United States Department of Labor
Employees' Compensation Appeals Board

L.N., Appellant	)	
and	)	**Docket No. 26-0506**
	)	**Issued: August 25, 2026**
U.S. POSTAL SERVICE, NEWBURG POST OFFICE, Newburg, WV, 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:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On May 8, 2026 appellant, through counsel, filed a timely appeal from an April 14, 2026[2] merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the

[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] By decision dated December 23, 2025, OWCP granted appellant a schedule award for 13 percent permanent impairment of the right upper extremity. The award ran for 40.56 weeks for the period October 24, 2025 through August 3, 2026. Counsel did not appeal OWCP's merit decision dated December 23, 2025. Therefore, this decision is not presently before the Board. 20 C.F.R. § 501.3.

Federal Employees' Compensation Act[3] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[4]

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation, effective June 16, 2025, pursuant to 20 C.F.R. § 10.500(a), based on her refusal of an offer of a temporary limited-duty assignment; and (2) whether appellant has met her burden of proof to establish that her refusal of the temporary light-duty assignment was justified.

FACTUAL HISTORY

On July 12, 2023, appellant, then a 39-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that, on July 5, 2023, she sustained injury to her right shoulder and neck when she was loading a heavy package while in the performance of duty. She stopped work on July 5, 2023. OWCP accepted the claim for sprain of the right acromioclavicular ligament, right shoulder bicipital tendinitis, and cervical sprain. It paid appellant wage-loss compensation for disability from work on the supplemental rolls, effective August 20, 2023, and on the periodic rolls effective December 31, 2023.

In a January 2, 2024 report, Dr. Marcus Cervantes, a physician Board-certified in occupational medicine, reviewed a December 6, 2023 right shoulder magnetic resonance imaging (MRI) scan which demonstrated a partial thickness articular surface tear in the supraspinatus and moderate degenerative changes of the acromioclavicular (AC) joint. He diagnosed tear of the supraspinatus tendon, impingement syndrome of the right shoulder, and right biceps tendinitis.

On January 23, 2024 Dr. Cervantes completed a work capacity evaluation (Form OWCP-5c) and provided a 20-pound lifting restriction. He continued to support appellant's partial disability from work and lifting restrictions on February 20, 2024. On March 14, 2024 Dr. Cerventes completed a Form OWCP-5c relating that appellant could work eight hours a day with restrictions. He indicated that she could perform sedentary or light strength level work, that she should not reach or reach above the shoulder, and that she had a 20-pound lifting restriction.

On August 21, 2024 OWCP referred appellant, along with the case record, a statement of accepted facts (SOAF), and a series of questions to Dr. Victoria Langa, a Board-certified orthopedic surgeon, for a second opinion evaluation regarding the nature of her condition, the extent of disability, and appropriate treatment recommendations.

[3] 5 U.S.C. § 8101 *et seq*.

[4] The Board notes that, following the April 14, 2026 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*.

In a September 12, 2024 report, Dr. John Alm, an osteopath and Board-certified physiatrist, opined that appellant could return to work performing sedentary work only with her right upper extremity.

In a September 24, 2024 report, Dr. Langa reviewed the case record and SOAF and noted appellant's complaints of pain in the cervical spine and right shoulder. She performed a physical examination finding loss of internal rotation in the right shoulder and an intermittent internal "click" with some passive motions. Dr. Langa diagnosed cervical sprain/strain resolved, underlying cervical degenerative disc disease with central and right-sided disc protrusion at C6-7, rule-out labral tear, right shoulder, and "status post AC sprain -- essentially resolved." Dr. Langa recommended a magnetic resonance (MR) arthrogram of the right shoulder to rule out an occult labral tear. She opined that appellant required continued work restrictions. Dr. Langa completed a Form OWCP-5c and indicated that appellant could not perform her date-of-injury position. She found that appellant could work eight hours a day and perform sedentary, light, and medium strength level work with restrictions on pushing, pulling, and lifting greater than 50 pounds for more than two to three hours a day.

On November 12, 2024 Dr. Alm diagnosed glenoid labral tear and traumatic incomplete tear of the right rotator cuff.

