United States Department of Labor
Employees' Compensation Appeals Board

A.J., Appellant	)	
and	)	**Docket No. 26-0538**
	)	**Issued: September 15, 2026**
U.S. POSTAL SERVICE, CLEVELAND PROCESSING & DISTRIBUTION CENTER, Cleveland, OH, 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 26, 2026 appellant, through counsel, filed a timely appeal from a May 11, 2026 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.

[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*.

ISSUE

The issue is whether appellant has met her burden of proof to expand the acceptance of the claim to include left shoulder glenohumeral arthritis as causally related to, or consequential to, the accepted November 30, 2011 employment injury.

FACTUAL HISTORY

This case has previously been before the Board.[3] The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On November 30, 2011 appellant, then a 47-year-old custodian, filed a traumatic injury claim (Form CA-1) alleging that, on that date, she felt pain in her left shoulder, elbow and head when mopping and cleaning a restroom while in the performance of duty. OWCP initially accepted the claim for sprain of left shoulder and upper arm.

A January 23, 2012 magnetic resonance imaging (MRI) scan of appellant's left shoulder revealed mild acromioclavicular (AC) joint osteoarthritis; a small loose body in the anterior/inferior medial aspect of glenohumeral joint with focal articular cartilage defect of anterior/inferior glenoid; and long head biceps tendinosis.

In a December 8, 2021 report, Dr. Brian Victoroff, a Board-certified orthopedic surgeon, opined that appellant's glenohumeral arthritis was causally related to her 2011 work injury.

On December 21, 2021 OWCP referred appellant, the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Michael R. Magoline, an orthopedic specialist, for a second opinion evaluation to determine whether appellant's diagnosed glenohumeral arthritis was causally related to the accepted November 30, 2011 employment injury.

In a January 21, 2022 report, Dr. Magoline reviewed the SOAF and appellant's medical record. He indicated that appellant's limited range of motion of the left shoulder and pain were consistent with left shoulder glenohumeral arthritis. Dr. Magoline reported that the January 23, 2012 left shoulder MRI scan demonstrated degenerative changes in the glenohumeral joint, while the recent MRI scan of August 2021 demonstrated severe glenohumeral arthritis. He opined that there was no causal relationship between the left shoulder glenohumeral arthritis and the accepted work-related left shoulder strain. Rather, the November 30, 2011 work injury caused only a left shoulder strain as a result of mopping floors. Dr. Magoline explained that there was no causal relationship between the diagnoses of left shoulder sprain and degenerative changes in the glenohumeral shoulder joint as the diagnoses were separate and the MRI scan obtained soon after the injury demonstrated preexisting degenerative changes in the glenohumeral joint. He also found that there was no evidence that the work-related injury caused, aggravated, accelerated, or precipitated the diagnosed glenohumeral arthritis, noting that appellant had responded to conservative treatment and that the work-related left shoulder sprain/strain, which occurred over

[3] Docket No. 23-0404 (issued September 8, 2023).

10 years ago, had resolved without residuals. Dr. Magoline found that OWCP's question as to whether the work injury aggravated an underlying/preexisting condition and whether such aggravation was temporary or permanent in nature was not applicable.

In a March 2, 2022 letter, OWCP requested that Dr. Victoroff review and comment on Dr. Magoline's January 21, 2022 report. It afforded Dr. Victoroff 30 days to respond.

In a March 9, 2022 work capacity evaluation (Form OWCP-5c), Dr. Victoroff opined that appellant could not perform her usual job without restrictions due to advanced arthritis, and that she could work only four hours a day, pending surgery, with sedentary, light-duty work restrictions which were permanent in nature.

By decision dated June 30, 2022, OWCP denied expansion of the acceptance of appellant's claim to include glenohumeral arthritis as causally related to, or as a consequence of, the accepted November 30, 2011 employment injury.

OWCP thereafter received a March 25, 2022 report wherein Dr. Victoroff diagnosed post-traumatic glenohumeral arthritis, left shoulder.

On July 11, 2022 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on November 17, 2022.

By decision dated January 5, 2023, OWCP's hearing representative affirmed the June 30, 2022 decision.

On January 27, 2023 appellant, through counsel, appealed to the Board.[4] By decision dated September 8, 2023, the Board set aside the January 5, 2023 decision, finding that Dr. Magoline's opinion regarding expansion to include left shoulder glenohumeral arthritis was insufficiently rationalized.[5] The Board remanded the case to OWCP for a supplemental opinion from Dr. Magoline to resolve the issue of expansion to include additional conditions.

On November 16, 2023 OWCP referred appellant, a December 16, 2021 SOAF, and the medical record to Dr. Gerald Rosenberg, a Board-certified orthopedic surgeon, for a second opinion examination regarding expansion of the acceptance of the claim to include additional conditions as causally related to, or consequential to, the accepted November 30, 2011 employment injury.[6]

In a December 15, 2023 report, Dr. Rosenberg reviewed the case record and SOAF. He noted appellant's physical examination was nearly normal with no evidence of subacromial

[4] *Id.*

[5] The Board also further found that OWCP did not ask Dr. Magoline to address whether appellant's diagnosed left shoulder subacromial impingement/bursitis was causally related to, or consequential to, the accepted employment injury.

