

<sup>2</sup> The Board notes that, following the July 18, 2024 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

acceptance of her claim to include additional right shoulder conditions as causally related to her accepted May 28, 2021 employment injury.

### **FACTUAL HISTORY**

On June 3, 2021 appellant, then a 63-year-old licensed practical nurse, filed a traumatic injury claim (Form CA-1) alleging that on May 28, 2021 she separated her right shoulder and sustained lower back strain while in the performance of duty. She noted that a patient pulled on her right arm while attempting to rise from a chair and she experienced a bee sting sensation and burning in her right shoulder blade. Appellant stopped work on May 31, 2021.

In an after-visit summary dated May 28, 2021, Dr. Kip Jenifer, Board-certified in emergency medicine, diagnosed an acromioclavicular (AC) joint separation and sprain.

In a June 22, 2021 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the evidence necessary to establish her claim and provided her with a questionnaire for her completion. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information, including comments from a knowledgeable supervisor regarding the accuracy of appellant's statements. It afforded both parties 30 days to submit the necessary evidence.

OWCP thereafter received an emergency room report by Dr. Jenifer dated May 28, 2021, who noted that appellant related complaints of a bee sting sensation in her scapula and burning pain in her lower back, which she attributed to lifting a patient from a chair. On physical examination, Dr. Jenifer documented painful range of motion (ROM) in the right shoulder and pain with palpation of the right scapula. He reviewed an x-ray of the right scapula dated May 28, 2021, and noted that it revealed a low-grade AC joint strain, significant osteoarthritis in the glenohumeral joint, and no evidence of fracture.

In a June 8, 2021 medical report, Dr. David A. Solomon, an orthopedic surgeon, noted that appellant related complaints of pain in the right shoulder blade after lifting a patient out of a chair on May 28, 2021. He also noted that she had a history of an open rotator cuff repair in 1998 and shoulder pain "several years ago," which was treated with physical therapy. Dr. Solomon documented his physical examination findings, diagnosed an acute injury to the right shoulder with underlying rotator cuff arthropathy, and recommended magnetic resonance imaging (MRI) and computerized tomography (CT) scans of the right shoulder.

A June 16, 2021 CT scan of the right shoulder revealed severe glenohumeral joint arthrosis, isolated subscapularis atrophy, and fatty replacement likely representing chronic sequela of a denervation injury.

A July 20, 2021 MRI scan of the right shoulder revealed high-grade partial to near complete tear of the subscapularis tendon and volume loss of the subscapular muscle, which had progressed when compared to prior examinations dated March 1, 2018, and May 20 and June 16, 2021; tendinosis of the supraspinatus and infraspinatus similar to prior examinations; and advanced arthrosis of the glenohumeral joint.

On August 3, 2021 OWCP accepted the claim for dislocation of right AC joint. It paid appellant wage-loss compensation on the supplemental rolls, effective July 18, 2021, and on the periodic rolls, effective October 10, 2021.

In a medical report dated August 10, 2021, Dr. Volker Musahl, a Board-certified orthopedic surgeon and sports medicine specialist, indicated that appellant related ongoing complaints of severe pain between her shoulder blades. He noted that she had a history of a fusion surgery at C6-7 in the 1980s. Dr. Musahl performed a physical examination and reviewed the July 20, 2021 right shoulder MRI scan, which he noted revealed a grossly intact supraspinatus and partial subscapularis tear. He obtained x-rays of the cervical spine and diagnosed rotator cuff syndrome, partial tearing of the subscapularis, scapular dyskinesis, and a history of cervical fusion with multilevel adjacent segment degeneration.

In an August 13, 2021 letter, Dr. Musahl recommended that appellant remain out of work due to neck and right shoulder conditions.

In a medical report dated October 15, 2021, Dr. Jeremy Dewitt Shaw, a Board-certified orthopedic surgeon, noted appellant's complaints of severe neck and right shoulder pain and her prior history of un-instrumented fusion at C6-7. He performed a physical examination and opined that her right arm pain was radicular in nature. Dr. Shaw diagnosed cervical radiculopathy and recommended a cervical MRI scan.