On February 3, 2025 the employing establishment offered appellant a temporary position as a modified rural carrier associate. The position involved such duties as casing and delivering on an assigned rural route for eight hours day. It further noted that she "will only take parcels weighing less than 50 pounds … to deliver on route." The physical requirements of the position included intermittently standing, twisting, walking, grasping, fine manipulation, and driving for eight hours per day, and intermittently pushing, pulling, and lifting up to 50 pounds for two to three hours per day. The wages of the offered position were $20.38 per hour. Appellant refused the offered position indicating that the physical requirements were not within the restrictions provided by Drs. Langa or Alm.

On March 7, 2025 the employing establishment confirmed that the temporary modified position remained available to appellant.

On March 13, 2025 OWCP issued appellant a notice of proposed termination of her wage-loss compensation in accordance with 20 C.F.R. § 10.500(a), based on her refusal of the February 3, 2025 temporary limited-duty assignment. It informed her that she had been provided with a temporary limited-duty assignment as a modified rural carrier associate and that the employing establishment advised that she had failed to accept the assignment or report to duty as instructed. OWCP indicated that it had reviewed the temporary limited-duty assignment and determined that it complied with the work restrictions provided by Dr. Langa in her September 24, 2024 report and Form OWCP-5c. It also informed appellant of the provisions of 20 C.F.R. § 10.500(a) and further advised her that her entitlement to wage-loss compensation would be terminated under this provision if she did not accept the offered temporary assignment or provide a written explanation with justification for her refusal within 30 days.

OWCP subsequently received March 11, 2025 notes from Dr. Alm diagnosing traumatic incomplete tear of the right rotator cuff and third trimester pregnancy. Dr. Alm related that

appellant was currently unable to undergo an MRI scan with contrast due to her pregnancy. He noted that appellant's position required lifting up to 50 pounds and opined that she was currently unable to perform this activity. Dr. Alm found that she could not use her right arm and could lift up to 20 pounds with her left arm. In a separate note of even date, he reiterated that appellant could return to work following maternity leave with no activity or lifting with the right upper extremity and left arm lifting of no more than 20 pounds.

In a letter dated April 15, 2025, counsel informed OWCP that appellant gave birth on March 25, 2025.

By decision dated June 16, 2025, OWCP terminated appellant's wage-loss compensation, effective that date, pursuant to 20 C.F.R. § 10.500(a). It explained that the termination was due to her failure to accept the February 3, 2025 temporary limited-duty job offer.

On June 26, 2025, appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a July 1, 2025 report, Dr. Alm reviewed a June 16, 2025 right shoulder MRI scan with contrast and diagnosed traumatic incomplete tear of right rotator cuff, and superior glenoid labrum lesion of the right shoulder. He opined that the injury that occurred on July 5, 2023 was the sole prevailing factor of her presenting symptoms and that her thoracic pain along the lower trapezius and rhomboid muscles are secondary to scapular dyskinesia "from her ongoing issues with a right rotator cuff tear. Dr. Alm related that he disagreed with Dr. Langa and opined that appellant had a clear continued injury requiring surgical intervention.

On August 21, 2025 OWCP referred appellant, a SOAF, and the medical record for an additional second opinion evaluation by Dr. Langa.

In a September 23, 2025 report, Dr. Langa reviewed the SOAF, the medical record, and performed a physical examination. She diagnosed cervical sprain/strain resolved, right shoulder labral tear, superior labrum anterior to superior (SLAP) tear, and probably cubital tunnel syndrome right elbow. Dr. Langa reviewed the right shoulder MRI scan with contrast and opined that the labral and SLAP tears were related to the July 5, 2023 employment injury. She recommended right shoulder surgery. Dr. Langa resubmitted the September 24, 2024 Form OWCP-5c.

On December 4, 2025 OWCP expanded the accepted conditions to include superior glenoid labrum lesion of the right shoulder.

A hearing was held on January 28, 2026.

By decision dated April 14, 2026, OWCP's hearing representative affirmed the June 16, 2025 termination decision.