[6] The record reflects that Dr. Magoline was no longer available.

impingement, bursitis or advanced arthritis. Dr. Rosenberg noted that the January 23, 2012 MRI scan revealed a preexisting osteochondral (OCD) lesion and mild arthritis. He opined that the "arthritis is most likely related to this spontaneous bone lesion and is unrelated to the work injury," noting that there were no updated diagnostic studies or evidence of osteoarthritis on examination.

On January 10, 2024 OWCP requested that Dr. Rosenburg clarify whether accepted employment injury could have aggravated, accelerated, or precipitated the mild arthritis or bone lesion.

In a January 18, 2024 supplemental report, Dr. Rosenberg stated that there was no evidence that appellant's bone lesion and mild arthritis had been aggravated, accelerated, or precipitated by the work injury.

By decision dated January 31, 2024, OWCP denied the expansion of the acceptance of the claim to include the additional diagnosis of glenohumeral arthritis as causally related to the accepted November 30, 2011 employment injury.

On February 6, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated March 13, 2024, OWCP's hearing representative set aside the January 31, 2024 decision, finding that the case was not in posture for decision as there was a conflict in medical opinion between Dr. Victoroff and Dr. Rosenberg as to whether the November 30, 2011 employment injury caused, or contributed to, additional diagnosed conditions. The hearing representative remanded the case to OWCP for an impartial medical examination to resolve the conflict of medical opinion, to be followed by issuance of a *de novo* decision.

On May 15, 2024 OWCP referred appellant, together with the December 16, 2021 SOAF and the medical record, to Dr. Tim Nice, a Board-certified orthopedic surgeon serving as the impartial medical examiner (IME), to resolve the conflict in medical opinion evidence.

In a June 14, 2024 report, Dr. Nice reviewed appellant's prior medical treatment. He agreed with Dr. Rosenberg that appellant's 2011 left shoulder sprain was mild and responded adequately to medical treatment. At that time, appellant had early degenerative arthritis in the left shoulder. Dr. Nice opined that appellant's cross-body figure eight maneuver with her left arm with a heavier mop was a definite mechanism of injury that could aggravate an underlying left shoulder impingement syndrome and would precipitate biceps tendinitis, which was why appellant developed pain over a 24-hour period which subsequently resolved. He opined that the mechanism of injury would not have precipitated a significant change in her arthritis condition over a 10-year period, which under normal circumstances would proceed with degenerative changes, as it was not a weightbearing joint.

By *de novo* decision dated July 16, 2024, OWCP denied expansion of the acceptance of appellant's claim to include the additional condition of glenohumeral arthritis as causally related to, or consequential to, the accepted November 30, 2011 employment injury. It accorded the special weight of the medical evidence to the opinion of Dr. Nice as the IME.

On July 23, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated November 14, 2024**,** OWCP's hearing representative set aside the July 16, 2024 decision finding that reports of Drs. Victoroff and Dr. Rosenberg were insufficient to create a medical conflict in opinion. The hearing representative found that OWCP should accept the conditions of aggravation of impingement syndrome of the left shoulder and bicipital tendinitis, which Dr. Nice found were causally related to the accepted November 30, 2011 employment injury. On remand, the hearing representative directed OWCP to update the SOAF to include the newly accepted conditions, obtain a copy of the 2021 left shoulder MRI scan, and have Dr. Nice provide a supplemental opinion regarding whether the accepted November 30, 2011 employment injury contributed to appellant's glenohumeral arthritis by direct cause, aggravation, precipitation, or acceleration.

On November 18, 2024 OWCP formally expanded the acceptance of the claim to include aggravation of left shoulder impingement syndrome and left shoulder bicipital tendinitis.

On February 10, 2025 OWCP received a copy of appellant's August 4, 2021 left shoulder MRI scan.

On May 12, 2025 OWCP requested that Dr. Nice review the August 4, 2021 MRI scan of appellant's left shoulder and provide a supplemental report with medical rationale as to whether appellant's glenohumeral arthritis was causally related to the accepted November 30, 2011 employment injury by direct cause, aggravation, precipitation or acceleration.

In a May 20, 2025 addendum report, Dr. Nice reviewed the August 4, 2021 MRI scan and opined that appellant's left shoulder sprain was not significant enough to cause significant progression of arthritis over an 11-year period. He concluded that appellant had obvious age-related degenerative changes in the left shoulder over the last 11-year period. Dr. Nice added if appellant's arthritis was aggravated it would have been severe all along. He stated that, "[i]f there was an aggravation, at all, of the glenohumeral arthritis, it was the transient management by doctors who were … not treating her for glenohumeral arthritis at that juncture, but rather chronic impingement with an acute biceps tendonitis that resolved with conservative modalities and injections." Based on the findings of appellant's MRI scans, Dr. Nice concluded that, at the time of the employment incident, appellant had early degenerative changes in her left shoulder which increased over an 11-year period and were definitely age related and certainly not the result of the minimal employment injury.

