

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

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<b>B.L., Appellant</b>	)	
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<b>and</b>	)	<b>Docket Nos. 24-0204 &amp; 24-0292</b>
	)	<b>Issued: May 6, 2024</b>
<b>DEPARTMENT OF LABOR, OFFICE OF</b>	)	
<b>WORKERS' COMPENSATION PROGRAMS,</b>	)	
<b>New York, NY, Employer</b>	)	
_____	)	

*Appearances:*  
*Appellant, pro se*  
*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 December 24, 2023 appellant filed a timely appeal from a December 15, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0204. On January 22, 2024 appellant filed a timely appeal from a December 13, 2023 merit decision of OWCP. The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0292. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUES**

The issue are: (1) whether appellant has met her burden of proof to establish disability from work for the period June 26 through September 2, 2018 causally related to the accepted May 11, 2018 employment injury; and (2) whether appellant has met her burden of proof to expand

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

the acceptance of her claim to include additional conditions as causally related to the accepted May 11, 2018 employment injury.

### **FACTUAL HISTORY**

This case has previously been before the Board.<sup>2</sup> The facts and circumstances as set forth in the Board's prior decisions and prior order are incorporated herein by reference. The relevant facts are as follows.

On May 15, 2018 appellant, then a 37-year-old claims examiner, filed a traumatic injury claim (Form CA-1) alleging that on May 11, 2018 she sustained bilateral shoulder and back strains when she attempted to open a heavy door with her left hand, while pushing a chair with her right hand in the performance of duty. She stopped work on the date of injury.

On June 13, 2018 Dr. Richard A. Pearl, a Board-certified orthopedic surgeon, performed right shoulder arthroscopy with partial synovectomy, extensive debridement of the right shoulder labral tear and rotator cuff tear subscapularis tendon, and right shoulder subacromial decompression and acromioplasty.

By decision dated April 5, 2019, OWCP accepted the claim for bilateral shoulder, lumbar, and pelvic strains.

On March 3, 2020 appellant filed claims for wage-loss compensation (Form CA-7) for disability from work during the periods June 26 through September 2, 2018.

In a development letter dated March 10, 2020, OWCP informed appellant of the deficiencies of her claim for compensation. It advised her of the type of medical evidence necessary to support her claim and afforded her 30 days to respond.

In a July 2, 2018 disability form report, Dr. Dante T. Lazo, a Board-certified internist, noted appellant had been seen that day for a May 11, 2018 injury and advised that she was disabled from work for eight weeks due to bilateral shoulder and lower back pain and weakness.

In an August 20, 2018 attending physician's report (Form CA-20), Dr. Lazo indicated that appellant was totally disabled from work for the period May 11 through September 2, 2018. Dr. Lazo described how the May 11, 2018 injury occurred and diagnosed lumbar and shoulder strain. He checked a box marked "Yes" indicating that there was a history or evidence of concurrent or preexisting injury, and that the condition had been aggravated by the employment activity. Dr. Lazo noted that appellant had been involved in a motor vehicle accident (MVA) on April 6, 2018, during which she sustained shoulder and back injuries.

In a state workers' compensation form report dated August 20, 2018, Dr. Lazo noted a May 11, 2018 injury date, and described the employment injury. He diagnosed bilateral shoulder

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<sup>2</sup> *Order Granting Remand*, Docket No. 19-0240 (issued March 22, 2019); Docket No. 21-0500 (issued December 10, 2021); Docket No. 22-0645 (issued September 6, 2022); Docket No. 22-0068 (issued October 12, 2022); Docket No. 23-0551 (issued September 21, 2023).

joint and lumbar sprains based upon physical findings of bilateral shoulder abnormal range of motion (ROM), shoulder weakness, and pain/tenderness in the lower back and shoulders. Dr. Lazo found that appellant was disabled from work due to pain and weakness.

By decision dated May 29, 2020, OWCP denied appellant's claim for disability from work for the period June 26 through September 2, 2018, finding that the medical evidence of record was insufficient to establish disability during the claimed period causally related to the accepted May 11, 2018 employment injury. It noted the record also contained evidence of preexisting conditions due to a nonemployment-related April 16, 2018 MVA, which was not addressed by the medical evidence appellant submitted.

On July 1, 2020 appellant requested reconsideration and submitted additional evidence.

Dr. Lazo, in a May 21, 2018 report, related appellant's examination findings and diagnosed shoulder joint, lower back and pelvis sprains. Dr. Lazo concluded that the May 11, 2018 incident was the competent cause of appellant's injuries as it caused acute trauma of the body tissue, which may never be as flexible or elastic as original counterparts. Superimposed on the natural aging and degenerative process, this injury, most probably, may result in permanent reduction of range of motion and normal functions of the local peripheral neuromuscular system.

