

<sup>3</sup> The Board notes that following the February 10, 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.*

## **ISSUES**

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$97,495.72 for the period December 10, 2018 through June 27, 2021, because she continued to receive wage-loss compensation for total disability after she returned to full-time work; (2) whether OWCP properly found that appellant was at fault in the creation of the overpayment, thereby precluding waiver of recovery of the overpayment; and (3) whether OWCP has met its burden of proof to terminate appellant's entitlement to wage-loss compensation benefits, effective February 10, 2025, as she no longer had disability causally related to her accepted March 6, 2001 employment injury.

## **FACTUAL HISTORY**

On June 29, 2001 appellant, then a 23-year-old mail processing flat sorter, filed an occupational disease claim (Form CA-2) alleging that she injured her neck and left upper extremity due to factors of her federal employment, including repairing damaged mail for extended periods of time while in an awkward position.<sup>4</sup> OWCP accepted the claim for cervical strain/sprain and tendinitis of the left wrist and arm and thereafter expanded its acceptance of the claim to include permanent aggravations of cervical, thoracic, and lumbar disc displacements, left shoulder impingement syndrome, calcific tendinitis of the right hand, sprain of left shoulder and upper arm, and specific bursitides often of occupational origin, left. Appellant's work hours were reduced to two hours per day on June 20, 2010, and she stopped work effective June 30, 2012. OWCP paid her wage-loss compensation on the supplemental rolls effective July 3, 2010, and on the periodic rolls effective October 19, 2014.

In a letter dated March 11, 2019, OWCP informed appellant that federal regulations required her to report any improvement in her medical condition, any employment, any change in the status of claimed dependents, any third-party settlement, and any income or change in income from federally assisted disability or benefit programs. It notified her that she was required to completely answer all questions on the enclosed financial reporting form (Form EN-1032) and return it within 30 days or her benefits would be suspended.

Appellant submitted a completed EN-1032 dated April 12, 2019, which indicated that she returned to work in the private sector effective December 10, 2018, earning \$28.25 per hour.

OWCP thereafter requested that appellant complete additional EN-1032 forms on an annual basis in 2020, 2021, and 2022.

On April 29, 2020 appellant submitted a completed EN-1032, which indicated that she had continued to work in the private sector from April 13, 2019 through March 15, 2020, earning \$30.60 per hour. She also submitted a completed EN-1032 dated May 11, 2021, which indicated that she worked part time in the private sector from June 1, 2020 through May 6, 2021, earning \$990.00 every two weeks, and that as of January 12, 2021 she worked part time in the private sector earning \$1,200.00 per week, which she anticipated would continue until June 23, 2021. In

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<sup>4</sup> OWCP assigned the present claim OWCP File No. xxxxxx123. Appellant previously filed a Form CA-2 for a July 19, 1999 repetitive injury which OWCP accepted for lumbar and thoracic strains under OWCP File No. xxxxxx270. OWCP administratively combined OWCP File Nos. xxxxxx270 and xxxxxx123, with the latter serving as the master file.

a completed EN-1032 dated April 24, 2022, appellant indicated that from June 1, 2020 through April 19, 2022 she worked in the private sector, earning \$1,200.00 every two weeks.

In an April 22, 2022 investigative report, J.L., an agent for the employing establishment's Office of Inspector General (OIG), indicated that appellant had secured employment in the private sector. An attached letter dated January 8, 2021 from her employer indicated that appellant was offered a position as a nurse with a start date of January 11, 2021. Wage records from her previous private employer documented earnings of \$32,620.00 for the period January 11 through June 27, 2021.

On August 31, 2022 OWCP requested that appellant provide her federal wage and tax statements (Internal Revenue Service Form W-2) and tax returns for the years 2017, 2018, 2019, 2020, and 2021.

On September 30, 2022 appellant submitted W-2 forms dated 2018 through 2020 and W-2 forms dated 2020 and 2021. She also provided her tax returns for each of these years of employment.