In medical notes dated October 21 and 26, 2021, Dr. Musahl continued to find appellant disabled from work due to neck and right arm complaints.

A December 22, 2021 MRI scan of the cervical spine revealed multilevel degenerative changes most pronounced at C4-5 and C5-6, not substantially as compared with a prior MRI scan of April 12, 2018; advanced right and moderate left neural foraminal narrowing at C4-5; and moderate left neuroforaminal narrowing at C5-6.

In a report dated April 1, 2022, Dr. Shaw diagnosed cervical radiculopathy, cervical stenosis, and right shoulder rotator cuff tendinosis.

On July 7, 2022 OWCP referred appellant, together with a statement of accepted facts (SOAF), the medical record, and a series of questions, to Dr. Gerald M. Rosenberg, a Board-certified orthopedic surgeon, for a second opinion to determine whether appellant continued to suffer from residuals and/or disability causally related to her accepted work-related injury.

In a report dated August 10, 2022, Dr. Rosenberg noted his review of the SOAF, appellant's medical records, and her history of prior surgeries, including cervical fusion at C6-7 in 1987 and right shoulder open rotator cuff repairs in 1995, 1996, and 1998. On examination of the cervical spine, he indicated that she refused to remove her neck brace but that there was no obvious deformity of her head posture. On examination of the upper extremities, Dr. Rosenberg documented decreased grip and pinch strength on the right and decreased sensation of the fingers in her right hand in the ulnar distribution. He noted that appellant's degree of right-hand weakness during his examination was not described in the medical records. Regarding the right shoulder, Dr. Rosenberg noted joint tenderness, pain inhibition, reduced active ROM, reduced strength in all muscle groups, and winging of the right scapula. He also noted that his examination of the AC joint was unremarkable. Dr. Rosenberg diagnosed dislocation of the right AC joint, cervical spondylosis and radiculopathy on the right, and right shoulder joint arthritis and rotator cuff disease. He opined that the dislocation of the right AC joint was work related and had resolved. Dr. Rosenberg explained that there was no evidence of dislocation of the right AC joint upon examination, and clinical examination findings revealed no obvious dislocation, deformity,

swelling, induration, instability, crepitus, or tenderness. He also opined that appellant's cervical conditions, right shoulder arthritis, and rotator cuff disease were preexisting and not caused, aggravated, or accelerated by the accepted May 28, 2021 employment injury. Dr. Rosenberg indicated that she likely needed a total shoulder arthroplasty or reverse total shoulder arthroplasty and a cervical spine fusion/decompression surgery, none of which were related to her accepted employment condition.

In a report dated September 28, 2022, Dr. William F. Donaldson, a Board-certified orthopedic surgeon, opined that appellant did not need surgery to her cervical spine.

In a September 29, 2022 report, Dr. Musahl diagnosed cervical radiculopathy and partial tear of the right subscapularis. He noted that she refused to participate in strength testing, but that sensation was intact distally. Dr. Musahl opined that appellant was unable to work due to an inability to move her shoulder.

By notice dated October 25, 2022, OWCP advised appellant that it proposed to terminate her wage-loss compensation and medical benefits based on Dr. Rosenberg's opinion that the accepted employment-related condition had ceased without residuals or disability. It afforded her 30 days to submit additional evidence or argument challenging the proposed termination.

In a letter dated October 26, 2022, appellant disagreed with the proposal to terminate her compensation benefits. She noted that her physician continued to find her disabled from work and had referred her to a shoulder expert for an evaluation.

In a November 1, 2022 medical report, Dr. Ting Cong, an orthopedic surgeon, noted that appellant related an inability to use her right shoulder and noted her history of multiple right shoulder surgeries in the 1990s. He documented physical examination findings and obtained x-rays, which revealed end stage rotator cuff arthropathy. Dr. Cong compared the x-ray findings to the June 17, 2021 CT scan and noted that both studies showed central/anterior glenoid wear. He recommended reverse shoulder arthroplasty.