In a state workers' compensation form dated August 31, 2018, Dr. Lazo reiterated findings from his prior report. He released appellant to return to work on September 4, 2018. On August 31, 2018 Dr. Lazo also completed an attending physician's report, Part B of an authorization for examination and/or treatment (Form CA-16), relating that appellant could return to work on September 4, 2018.

By decision dated September 22, 2020, OWCP denied modification.

On October 21, 2020 appellant requested reconsideration.

In support thereof, appellant submitted disability notes from Dr. Lazo that were previously of record and an additional note dated August 1, 2018, wherein Dr. Lazo again diagnosed bilateral shoulder and lumbar sprains due to a May 11, 2018 incident.

In a November 25, 2020 note, Dr. Erie T. Augustin, a specialist in family and internal medicine, recounted appellant's April 6, 2018 MVA and May 11, 2018 work injury. Dr. Augustin diagnosed neck, bilateral shoulder, upper and lower back, and left knee injuries and noted that appellant underwent shoulder surgery on June 13, 2018. He advised that appellant had reached maximum medical improvement (MMI) and required no further treatment.

By decision dated January 22, 2021, OWCP denied modification.

On February 8, 2021 appellant appealed to the Board.

On September 2, 2021 OWCP referred appellant, the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. Leon Sultan, a Board-certified orthopedic surgeon, for a second opinion evaluation. In a report dated October 18, 2021, Dr. Sultan recounted the history of appellant's April 6, 2018 nonwork-related MVA, as well as her May 11, 2018

employment injury. He documented appellant's physical examination findings and summarized various diagnostic studies. Dr. Sultan related that appellant sustained neck, lower back, bilateral shoulder, and left knee injuries due to the April 6, 2018 MVA, and that appellant underwent right shoulder arthroscopy on June 13, 2018 due to the April 6, 2018 MVA. He reviewed a May 17, 2018 lumbar magnetic resonance imaging (MRI) scan and a May 23, 2018 left shoulder MRI scan, noting the test results were secondary to the April 6, 2018 MVA and not to the accepted May 11, 2018 employment injury. Dr. Sultan opined that the May 11, 2018 employment injury did not aggravate any preexisting lower back or bilateral shoulder conditions, which he attributed to the April 6, 2018 MVA. He explained that her subjective complaints did not correspond with the objective findings.

By decision dated December 10, 2021, the Board affirmed OWCP's January 22, 2021 decision, finding that appellant had not met her burden of proof to establish disability from work during the claimed period causally related to the accepted May 11, 2018 employment injury.<sup>3</sup>

On December 20, 2021 appellant requested reconsideration. In support thereof, she submitted an addendum report, wherein Dr. Agustin attributed her June 13, 2018 right shoulder arthroscopic surgery to both the April 6, 2018 MVA and the May 11, 2018 employment injury. Dr. Agustin concluded that appellant's disability for the period June 26 through September 2, 2018 was causally related to the accepted May 11, 2018 work injury and accepted conditions of bilateral shoulder and lumbar sprains.

By decision dated January 18, 2022, OWCP denied modification.

OWCP received a November 30, 2021 MRI scan of appellant's lumbar spine which indicated L5-S1 two to three millimeter (mm) anterolisthesis and one to two mm central rightward protrusion-type herniation.

OWCP subsequently received progress notes dated November 24 and December 3, 2021 from Dr. Syed Husain, an osteopath Board-certified in physical medical and rehabilitation, wherein he noted appellant's May 11, 2018 injury date, diagnosed lumbar radiculopathy and incomplete bilateral shoulder rotator tear or rupture, and found appellant unable to work. In a December 3, 2021 progress note, Dr. Husain noted a May 11, 2018 injury date and diagnosed lumbar radiculopathy. He reviewed MRI scans and provided physical examination findings. Dr. Husain noted aggravating factors of repetitive lifting, strain, and weightlifting. He concluded that appellant was totally disabled for work.

In a December 1, 2021 progress report, Dr. Maykel Desir, a physician Board-certified in family medicine and sports medicine, diagnosed right shoulder bursitis and incomplete bilateral shoulder rotator tear and rupture and opined that appellant was totally disabled. He indicated that it was possible that appellant's right shoulder findings of tendinosis and interstitial tearing were secondary to her chronic use of the shoulder at work.