In a medical report dated March 16, 2023, Dr. Samuel J. Chmell, a Board-certified orthopedic surgeon, noted that appellant related complaints of low back pain radiating down her left leg with numbness and tingling in her left foot, which she attributed to the March 6, 2021 employment injury. He performed a physical examination and observed left-sided cervical, thoracic, and lumbosacral muscle spasm and tenderness with reduced range of motion (ROM) and lordosis, positive straight leg raising on the left, diminished strength and sensation at the left ankle and foot, and positive facet loading and Spurling's tests on the left. Dr. Chmell diagnosed cervical disc herniation, left shoulder impingement syndrome, left wrist tendinitis/bursitis, thoracic derangement, and lumbar derangement.

In April 14 and May 26, 2023 narratives, Dr. Chmell indicated that appellant was receiving ongoing treatment for the accepted March 6, 2001 employment injury, including prescription medication and intermittent courses of physical therapy. He noted examination findings of diminished motion and strength in the left shoulder, neck, and back. Dr. Chmell opined that appellant was not able to perform the duties of her preinjury position as a mail processing clerk, and that she had permanent restrictions of sedentary-duty work with minimal, non-repetitive usage of her upper extremities.

By letter dated September 12, 2023, OWCP advised appellant that it had terminated her periodic compensation payments effective April 13, 2023 based upon her return to private sector work.

On December 12, 2023 OWCP prepared a statement of accepted facts (SOAF) which listed the accepted conditions as "calcific tendinitis, right hand; impingement syndrome of left shoulder; other cervical disc displacement, unspecified cervical region; other intervertebral disc displacement, lumbar region; other intervertebral disc displacement, thoracic region; specific bursitides often of occupational origin, left; sprain of neck; sprain of shoulder and upper arm, other specified sites, left."

In a medical report dated March 8, 2024, Dr. Chmell noted examination findings of muscle spasm, tenderness, and reduced motion in the spine and left shoulder, positive Spurling's and straight leg tests bilaterally, and diminished strength and sensation in the hands. He diagnosed

cervical disc herniation, left shoulder impingement syndrome, left wrist tendinitis/bursitis, thoracic derangement, and lumbar derangement.

On March 21, 2024 OWCP referred appellant, together with the December 12, 2023 SOAF, the medical record, and a series of questions, to Dr. Steven Milos, a Board-certified orthopedic surgeon, for a second opinion examination to determine whether appellant continued to suffer from residuals or disability due to her accepted March 6, 2001 employment injury.

On April 18, 2024 OWCP received an updated OIG investigative report. Attached to the report were W-2 forms for 2018, 2019, and 2020, which noted total earnings of \$2,088.82, \$62,065.26, and \$20,154.43, respectively. Also attached were paystubs, which indicated that appellant worked for the periods December 11 through 22, 2018; February 24 through December 24, 2019; and March 1 through June 6, 2020.

Dr. Milos, in a May 10, 2024 report, reviewed appellant's history of injury and medical records. He performed a physical examination of the neck and upper extremities and observed tenderness in the cervical, thoracic, and lumbar spine, full ROM and strength in the shoulders, negative shoulder impingement signs, negative Spurling's and Lhermitte's signs, full ROM of the elbows and hands, full strength in the upper extremities, and intact sensation. Dr. Milos indicated that his examination of the lower extremities was unremarkable. He diagnosed cervicgia, thoracic spine pain, chronic low back pain, right hand tendinitis, and left shoulder impingement and strain and indicated that "there are no additional diagnoses to add to this." Dr. Milos opined that appellant's right-hand tendinitis and left shoulder impingement and strain had resolved. He indicated that her neck and back pain were still active as demonstrated by her physical examination findings of pain and stiffness. Dr. Milos opined that appellant could perform her preinjury position as a mail processing clerk with no restrictions.

