-certified orthopedic surgeon, for a second opinion with regard to the nature and extent of appellant's employment-related conditions and related disability. In a December 23, 2024 report, Dr. Enguidanos noted that appellant's left shoulder was doing well but her right shoulder continued to be "very symptomatic and painful," which limited her activities especially overhead. On examination of the right shoulder, Dr. Enguidanos observed pain with impingement test, limited range of motion with forward flexion and abduction, and that appellant was "very symptomatic" with external rotation of the right shoulder. He noted that appellant's subjective complaints correlated with objective findings. In a work capacity evaluation (Form OWCP-5c) of even date, Dr. Enguidanos released appellant to return to work with restrictions.

By decision dated March 19, 2025, OWCP denied expansion of the acceptance of the claim to include additional diagnoses as causally related to, or consequential to, the accepted September 20, 2023 employment injury, based on the reports of Dr. Benson.

On March 25, 2025 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on August 13, 2025.

OWCP continued to receive evidence, including reports wherein Dr. Bishop Lanier Carmichael, Board-certified in family medicine, noted that he administered injections to appellant's right shoulder, and follow-up reports by Drs. Clay and Boutin reiterating their findings and diagnoses.

By decision dated October 24, 2025, OWCP's hearing representative affirmed the March 19, 2025 decision.

LEGAL PRECEDENT

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.[6] When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the claimant's own intentional misconduct.[7] Thus, a subsequent injury, be it an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.[8]

The claimant bears the burden of proof to establish a claim for a consequential injury.[9] As part of this burden, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, establishing causal relationship.[10] 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 appellant's employment injury.[11]

To establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, an employee must submit rationalized medical

[6] *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

[7] *See J.M.*, Docket No. 19-1926 (issued March 19, 2021); *I.S.*, Docket No. 19-1461 (issued April 30, 2020); *see also Charles W. Downey*, 54 ECAB 421 (2003).

[8] *J.M.*, *id.*; *Susanne W. Underwood (Randall L. Underwood)*, 53 ECAB 139, 141 n.7 (2001).

[9] *L.C.,* Docket No. 19-1301 (issued January 29, 2020); *J.H., supra* note 8; *James E. Chadden, Sr.,* 40 ECAB 312 (1988).

[10] *F.A.,* Docket No. 20-1652 (issued May 21, 2021); *E.M.,* Docket No. 18-1599 (issued March 7, 2019); *Victor J. Woodhams,* 41 ECAB 345 (1989).

[11] *M.M.,* Docket No. 20-1557 (issued November 3, 2021); *M.V.,* Docket No. 18-0884 (issued December 28, 2018).

evidence.[12] 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.[13]

ANALYSIS

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

OWCP referred appellant, together with a SOAF, the medical record, and a series of questions, to Dr. Benson for a second opinion evaluation regarding the issue of expansion. In his January 9, 2025 report, Dr. Benson noted that "[a]ny decision regarding chronic pain, due to trauma is deferred to Orthopedic treating doctors who have evaluated and treated the reported injuries to her shoulders." In a supplemental report dated March 12, 2025, Dr. Benson reiterated that appellant's symptoms met the criteria for a diagnosis of adjustment disorder, but "there is not adequate information provided to me to establish her claim that employment issues are the cause." OWCP, however, denied expansion of the acceptance of the claim without obtaining an opinion regarding chronic pain resulting from her accepted employment-related shoulder injury.

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence to see that justice is done.[14] Once OWCP undertakes development of the medical evidence, it must resolve the relevant issues in the case.[15]

The case shall therefore be remanded for further development. On remand, OWCP shall refer appellant, along with the case record and an updated SOAF, to second opinion physician Dr. Enguidanos for a supplemental opinion specifically addressing whether appellant experienced chronic pain resulting from her accepted employment-related shoulder injury. It shall then refer the case record to a new second opinion physician in the appropriate field of medicine for an opinion on expansion of the acceptance of the claim to include psychiatric conditions. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

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

[12] *See V.A.*, Docket No. 21-1023 (issued March 6, 2023); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

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

[14] *See M.S.,* Docket No. 23-1125 (issued June 10, 2024); *E.B.,* Docket No. 22-1384 (issued January 24, 2024); *J.R.,* Docket No. 19-1321 (issued February 7, 2020); *S.S.,* Docket No. 18-0397 (issued January 15, 2019).

[15] *See K.A.,* Docket No. 23-0773 (issued November 1, 2024); *S.A.,* Docket No. 18-1024 (issued March 12, 2020); *L.B.,* Docket No. 19-0432 (issued July 23, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

ORDER

IT IS HEREBY ORDERED THAT the October 24, 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: August 21, 2026
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