On March 28, 2022 appellant appealed to the Board. By decision dated September 6, 2022, the Board affirmed OWCP's January 18, 2022 decision, finding that appellant had not met her

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<sup>3</sup> Docket No. 21-0500 (issued December 10, 2021).

burden of proof to establish disability from work during the claimed period causally related to the accepted May 11, 2018 employment injury.<sup>4</sup>

On October 12, 2022 appellant requested reconsideration. In support thereof, she submitted November 26, 2021 MRI scan of her right shoulder which noted findings of mild degenerative changes at the right acromioclavicular joint, tendinosis and interstitial tear of the supraspinatus tendon, and tendinosis of the infraspinatus tendon, mild right glenohumeral joint effusion, and fluid in the subacromial subdeltoid bursa, suggestive of bursitis. A November 30, 2021 lumbar MRI scan noted findings of a broad bulge at L5-S1, central rightward protrusion-type herniation, moderate bilateral facet arthritis, annular tear, and borderline central stenosis.

On January 10, 2023 appellant again requested reconsideration.

By decision dated January 25, 2023, OWCP denied modification.

OWCP subsequently received an attending physician's report, Part B of the August 27, 2018 Form CA-16, and a Form CA-20 dated September 10, 2018 from Dr. Lazo. In both form reports, Dr. Lazo, noted an injury date of May 11, 2018 and diagnosed bilateral shoulder sprain and lumbar sprain. He checked a box marked "Yes" in response to the question of whether the diagnosed condition had been caused or aggravated by the employment injury. Dr. Lazo found appellant totally disabled from work for the period May 11 through September 3, 2018. He advised that appellant could resume regular work on September 4, 2018. On the form dated August 27, 2018, Dr. Lazo explained that appellant was totally disabled because she was unable to stand or sit for more than 30 minutes at a time, which he attributed to the May 11, 2018 employment injury. He, in the form report dated September 10, 2018, opined that appellant would have had to be out of work for a few months due to the accepted May 11, 2018 employment injury even if she had not undergone right shoulder surgery on June 13, 2018. Dr. Lazo opined that appellant required more rest as the bilateral shoulder and lumbar sprains had not resolved.

On February 21, 2023 appellant requested reconsideration.

By decision dated February 28, 2023, OWCP denied modification.

On March 13, 2023 appellant appealed to the Board. By decision dated September 21, 2023, the Board affirmed OWCP's February 28, 2023 decision, finding that appellant had not met her burden of proof to establish disability from work for the period in question causally related to the accepted May 11, 2018 employment injury.<sup>5</sup>

In a letter dated October 2, 2023, appellant requested expansion of the acceptance of her claim to include lumbar radiculopathy, bilateral incomplete rotator cuff tear or rupture, and right shoulder bursitis.

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<sup>4</sup> Docket No. 22-0645 (issued September 6, 2022).

<sup>5</sup> Docket No. 23-0551 (issued September 21, 2023).

On October 3, 2023 appellant requested reconsideration of the denial of her claim for wage-loss compensation.

Thereafter, OWCP received a December 3, 2021 addendum report, wherein Dr. Husain concluded that appellant's disability from work for the period June 26 through September 2, 2018 was causally related to the accepted May 11, 2018 employment injury. He explained that her disability was due to her May 11, 2018 injury at work because the accepted conditions of lumbar strain and bilateral shoulders strain had not resolved and she could not perform her claims examiner duties. Dr. Husain diagnosed lumbar radiculopathy, bilateral incomplete rotator cuff tear or rupture and right shoulder bursitis, based on MRI studies, which he attributed to the accepted May 11, 2018 employment injury.

In a development letter dated October 23, 2023, OWCP noted the accepted conditions and medical evidence of record. It requested that appellant submit additional medical evidence to support that the additional medical diagnoses were causally related to the accepted May 11, 2019 employment injury. OWCP afforded her 30 days to submit the requested evidence.

In a letter dated October 26, 2023, appellant noted that she had been involved in an MVA on April 6, 2018 while she was seated in a back seat. Following the accident, she felt a sprain in her lower back and both shoulders, and her lower back became swollen the next day. Appellant explained that she has had lower back and bilateral arm pain and numbness since her accepted May 11, 2018 work injury. She asserted that Dr. Husain provided sufficient rationale in his reports explaining why the acceptance of her claim should be expanded to include the conditions of lumbar radiculopathy, bilateral shoulder rotator cuff tear or rupture, and right shoulder bursitis as causally related to the accepted May 11, 2018 employment injury.

By decision dated December 13, 2023, OWCP denied modification of the decision which denied appellant's claim for wage-loss compensation during the period June 26 through September 2, 2018.

By decision dated December 15, 2023, OWCP denied expansion of the acceptance of appellant's claim to include additional conditions as causally related to the accepted employment injury.