LEGAL PRECEDENT -- ISSUE 1

Under FECA, once OWCP has accepted a claim it has the burden of justifying termination or modification of compensation benefits.[5] OWCP may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.[6]

Section 10.500(a) of OWCP's regulations provides that benefits are available only while the effects of a work-related condition continue. Compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury. For example, an employee is not entitled to compensation for any wage loss claimed on a Form CA-7 to the extent that evidence contemporaneous with the period claimed on a Form CA-7 establishes that an employee had medical work restrictions in place; that light duty within those work restrictions was available; and that the employee was previously notified in writing that such duty was available.[7]

When a claimant is on the periodic rolls, OWCP's procedures similarly provide that, if the evidence establishes that injury-related residuals continue and result in work restrictions; light duty within those work restrictions is available; that the employee was notified in writing that such light duty was available, then wage-loss benefits are not payable for the duration of light duty availability.[8] OWCP's procedures explain that this is because such benefits are payable only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.[9] When a claimant is on the periodic rolls, a pretermination notice must be issued if the claims examiner is removing the claimant from the periodic rolls and ceasing his/her wage-loss compensation payments.[10]

ANALYSIS -- ISSUE 1

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation, effective June 16, 2025, pursuant to 20 C.F.R. § 10.500(a), based on her refusal of an offer of a temporary limited-duty assignment.

OWCP referred appellant to Dr. Langa for a second opinion examination. In her September 24, 2024 report, she listed findings on physical examination including loss of internal

[5] *D.W.,* Docket No. 25-0328 (issued May 7, 2025); *L.L.*, Docket No. 18-1426 (issued April 5, 2019); *C.C.*, Docket No. 17-1158 (issued November 20, 2018); *I.J.*, 59 ECAB 408 (2008); *Vivien L. Minor*, 37 ECAB 541 (1986).

[6] *A.D.,* Docket No. 18-0497 (issued July 25, 2018). In general, the term disability under FECA means incapacity because of injury in employment to earn the wages which the employee was receiving at the time of such injury. *See* 20 C.F.R. § 10.5(f).

[7] 20 C.F.R. § 10.500 (a).

[8] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Job Offers and Return to Work*, Chapter 2.814.9c(1)(a) (March 2026).

[9] *Id.*

[10] *Id*. at Chapter 2.814.9c(1)(b).

rotation in the right shoulder and an intermittent internal "click" with some passive motions. Dr. Langa diagnosed cervical sprain/strain resolved, underlying cervical degenerative disc disease with central and right-sided disc protrusion at C6-7, rule-out labral tear, right shoulder, and "status post AC sprain -- essentially resolved." Dr. Langa recommended an MR arthrogram of the right shoulder to rule out an occult labral tear. She opined that appellant required continued work restrictions. Dr. Langa completed a Form OWCP-5c and indicated that appellant could not perform her date-of-injury position but could work in a modified position with restrictions. Instead of conducting additional development on whether the acceptance of appellant's claim should be expanded to include a right shoulder labral tear, OWCP terminated her wage-loss compensation based on Dr. Langa's opinion.

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.[11] The Board has found that, once OWCP undertakes development of development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.[12]

Consequently, the Board finds that OWCP failed to adequately develop the medical evidence prior to terminating appellant's wage-loss compensation under 20 C.F.R. § 10.500(a). OWCP should have obtained a supplemental report from Dr. Langa clarifying her opinion as to whether the acceptance of appellant's claim should be expanded prior to determining her work restrictions.[13] As OWCP failed to resolve the issue of claim expansion prior to its decision terminating appellant's wage-loss compensation under section 10.500(a), it improperly terminated appellant's wage-loss compensation effective June 16, 2025.[14]

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof terminate appellant's wage-loss compensation, effective June 16, 2025, pursuant to 20 C.F.R. § 10.500(a), based on her refusal of an offer of a temporary limited-duty assignment.

[11] *See G.S.,* Docket No. 22-1167 (issued May 5, 2023); *L.T.,* Docket No. 22-0963 (issued November 14, 2022). *See also 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).

[12] *Id.*; *see also D.K.,* Docket No. 26-0375 (issued July 16, 2026); *R.M.*, Docket No. 16-0147 (issued June 17, 2016).

[13] *Supra* note 11.

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

ORDER

IT IS HEREBY ORDERED THAT the April 14, 2026 decision of the Office of Workers' Compensation Programs is reversed.

Issued: August 25, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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