By decision dated January 10, 2023, OWCP terminated appellant's wage-loss and medical compensation benefits, effective that date. It found that Dr. Rosenberg's opinion constituted the weight of the medical opinion evidence and established that appellant no longer had disability or residuals causally related to the accepted May 28, 2021 employment injury. OWCP also denied expansion of the acceptance of the claim to include cervical radiculopathy and partial tearing of the right subscapularis tendon as causally related or consequential to the accepted May 28, 2021 employment injury.

On January 19, 2023 appellant requested reconsideration of OWCP's January 10, 2023 decision.

OWCP thereafter received a December 2, 2022 electromyography and nerve conduction velocity (EMG/NCV) study of the upper extremities which revealed no evidence of right cervical radiculopathy, brachial plexopathy, right axillary neuropathy, or suprascapular neuropathy.

In a report dated February 6, 2023, Dr. Jonathan D. Hughes, a Board-certified orthopedic surgeon and sports medicine specialist, noted that appellant related a history of right shoulder and neck pain, which she attributed to the May 28, 2021 employment injury. He noted his review of her surgical history and diagnostic studies and performed a physical examination of the right

shoulder, which revealed reduced active ROM and strength and tenderness to palpation over the greater tuberosity and bicipital groove, but no tenderness over the AC joint. Dr. Hughes diagnosed right shoulder rotator cuff arthropathy in the setting of cervical radiculopathy and recommended an open reverse total shoulder arthroplasty with biceps tenodesis pending confirmation from a spine specialist that no further cervical surgery was warranted.

By decision dated April 12, 2023, OWCP denied modification of its January 10, 2023 decision.

In a note dated April 28, 2023, Dr. Hughes opined that appellant's May 28, 2021 employment injury exacerbated her underlying osteoarthritis, and that he had scheduled her for surgery.

Appellant requested reconsideration on May 1 and 5, 2023, and OWCP denied modification by decisions dated May 3 and June 1, 2023, respectively.

On July 31, 2023 appellant requested reconsideration of OWCP's June 1, 2023 decision. In support of the request, she submitted a portion of an undated report by an unknown provider who examined her cervical spine and noted that there was no contraindication for surgery to the right shoulder.

On August 9, 2023 OWCP requested a supplemental report from Dr. Rosenberg addressing the findings of the July 20, 2021 right shoulder MRI scan and requesting his opinion, with rationalization, as to whether or not the diagnosed right shoulder conditions were causally related to the accepted May 28, 2021 employment injury.

OWCP thereafter received an MRI scan of the right shoulder dated March 1, 2018, which revealed significant fraying and degenerative signal of the labrum, significant tendinopathy in the supraspinatus and infraspinatus tendons, increased partial near full-thickness tear of the supraspinatus tendon, and increased partial tearing of the infraspinatus tendon, all of which had progressed since a prior MRI scan dated August 21, 2015.

In a medical report dated August 15, 2023, Dr. Musahl noted that appellant had requested that he "amend prior documentation about her work-related injury." He indicated that "since her injury on May 28, 2021 she has had increased right shoulder pain." In a separate note of even date, Dr. Musahl indicated that "after observing the increased tear in her subscapularis tendon, it is my belief that the repetitive action of positioning patients, lifting patients, or extending her hand to help patients caused excessive wear and tear on her shoulder, and aggravated her previous arthritic condition in her right shoulder and caused a continuation of the tear of her subscapularis tendon."

In a supplemental report dated September 20, 2023, Dr. Rosenberg compared the July 20, 2021 right shoulder MRI scan to the March 1, 2018 right shoulder MRI and June 16, 2021 CT scans, and noted that the studies revealed advanced arthritis of the glenohumeral joint and an "obvious chronic preexisting tear of the subscapularis with muscle atrophy." He opined that appellant had right shoulder osteoarthritis, which was "chronic and preexisting," and that the condition had "no relation in any way to the May 28, 2021 injury" whether by direct cause, aggravation, precipitation, or acceleration. Dr. Rosenberg also opined that there was no work-related injury to her cervical spine.