### **LEGAL PRECEDENT -- ISSUE 1**

An employee seeking benefits under FECA<sup>6</sup> has the burden of proof to establish the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>7</sup> For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled

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<sup>6</sup> *Supra* note 1.

<sup>7</sup> *See S.F.*, Docket No. 20-0347 (issued March 31, 2023); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

for work as a result of the accepted employment injury.<sup>8</sup> Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.<sup>9</sup>

Under FECA, the term disability means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.<sup>10</sup> Disability is, thus, not synonymous with physical impairment which may or may not result in an incapacity to earn wages.<sup>11</sup> An employee who has a physical impairment causally related to his or her federal employment, but who nonetheless has the capacity to earn the wages that he or she was receiving at the time of injury, has no disability and is not entitled to compensation for loss of wage-earning capacity.<sup>12</sup> When, however, the medical evidence establishes that the residuals or sequelae of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing employment, the employee is entitled to compensation for any loss of wages.<sup>13</sup>

The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.<sup>14</sup>

### ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish disability from work for the period June 26 through September 2, 2018 causally related to the accepted May 11, 2018 employment injury.

Preliminarily, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's February 28, 2023 decision because the Board considered that evidence in its September 21, 2023 decision. Findings made in prior Board decisions are *res judicata* absent any further review by OWCP under section 8128 of FECA.<sup>15</sup>

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<sup>8</sup> See *S.F., id.; Y.D.*, Docket No. 20-0097 (issued August 25, 2020); *L.S.*, Docket No. 18-0264 (issued January 28, 2020); *Amelia S. Jefferson*, 57 ECAB 183 (2005); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

<sup>9</sup> 20 C.F.R. § 10.5(f); *S.F., id.; J.M.*, Docket No. 18-0763 (issued April 29, 2020); *S.L.*, Docket No. 19-0603 (issued January 28, 2020).

<sup>10</sup> *Id.* § 10.5(f); see *J.T.*, Docket No. 19-1813 (issued April 14, 2020); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

<sup>11</sup> *J.S.*, Docket No. 19-1035 (issued January 24, 2020).

<sup>12</sup> See *D.N.*, Docket No. 19-1344 (issued November 6, 2020); *G.R.*, Docket No. 19-0940 (issued December 20, 2019); *S.M.*, 58 ECAB 166 (2006); *Bobbie F. Cowart*, 55 ECAB 746 (2004).

<sup>13</sup> *J.T.*, *supra* note 10; *S.L.*, *supra* note 9.

<sup>14</sup> *Id.*; *Fereidoon Kharabi*, *supra* note 8.

<sup>15</sup> *J.H.*, Docket No. 22-0981 (issued October 30, 2023); *G.W.*, Docket No. 22-0301 (issued July 25, 2022); *C.H.*, Docket No. 19-0669 (issued October 9, 2019); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

Appellant subsequently submitted an updated December 3, 2021 addendum from Dr. Husain wherein he opined that appellant was disabled from performing her claims examiner employment duties due to the injury she sustained on May 11, 2018 and because her accepted lumbar strain and bilateral shoulders strain had not resolved. While he related that appellant was totally disabled from work, his opinion was conclusory. Dr. Husain did not provide objective medical findings explaining why appellant was totally disabled due to the accepted medical conditions of lumbar strain and bilateral shoulder strain and did not explain why appellant could not perform her federal employment duties during the claimed period.<sup>16</sup> For this reason, these reports are insufficient to meet appellant's burden of proof to establish disability for the periods claimed.

As the medical evidence of record is insufficient to establish disability from work during the claimed period, the Board finds that appellant has not met her burden of proof.

### **LEGAL PRECEDENT -- ISSUE 2**

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.<sup>17</sup>

To establish causal relationship, the employee must submit rationalized medical opinion evidence.<sup>18</sup> 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.<sup>19</sup> 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.<sup>20</sup>

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<sup>16</sup> See *L.M.*, Docket No. 23-0946 (issued December 18, 2023); *N.L.*, Docket No. 22-1001 (issued July 5, 2023); *E.M.*, Docket No. 20-0738 (issued June 22, 2022); *E.M.*, Docket No. 18-0454 (issued February 20, 2020); see also *J.J.*, Docket No. 15-1329 (issued December 18, 2015).