On June 6, 2024 OWCP issued a notice proposing to terminate appellant's wage-loss compensation benefits as she no longer had disability causally related to her accepted March 6, 2001 employment injury based on Dr. Milos' report. It afforded her 30 days to respond.

In a June 2, 2024 statement, appellant disagreed that her disability had ceased. She related that she could not perform her preinjury duties of repeated keying, bending, overhead lifting, and carrying tubs of periodicals, newspapers, oversized envelopes, and magazines.

In a July 1, 2024 medical report and narrative letter, Dr. Chmell indicated that appellant had continued pain and stiffness in her left shoulder and spine, a positive Spurling's test on the left, and positive straight leg tests raise bilaterally. He opined that she could not return to her preinjury position as a mail processing clerk.

In a July 12, 2024 narrative letter, Dr. Chmell reviewed the April 19, 2024 report of Dr. Milos and disagreed that appellant could perform her preinjury position.

On August 19, 2024 OWCP declared a conflict in the medical evidence between Dr. Chmell, appellant's attending physician, and Dr. Milos, OWCP's second opinion physician, regarding whether appellant could perform her date-of-injury position as a mail processing clerk and whether her right hand and left shoulder conditions had resolved.

On September 5, 2024 the employing establishment provided part-time flexible basic hourly payrate information, which indicated rates for appellant's step (E) and grade (5) of \$24.71

per hour effective September 1, 2018; \$25.03 per hour effective March 2, 2019; and \$26.05 per hour effective November 21, 2020. It also provided payrate information for full-time regular employees which noted a general increase of 1.3 percent effective November 24, 2018; a \$624.00 cost-of-living adjustment (COLA) effective August 31, 2019; a general increase of 1.1 percent effective November 23, 2019; and a \$166.00 COLA effective February 29, 2020.

On September 13, 2024 OWCP prepared three *Shadrick* memoranda, in which it applied the formula set forth in *Albert C. Shadrick*<sup>5</sup> to find that appellant was entitled to \$1,185.64 in compensation benefits for the period December 10 through 31, 2018 and that appellant had no loss of wage-earning capacity (LWEC) for the periods January 1, 2019 through June 6, 2020 or January 11 through June 27, 2021.

In a preliminary overpayment determination dated September 13, 2024, OWCP notified appellant that she had received an overpayment of compensation in the amount \$97,495.72 for the period December 10, 2018 through June 27, 2021 because she had returned to private sector employment but continued to receive wage-loss compensation for total disability. It found that the 2018 W-2 form established earnings of \$2,088.82 “from December 10 through December 31, 2018” resulting in an “average actual weekly wage of \$664.63”; the W-2 forms for 2019 and 2020 established “wages in the amount of \$62,065.23 (2019) and \$20,154.43 (2020) from January 1, 2019 to June 6, 2020” resulting in an “average actual weekly wage of \$1,100.45”; and that pay stubs established wages of \$32,620.00 for the period January 11 through June 27, 2021 resulting in an “average actual weekly wage of \$1,359.17.” OWCP utilized the basic hourly rates provided by the employing establishment in effect as of September 1, 2018 to determine the current pay rate for the grade/step when injured for the periods December 10 through 31, 2018 and January 1, 2019 through June 6, 2020 and the basic hourly rate in effect as of November 1, 2020 to determine the current pay rate for the period January 11 through June 27, 2021. It indicated that it applied the *Shadrick*<sup>6</sup> formula and determined that appellant had received overpayments of compensation in the amount of \$1,778.86 for the period December 10 through 31, 2018; \$71,909.11 for the period January 1, 2019 through June 6, 2020; and \$23,807.75 for the period January 11 through June 27, 2011, for a total overpayment of \$97,495.72. OWCP also made a preliminary finding that she was at fault in the creation of the overpayment because she had accepted payments that she knew or reasonably should have known to be incorrect. It requested that appellant complete an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20) and submit supporting financial documentation including copies of income tax returns, bank account statements, bills, canceled checks, pay slips, and any other records that support income and expenses. Additionally, OWCP advised her that, within 30 days of the date of the letter, she could request a final decision based on the written evidence or a precoupment hearing.