By decision dated October 12, 2023, OWCP denied modification of its June 1, 2023 decision.

In a report dated December 12, 2023, Dr. Hughes opined that appellant had “an underlying osteoarthritis and a long-standing rotator cuff tear, which were both aggravated by her May 28, 2021 work injury.” He noted that he “could not be sure if her osteoarthritis [was] preexisting, as this condition was not present on radiographs prior to her injury.” Dr. Hughes indicated that “radiograph findings from 2015, prior to the work injury, indicated a full-thickness tear of the subscapularis.” He opined that appellant’s work injury exacerbated her symptoms and “accelerated this condition.”

On January 5, 2024 appellant, through then-counsel, requested reconsideration of OWCP’s October 12, 2023 decision.

In a report dated February 6, 2024, Dr. Hughes restated his December 12, 2023 opinions.

By decision dated April 1, 2024, OWCP denied modification of its October 12, 2023 decision.

OWCP continued to receive evidence, including a June 12, 2024 report by Dr. Hughes, who opined that appellant had reached maximum medical improvement (MMI) and continued to recommend right open reverse total arthroplasty.

On July 2, 2024 appellant, through then-counsel, requested reconsideration of OWCP’s April 1, 2024 decision.

On July 11, 2024 OWCP denied modification of its April 1, 2024 decision.

On July 16, 2024 appellant requested reconsideration of OWCP’s July 11, 2024 decision. In support of the request, she submitted a July 8, 2024 report by Dr. Hughes, who opined that the May 28, 2021 employment injury exacerbated the preexisting partial tear of the subscapularis. He explained that “the action of the patient pulling on [appellant’s] right arm caused more tearing resulting in a full-thickness tear of the subscapularis. It was the pulling action that caused the subscapularis to tear more, nothing else but that pulling action.” Dr. Hughes also opined that “the day-to-day duties” of appellant’s job caused an exacerbation of her underlying osteoarthritis.

By decision dated July 18, 2024, OWCP denied modification of its July 11, 2024 decision, finding that the opinions of Dr. Hughes were insufficient to shift the weight of the medical opinion evidence with regard to the presence of residuals from the May 28, 2021 employment injury as it related to his diagnosis of a subscapularis tear. It also noted that if appellant was claiming a condition related to exposures over the course of multiple work shifts, she may file an occupational disease claim (Form CA-2), clearly identifying the daily duties claimed to have caused injury.

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

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify modification or termination of an employee's benefits.<sup>3</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>4</sup> OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>5</sup> The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.<sup>6</sup> To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.<sup>7</sup>

## **ANALYSIS -- ISSUE 1**

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective January 10, 2023, as she no longer had disability or residuals causally related to her accepted May 28, 2021 employment injury.

In his August 10, 2022 report, Dr. Rosenberg, OWCP's second opinion specialist, noted his review of the SOAF and appellant's medical records. He performed a physical examination and opined that "the work-related condition has resolved." Dr. Rosenberg explained that his examination of the right AC joint revealed no obvious dislocation, deformity, swelling, induration, instability, crepitus, or tenderness of the right AC joint. Based on his August 10, 2022 report, OWCP terminated appellant's wage-loss compensation and medical benefits effective January 10, 2023.

Dr. Rosenberg based his opinion on a prior factual and medical history of detailed findings on prior examination.<sup>8</sup> He further provided a well-rationalized opinion that appellant was no longer disabled as she had no further residuals causally related to her accepted employment injury, explaining that findings on examination and objective studies demonstrated no continued employment-related condition.<sup>9</sup> Accordingly, the Board finds that Dr. Rosenberg's second

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<sup>3</sup> *C.F.*, Docket No. 21-0003 (issued January 21, 2022); *J.T.*, Docket No. 19-1723 (issued August 24, 2020); *S.P.*, Docket No. 19-0196 (issued June 24, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

<sup>4</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>5</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>6</sup> *S.P.*, *id.*; *E.J.*, Docket No. 20-0013 (issued November 19, 2020); *L.W.*, Docket No. 18-1372 (issued February 27, 2019).