By *de novo* decision dated July 1, 2025, OWCP denied expansion of the acceptance of the claim to include additional diagnosis of glenohumeral arthritis as causally related to, or consequential to, the November 30, 2011 work injury.

On July 8, 2025 appellant, through counsel, requested an oral before a representative of OWCP's Branch of Hearings and Review. A hearing was held on March 23, 2026.

By decision dated May 11, 2026, OWCP's hearing representative affirmed the July 1, 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.[7]

To establish causal relationship between a condition and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.[8] The opinion of the physician must be one of reasonable certainty, and must explain the nature of the relationship between the diagnosed condition and the accepted employment injury.[9]

In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury. The basic rule is that a subsequent injury, whether 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.[10]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[11]

ANALYSIS

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include glenohumeral arthritis as causally related to, or consequential to, the November 30, 2011 employment injury.

In a June 14, 2024 report, Dr. Nice opined that appellant had preexisting left shoulder arthritis at the time of her November 30, 2011 employment injury. He related that mechanism of injury would not have precipitated a significant change in the left shoulder arthritis condition over

[7] *N.M.*, Docket No. 26-0021 (issued March 11, 2026); *S.P.*, Docket No. 25-0669 (issued November 25, 2025); *S.L.*, Docket No. 24-0220 (issued May 15, 2024); *N.U.*, Docket No. 22-1329 (issued April 18, 2023); *J.R.*, Docket No. 20-0292 (issued June 26, 2020); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

[8] *S.L.*, *id.*; *B.W.*, Docket No. 21-0536 (issued March 6, 2023); *D.E.*, Docket No. 20-0936 (issued June 24, 2021); *S.L.*, Docket No. 19-0603 (issued January 28, 2020).

[9] *Id*.

[10] *See K.W.,* Docket No. 26-0349 (issued June 16, 2026); *L.M.*, Docket No. 23-0605 (issued December 5, 2023); *D.L.*, Docket No. 21-0047 (issued February 22, 2023); *D.H.*, Docket Nos. 20-0041 & 20-0261 (issued February 5, 2021).

[11] *D.F.*, Docket No. 25-0528 (issued June 9, 2025); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 4, 2026); *M.B.*, Docket No. 20-1275 (issued January 29, 2021); *see R.D.*, Docket No. 18-1551 (issued March 1, 2019).

a 10-year period, which under normal circumstances would proceed with degenerative changes, as it was not a weightbearing joint. In a May 20, 2025 addendum report, Dr. Nice reviewed appellant's August 4, 2021 MRI scan and opined that appellant's left shoulder sprain was not significant enough to have caused significant progression of arthritis over an 11-year period. He added if appellant's left shoulder arthritis had been aggravated by the November 30, 2011 employment injury it would have been severe all along. Dr. Nice noted that appellant was not treated through the years for glenohumeral arthritis, but if there was an aggravation, at all, the transient medical management by appellant's physicians for her chronic impingement with acute biceps tendinitis had resolved her conditions. He concluded that at the time of the employment injury appellant had early degenerative changes in her left shoulder which increased over an 11-year period and were definitely age related and certainly not the result of the minimal employment injury.

Dr. Nice's opinion is based on a proper factual and medical history and contains a detailed explanation of why the November 30, 2011 work injury did not contribute by direct cause, aggravation, precipitation or acceleration to her glenohumeral arthritis. He explained that appellant's current left shoulder arthritic condition was an age-related, degenerative condition. Thus, the Board finds that his opinion constitutes the weight of the medical evidence.[12]

In a December 8, 2021 report, Dr. Victoroff opined that appellant's glenohumeral arthritis was causally related to her 2011 work injury. Similarly, in a March 25, 2022 report, he diagnosed post-traumatic glenohumeral arthritis, left shoulder. However, Dr. Victoroff failed to provide rationale supporting his opinion on causal relationship. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition/disability was related to employment factors.[13] Therefore this evidence is insufficient to overcome the weight accorded to Dr. Nice, or to create a conflict.[14]

As the medical evidence of record is insufficient to establish expansion of the acceptance of appellant's claim to include the additional claimed condition of glenohumeral arthritis, the Board finds that she has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

[12] *See L.B.*, Docket No. 25-0766 (issued September 5, 2025).

[13] *See Y.D.*, Docket No. 16-1896 (issued February 10, 2017) (finding that a report is of limited probative value regarding causal relationship if it does not contain medical rationale describing the relation between work factors and a diagnosed condition/disability).

[14] *See H.D.*, Docket No. 26-0438 (issued Augus 24, 2026).

CONCLUSION

The Board finds that appellant has not met her burden of proof to expand the acceptance of the claim to include left shoulder glenohumeral arthritis as causally related to, or consequential to, the accepted November 30, 2011 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the May 11, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 15, 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