In an overpayment action request form dated October 12, 2024, appellant requested a decision based on the written evidence on the issues of fault and possible waiver, indicating that she disagreed that the overpayment occurred. She also indicated that she disagreed that the

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<sup>5</sup> 5 ECAB 376 (1953); codified at 20 C.F.R. § 10.403(c)-(e).

<sup>6</sup> *Id.*

overpayment occurred; she disagreed with the amount of the overpayment; and she requested waiver as she believed that the overpayment occurred through no fault of her own.<sup>7</sup>

By decision dated October 29, 2024, OWCP finalized the preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$97,495.72 for the period December 10, 2018 through June 27, 2021 because she continued to receive wage-loss compensation for total disability following her return to private-sector work. It determined that she was at fault in the creation of the overpayment as she accepted compensation payments, which she knew or should have known were incorrect. OWCP required recovery of the overpayment in full within 30 days.

On November 20, 2024 OWCP referred appellant to Dr. Donald Kucharzyk, an osteopathic orthopedic surgeon, for an impartial medical examination.

In a report dated December 14, 2024, Dr. Kucharzyk, serving as the impartial medical examiner (IME), reviewed the December 12, 2023 SOAF and appellant's history regarding the March 6, 2001 employment injury and subsequent treatment. He performed a physical examination and observed diffuse tenderness over the cervical, thoracic, and lower lumbar paraspinal musculature; full ROM of the cervical and thoracic spine; reduced ROM of the lumbar spine; negative Spurling's and Lhermitte's tests; normal strength and sensation throughout the upper and lower extremities' full ROM of the shoulders and wrists; and negative shoulder impingement signs. Dr. Kucharzyk opined that the March 6, 2001 employment injury had resolved. He also indicated that appellant had reached maximum medical improvement as of December 14, 2024 and could return to her preinjury position as a mail processing clerk without restrictions.

By decision dated February 10, 2025, OWCP finalized the termination of appellant's entitlement to wage-loss compensation benefits effective that same day. It accorded the special weight of the medical evidence to the opinion of Dr. Kucharzyk, the IME, that appellant no longer had disability causally related to the accepted March 6, 2001 employment injury.

### **LEGAL PRECEDENT – ISSUE 1**

Section 8102(a) of FECA<sup>8</sup> provides that the United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of his or her duty.<sup>9</sup> Section 8116(a) of FECA provides that, while an employee is receiving compensation or if he or she has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, the employee may not receive salary, pay, or remuneration of any type from the United States, except in limited specified instances.<sup>10</sup> OWCP's procedures provide that an overpayment of

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<sup>7</sup> Appellant attached a completed Form OWCP-20, wherein she listed no monthly income, expenses totaling \$6,313.00, and assets totaling \$154.30. She submitted supporting financial documentation, including medical bills and credit card and bank statements.

<sup>8</sup> 5 U.S.C. § 8102(a).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at § 8116(a).

compensation is created when a claimant returns to work, but continues to receive wage-loss compensation for total disability.<sup>11</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation because she continued to receive wage-loss compensation for total disability after she returned to private sector work.

The record establishes that appellant returned to private sector work on December 10, 2018. OWCP, however, continued to pay her wage-loss compensation for total disability. As noted above, OWCP's procedures provide that an overpayment of compensation is created when a claimant returns to work but continues to receive wage-loss compensation for total disability. Once appellant returned to work, she was not entitled to receive total disability benefits and actual earnings for that same period.<sup>12</sup> Thus, an overpayment of compensation was created in this case.<sup>13</sup>

However, the Board further finds that the period and amount of the overpayment are not in posture for decision.