<sup>7</sup> *C.F.*, *supra* note 4; *M.E.*, Docket No. 20-0877 (issued August 17, 2021); *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *R.P.*, Docket No. 18-0900 (issued February 5, 2019).

<sup>8</sup> *See M.R.*, Docket No. 23-1052 (issued March 5, 2024); *S.V.*, Docket No. 23-0474 (issued August 1, 2023); *J.S.*, Docket No. 20-1409 (issued September 1, 2021).

<sup>9</sup> *J.P.*, Docket No. 23-0075 (issued March 26, 2023); *J.S.*, *id.*

opinion reports represent the weight of the medical evidence in terminating appellant's wage-loss compensation and medical benefits.<sup>10</sup>

The Board, therefore, finds that OWCP properly terminated appellant's wage-loss compensation and medical benefits, effective January 10, 2023.

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

Once OWCP properly terminates a claimant's compensation benefits, the burden shifts to appellant to establish continuing disability after that date causally related to the accepted injury.<sup>11</sup> To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such causal relationship.<sup>12</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that appellant has not met her burden of proof to establish continuing employment-related disability or residuals, on or after January 10, 2023, causally related to the accepted May 28, 2021 employment injury.

Dr. Hughes, in his February 6, 2023 report, documented that appellant had no tenderness over the AC joint. In reports dated December 12, 2023 and February 6, June 12, and July 8, 2024, he indicated that appellant required surgery and was unable to work but did not document any findings or diagnoses relative to the right AC joint or attribute her ongoing disability to the accepted May 28, 2021 right AC joint dislocation. Similarly, in his August 15, 2023 report, Dr. Musahl did not note any physical examination findings or diagnoses relative to the right AC joint. Accordingly, the evidence does not establish continuing disability or residuals on or after January 10, 2023 due to appellant's accepted May 28, 2021 employment injury.<sup>13</sup>

As the medical evidence of record is insufficient to establish continuing disability or residuals on or after January 10, 2023 due to appellant's accepted employment injury, the Board finds that she has not met her burden of proof.<sup>14</sup>

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.

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<sup>10</sup> *H.J.*, Docket No. 24-0879 (issued October 29, 2024); *M.H.*, Docket No. 24-0470 (issued July 25, 2024); *R.P.*, Docket No. 20-0891 (issued September 20, 2021); *N.G.*, Docket No. 18-1340 (issued March 6, 2019); *A.F.*, Docket No. 16-0393 (issued June 24, 2016).

<sup>11</sup> *S.G.*, Docket No. 23-0652 (issued October 11, 2023); *V.W.*, Docket No. 20-0693 (issued June 2, 2021); *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.M.*, Docket No. 18-0673 (issued January 25, 2019); *J.R.*, Docket No. 17-1352 (issued August 13, 2018); *Manuel Gill*, 52 ECAB 282 (2001).

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

<sup>13</sup> *Id.*

<sup>14</sup> *C.L.*, Docket No. 23-0012 (issued April 26, 2024); *P.H.*, Docket No. 21-1072 (issued May 18, 2022); *R.C.*, Docket No. 19-0376 (issued July 15, 2019).