<sup>17</sup> See *A.E.*, Docket No. 23-0756 (issued December 14, 2023); *S.J.*, Docket No. 22-0936 (issued April 27, 2023); *D.T.*, Docket No. 20-0234 (issued January 8, 2021); see also *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *T.F.*, Docket No. 17-0645 (issued August 15, 2018); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

<sup>18</sup> *A.E.*, *id.*; *D.T.*, *id.*; *T.K.*, Docket No. 18-1239 (issued May 29, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>19</sup> *A.E.*, *id.*; *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *T.K.*, *id.*; *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>20</sup> *Id.*

## ANALYSIS -- ISSUE 2

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include additional conditions as causally related to the accepted May 11, 2018 employment injury.

In support of her claim for expansion, appellant submitted progress notes dated November 24 and December 3, 2021, wherein Dr. Husain diagnosed lumbar radiculopathy and incomplete bilateral shoulder rotator tear or rupture, Dr. Husain noted aggravating factors of repetitive lifting, strain, and weightlifting. In a December 3, 2021 addendum, he opined that the diagnosed lumbar radiculopathy, bilateral shoulder rotator cuff tears or ruptures, and right shoulder bursitis were directly related to the accepted May 11, 2018 employment injury. However, Dr. Husain provided only a conclusory opinion on causal relationship. He did not provide medical rationale explaining, physiologically, how appellant's additional diagnosed conditions were caused or aggravated by the accepted May 11, 2018 employment injury.<sup>21</sup> As Dr. Husain failed to provide rationale in support of causal relationship between the additional diagnosed conditions and the accepted May 11, 2018 employment injury, this evidence is of limited probative value and is insufficient to establish expansion of the acceptance of the claim.<sup>22</sup>

The record also contains a December 1, 2021 progress report, wherein Dr. Desir diagnosed right shoulder bursitis and incomplete bilateral shoulder rotator tear and rupture. However, Dr. Desir did not provide an opinion that these conditions were work related. The Board has held that a medical report that does not offer an opinion on causal relationship is of no probative value.<sup>23</sup> This evidence is therefore insufficient to establish appellant's expansion claim.

In a November 25, 2020 addendum note, Dr. Agustin attributed appellant's June 13, 2018 right shoulder arthroscopic surgery to both the April 6, 2018 MVA and the May 11, 2018 employment injury. However, he also did not offer any medical rationale explaining his conclusory opinion regarding causal relationship.<sup>24</sup> This report is therefore insufficient to support an expansion of appellant's claim.

OWCP received diagnostic studies. However, diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injury caused the diagnosed condition.<sup>25</sup>

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<sup>21</sup> See *S.S.*, Docket No. 23-0391 (issued October 24, 2023); *F.H.*, Docket No. 18-1238 (issued January 18, 2019); *J.R.*, Docket No. 18-0206 (issued October 15, 2018).

<sup>22</sup> *S.S.*, *id.*; *M.C.*, Docket No. 18-0361 (issued August 15, 2018).

<sup>23</sup> *S.S.*, *id.*; *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>24</sup> See *supra* note 21.

<sup>25</sup> *P.M.*, Docket No. 22-1171 (issued January 10, 2024); *C.A.*, Docket No. 21-0601 (issued November 15, 2021); *K.R.*, Docket No. 20-1103 (issued January 5, 2021); *F.S.*, Docket No. 19-0205 (issued June 19, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

In an October 18, 2021 second opinion evaluation, Dr. Sultan explained that appellant's neck, lower back, bilateral shoulder, and left knee injuries were due to the April 6, 2018 MVA. He opined that the May 11, 2018 accepted employment injury did not aggravate any preexisting shoulder or lower back conditions. Dr. Sultan related that appellant underwent right shoulder arthroscopy on June 13, 2018 due to the April 6, 2018 MVA. He reviewed a May 17, 2018 lumbar MRI scan and May 23, 2018 left shoulder MRI scan, noting the test results were secondary to the April 6, 2018 MVA and not to the accepted May 11, 2018 employment injury. Dr. Sultan opined that the May 11, 2018 employment injury did not aggravate any preexisting lower back or bilateral shoulder conditions, which he attributed to the April 6, 2018 MVA. He also explained that appellant's subjective complaints did not correspond with the objective findings. As his report was well-reasoned and based on a complete and accurate history, the Board finds that it constitutes the weight of the medical evidence.

As the medical evidence of record is insufficient to establish that the acceptance of the claim should be expanded to include lumbar radiculopathy, bilateral shoulder rotator cuff tears or ruptures, and right shoulder bursitis as causally related to the accepted May 11, 2018 employment injury, the Board finds that appellant 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(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish disability from work for the period June 26 through September 2, 2018 causally related to the accepted May 11, 2018 employment injury. The Board further finds that appellant has not met her burden of proof to expand the acceptance of her claim to include additional conditions as causally related to the accepted May 11, 2018 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 13 and 15, 2023 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: May 6, 2024  
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