OWCP found that a total overpayment of \$97,495.72 had occurred during the period December 10, 2018 through June 27, 2021. It determined current pay rates for appellant's job and step when injured, calculated actual average weekly wages for her private sector employment, and applied the *Shadrick* formula. OWCP determined that she had received overpayments of compensation in the amount of \$1,778.86 for the period December 10 through 31, 2018; \$71,909.11 for the period January 1, 2019 through June 6, 2020; and \$23,807.75 for the period January 11 through June 27, 2021. The Board notes, however, that the evidence of record does not contain payment records to establish that appellant had earnings for the periods December 22 through 31, 2018 or January 1 through February 23, 2019. In addition, for the period January 1, 2019 through June 6, 2020, OWCP relied upon the basic rates in effect as of September 1, 2018 but did not address whether or how it considered the general increase of 1.3 percent effective November 24, 2018; the \$624.00 COLA effective August 31, 2019; the general increase of 1.1 percent effective November 23, 2019; or the \$166.00 COLA effective February 29, 2020.

A claimant is entitled to an overpayment decision that clearly explains how the amount was calculated.<sup>14</sup> The Board finds that the overpayment decision in this case does not provide such an explanation. Therefore, the period and amount of overpayment have not been established.

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<sup>11</sup> Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Initial Determinations in an Overpayment*, Chapter 6.300.4g (September 2020); *see also D.L.*, Docket No. 20-1522 (issued July 27, 2023); *L.T.*, Docket No. 19-1389 (issued March 27, 2020); *K.P.*, Docket No. 19-1151 (issued March 18, 2020).

<sup>12</sup> *Id.*

<sup>13</sup> *See T.H.*, Docket No. 23-0194 (issued July 17, 2023); *A.C.*, Docket No. 22-0118 (issued December 15, 2022).

<sup>14</sup> *See A.J.*, Docket No. 18-1152 (issued April 1, 2019); *J.W.*, Docket No. 15-1163 (issued January 13, 2016); *see also O.R.*, 59 ECAB 432 (2008) with respect to overpayment decisions, OWCP must provide clear reasoning showing how the overpayment was calculated); *see Jenny M. Drost*, 56 ECAB 587 (2005) (to comply with OWCP's overpayment procedures, an overpayment decision must contain a clearly written explanation indicating how the overpayment was calculated).

On remand OWCP shall prepare detailed calculations setting forth the exact amounts per pay period which appellant earned and the amount of wage-loss compensation to which she had been entitled. It shall then issue a new preliminary overpayment determination with an overpayment action request form, a Form OWCP-20, and instructions for providing updated supporting financial documentation. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision which fully explains its calculations supporting the amount of the overpayment.<sup>15</sup>

### **LEGAL PRECEDENT – ISSUE 3**

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.<sup>16</sup> After it has determined that an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.<sup>17</sup> Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>18</sup>

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.<sup>19</sup> For a conflict to arise the opposing physicians' viewpoints must be of virtually equal weight and rationale.<sup>20</sup> 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.<sup>21</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's entitlement to wage-loss compensation benefits, effective February 10, 2025.

OWCP declared a conflict in the medical evidence between Dr. Chmell, appellant's attending physician, and Dr. Milos, OWCP's second opinion physician, regarding whether

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<sup>15</sup> In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

<sup>16</sup> 20 C.F.R. § 10.500(a).

<sup>17</sup> *S.P.*, Docket No. 22-0393 (issued August 26, 2022); *A.T.*, Docket No. 20-0334 (issued October 8, 2020); *E.B.*, Docket No. 18-1060 (issued November 1, 2018).

<sup>18</sup> *S.P.*, *id.*; *C.R.*, Docket No. 19-1132 (issued October 1, 2020); *G.H.*, Docket No. 18-0414 (issued November 14, 2018).

<sup>19</sup> 5 U.S.C. § 8123(a).

<sup>20</sup> 20 C.F.R. § 10.321; *P.B.*, Docket No. 20-0984 (issued November 25, 2020); *R.C.*, 58 ECAB 238 (2006).