### **LEGAL PRECEDENT -- ISSUE 3**

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>15</sup>

To establish causal relationship between a specific condition, as well as any attendant disability claimed, and the employment injury, an employee must submit rationalized medical evidence.<sup>16</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 specific employment factors identified by the claimant.<sup>17</sup>

Section 8123(a) of FECA provides, in pertinent part: “If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician (known as a referee physician or an impartial medical examiner (IME)) who shall make an examination.”<sup>18</sup> This is called an impartial medical examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.<sup>19</sup> When there exist opposing medical reports of virtually equal weight and rationale and the case is referred 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>20</sup>

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

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

Dr. Rosenberg, in his August 10, 2022 and September 20, 2023 reports, diagnosed cervical spondylosis and radiculopathy and right shoulder arthritis, rotator cuff disease, and subscapularis tear, which he opined were not caused, aggravated, or accelerated by the accepted May 28, 2021 employment injury. He compared the July 20, 2021 MRI scan to the March 1, 2018 MRI and June 16, 2021 CT scans and noted that the studies revealed advanced arthritis of the glenohumeral joint and an “obvious chronic preexisting tear of the subscapularis with muscle atrophy.”

In his letter dated July 8, 2024, Dr. Hughes noted that the May 28, 2021 employment injury exacerbated the preexisting partial tear of the subscapularis. He explained that “the action of the patient pulling on [appellant’s] right arm cause more tearing resulting in a full-thickness tear of

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<sup>15</sup> *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

<sup>16</sup> *See V.A.*, Docket No. 21-1023 (issued March 6, 2023); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>17</sup> *E.P.*, Docket No. 20-0272 (issued December 19, 2022); *I.J.*, 59 ECAB 408 (2008).

<sup>18</sup> 5 U.S.C. § 8123(a).

<sup>19</sup> 20 C.F.R. § 10.321; *P.B.*, Docket No. 20-0984 (issued November 25, 2020); *R.C.*, 58 ECAB 238 (2006).

<sup>20</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).

the subscapularis. It was the pulling action that caused the subscapularis to tear more, nothing else but that pulling action.”

As noted above, if there is a disagreement between an employee’s physician and an OWCP referral physician, OWCP will appoint an IME who shall make an examination.<sup>21</sup> The Board finds that a conflict in medical opinion exists between Dr. Rosenberg and Dr. Hughes regarding whether the acceptance of appellant’s claim should be expanded to an exacerbation of preexisting right subscapularis tear as causally related to her accepted May 28, 2021 employment injury.<sup>22</sup>

The Board, therefore, will remand the case for OWCP to refer appellant to an IME for resolution of the conflict in medical opinion evidence in accordance with 5 U.S.C. § 8123(a).<sup>23</sup> After such further development as OWCP deems necessary, it shall issue a *de novo* decision regarding appellant’s expansion claim as it pertains to an exacerbation of preexisting right subscapularis tear.

### **CONCLUSION**

The Board finds that OWCP met its burden of proof to terminate appellant’s wage-loss compensation and medical benefits, effective January 10, 2023, as she no longer had disability or residuals causally related to her accepted May 28, 2021 employment injury. The Board further finds that appellant has not met her burden of proof to establish continuing disability or residuals, on or after January 10, 2023, causally related to the accepted May 28, 2021 employment injury. The Board also finds that the case is not in posture for decision regarding expansion of the acceptance of the claim to include exacerbation of right subscapularis tear.

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<sup>21</sup> See *E.B.*, Docket No. 23-0169 (issued August 24, 2023); *S.S.*, Docket No. 19-1658 (issued November 12, 2020); *C.S.*, Docket No. 19-0731 (issued August 22, 2019).

<sup>22</sup> *D.W.*, Docket No. 24-0157 (issued March 26, 2024); *S.T.*, Docket No. 21-0906 (issued September 2, 2022); *S.M.*, Docket No. 19-0397 (issued August 7, 2019).

<sup>23</sup> *Y.M.*, Docket No. 23-0091 (issued August 4, 2023); *V.B.*, Docket No. 19-1745 (issued February 25, 2021).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 18, 2024 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.<sup>24</sup>

Issued: January 31, 2025  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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<sup>24</sup> James D. McGinley, Alternate Judge, participated in the preparation of this decision, but was no longer a member of the Board effective January 12, 2025.