<sup>21</sup> See *W.N.*, Docket No. 21-0123 (issued December 29, 2021); *A.G.*, Docket No. 21-0315 (issued December 29, 2021); *R.R.*, Docket No. 19-0086 (issued February 10, 2021); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts*, 31 ECAB 1010 (1980).

appellant could perform her preinjury position as a mail processing clerk and whether her right hand and left shoulder conditions had resolved.

As noted above, for a conflict to arise the opposing physicians' viewpoints must be of virtually equal weight and rationale.<sup>22</sup> It is OWCP's responsibility to provide a complete and proper frame of reference for a physician by preparing a SOAF.<sup>23</sup> OWCP's procedures dictate that when a district medical adviser, second opinion specialist, or referee physician renders a medical opinion based on a SOAF which is incomplete or inaccurate, or does not use the SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated altogether.<sup>24</sup>

The record reflects that OWCP did not provide Dr. Milos with an accurate SOAF, as it did not list the permanency of appellant's accepted conditions of aggravation of cervical, thoracic, and lumbar disc displacements. Thus, the Board finds that his report was not based on an accurate factual framework and his opinion is insufficient to create a conflict. As no true conflict existed in the medical evidence at the time of the referral to Dr. Kucharzyk, the Board finds that Dr. Kucharzyk's report may not be afforded the special weight of an IME and should be considered for its own intrinsic value.<sup>25</sup> Dr. Kucharzyk's report is instead considered to be that of a second opinion.<sup>26</sup>

The record reflects that Dr. Kucharzyk was also provided a SOAF which did not list all of the accepted conditions resulting from the March 6, 2001 employment injuries. Consequently, his opinion is of diminished probative value.<sup>27</sup>

The Board finds, therefore, that OWCP improperly terminated appellant's wage-loss compensation benefits, effective February 10, 2025.

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<sup>22</sup> *A.P.*, Docket No. 22-1054 (issued January 6, 2023); *H.B.*, Docket No. 19-0926 (issued September 10, 2020); *C.H.*, Docket No. 18-1065 (issued November 29, 2018).

<sup>23</sup> *S.H.*, Docket No. 21-1380 (issued September 22, 2022); *C.E.*, Docket No. 19-1923 (issued March 30, 2021); *B.K.*, Docket No. 19-0976 (issued December 15, 2020); *M.B.*, Docket No. 19-0525 (issued March 20, 2020); *J.N.*, Docket No. 19-0215 (issued July 15, 2019); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

<sup>24</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.3 (October 1990).

<sup>25</sup> *N.T.*, Docket No. 21-0236 (issued January 24, 2023); *C.H.*, Docket No. 19-1639 (issued April 3, 2020); *Peter C. Belkind*, 56 ECAB 580 (2005); *Marie J. Born*, 27 ECAB 623 (1976).

<sup>26</sup> *P.L.*, Docket No. 21-0821 (issued April 15, 2022); *L.G.*, Docket No. 20-0611 (issued February 16, 2021). *See also M.G.*, Docket No. 19-1627 (issued April 17, 2020); *S.M.*, Docket No. 19-0397 (issued August 7, 2019) (at the time of the referral for an impartial medical examination there was no conflict in medical opinion evidence; therefore, the referral was for a second opinion examination); *see also Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996) (as there was no conflict in medical opinion evidence, the report of the physician designated as the IME was not afforded the special weight of the evidence, but instead considered for its own intrinsic value as he was a second opinion specialist).

<sup>27</sup> *See R.P.*, Docket No. 17-1133 (issued January 18, 2018).

### **CONCLUSION**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation because she continued to receive wage-loss compensation for total disability after her return to private sector work. The Board further finds, however, that the case is not in posture for decision with regard to the period and amount of the overpayment. The Board also finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation benefits, effective February 10, 2025.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the October 29, 2024 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in part. The February 10, 2025 decision of the Office of Workers' Compensation Programs is reversed. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: July 20, 2026  
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