

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

**WEST VIRGINIA UNIVERSITY HEALTH SYSTEM, INC.,
Employer Below, Petitioner**

v.) No. 26-ICA-157 (JCN: 2025006975)

**ELIZABETH BLACKWELL,
Claimant Below, Respondent**

FILED

September 25, 2026

ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner West Virginia University Health System, Inc. (“WVUHS”) appeals the March 20, 2026, order of the Workers’ Compensation Board of Review (“Board”). Respondent Elizabeth Blackwell filed a response.¹ WVUHS did not reply. The issue on appeal is whether the Board erred in reversing the claim administrator’s order, which denied authorization of right shoulder arthroscopy with debridement of middle glenohumeral ligament and SLAP repair with distal clavicle excision.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). After considering the parties’ arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the Board’s order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

On February 21, 2025, Ms. Blackwell was seen by Stephanie Shamma, NP, FNP-BC, at MedExpress. Ms. Blackwell reported pain in the left side of her neck, her back between her shoulder blades down to her tailbone, and her right arm. Ms. Blackwell further reported that she fell on ice in a parking lot, landing on her right elbow and back. The assessment was a strain of the thoracic region and strain of fascia of the lower back.

Ms. Blackwell submitted an Employees’ and Physicians’ Report of Occupational Injury or Disease form dated February 25, 2025, indicating that she injured her back, neck, right elbow, and shoulder at work on February 17, 2025, when she fell on ice in the parking lot. On February 25, 2025, Ms. Blackwell was treated at the Thomas Memorial Hospital Emergency Department for back pain. She reported that she had a prior back surgery and

¹ WVUHS is represented by Charity K. Lawrence, Esq. Ms. Blackwell is represented by William B. Gerwig III, Esq.

was worried about an injury. A CT of the lumbar spine showed no acute abnormality and multilevel degenerative changes. The impression was pneumonia and lumbar strain.

On February 26, 2025, the claim administrator issued an order holding the claim compensable for strain of muscle and tendon of unspecified wall of thorax and strain of muscle, fascia, and tendon of lower back. On March 3, 2025, Ms. Blackwell returned to the hospital and reported ongoing headaches and neck pain. A CT of the brain showed no evidence of acute intracranial disease. A CT of the neck showed no cervical spine fracture. The impression was strain of neck muscle, subsequent encounter, post concussive syndrome, and pneumonia.

Ms. Blackwell returned to MedExpress on March 5, 2025, March 7, 2025, and March 13, 2025. The diagnoses were strain of fascia of lower back, chronic daily headaches, strain of thoracic region, cervical radiculopathy, lower back injury, pain of right elbow joint, and strain of fascia of neck. On March 13, 2025, Ms. Blackwell reported continued posterior neck pain with shooting electrical pain into the right arm and weakness in grip, and lower back pain shooting into the leg.

On March 25, 2025, Ms. Blackwell was seen by Chelsea Lasure, PA-C. Ms. Blackwell reported limited range of motion and right shoulder pain that radiated to the scapula, up her neck, and down her arm to the elbow. PA-C Lasure assessed right shoulder pain, and Ms. Blackwell received an injection in her right shoulder. A lumbosacral MRI was performed on March 26, 2025, revealing some degenerative disc disease, mild spinal stenosis, and a diffuse disc protrusion. Ms. Blackwell also underwent a cervical spine MRI on March 26, 2025, revealing a tiny central protrusion at C3-C4 and C4-C5, and no spinal stenosis.

Ms. Blackwell was evaluated by Tyler Skidmore, M.D., on April 1, 2025, at the WVU Department of Neurology for new migraines, dizziness/imbalance, extensive neck and back pain, and right arm and leg weakness/sensory loss. Ms. Blackwell reported right upper extremity weakness and sensory loss and right lower extremity weakness. Dr. Skidmore was concerned that she may have suffered a right arm nerve injury during the fall, and he ordered an EMG to evaluate for this. Dr. Skidmore assessed right arm weakness, lumbosacral radiculopathy, unspecified back pain, neck pain, intractable migraine, headache, and fall.

Ms. Blackwell was seen by Robert Crow, Jr., M.D., on April 26, 2025, for neck pain radiating into the right shoulder and bilateral leg weakness. Dr. Crow assessed neck pain, lower back strain, weakness of both legs, and right shoulder pain.

On April 24, 2025, Prasadarao Mukkamala, M.D., evaluated Ms. Blackwell and noted that her current symptoms were burning pain at the right shoulder, neck pain,

migraines, pain in the right forearm, pain in the right arm, mid back pain between the shoulder blades, and low back pain with radiation to the left lower extremity. Dr. Mukkamala noted that Ms. Blackwell had preexisting degenerative spondyloarthropathy in relation to the neck and low back that was not symptomatic before the compensable injury. He further noted that she had not received any treatment in the recent past for the preexisting condition. Dr. Mukkamala opined that the medical documentation supported a causal relationship between the injury and the subjective complaints up to a certain point. However, he felt that her injury, a musculoskeletal strain, occurred more than two months ago and her ongoing complaints were unsupported by the medical evidence, and she demonstrated symptom magnification. Dr. Mukkamala stated that Ms. Blackwell had not reached maximum medical improvement (“MMI”) from the compensable injury.

Ms. Blackwell underwent an EMG on May 5, 2025. Jared Hollinger, M.D., reported that it was a normal study of the right upper extremity with no evidence of radiculopathy, plexopathy, or entrapment mononeuropathy.

On May 14, 2025, Ms. Blackwell was seen by Bruce Haupt, M.D., and she reported pain and decreased motion in the right shoulder. Ms. Blackwell indicated that she had no difficulties with the right shoulder prior to the compensable injury. Ms. Blackwell stated that she was not sure that the therapy was helping. Dr. Haupt reviewed the outside x-rays of the right shoulder, which were negative for fracture and showed mild osteoarthritic changes at the acromioclavicular (“AC”) joint. The assessment, related to the right shoulder, was right arm pain, right arm weakness, contusion of right shoulder, adhesive capsulitis of right shoulder, and subacromial impingement of the right shoulder. Dr. Haupt opined that Ms. Blackwell had a shoulder contusion when she fell and hit the posterior aspect of the right shoulder and, subsequently, she developed adhesive capsulitis and subacromial impingement in the shoulder. Dr. Haupt stated he did not find a rotator cuff tear during his exam. He stated that impingement syndrome could cause pain, swelling, irritation, and sometimes a tear of the rotator cuff. Ms. Blackwell was advised to continue physical therapy and stretching exercises to prevent further progression of the frozen shoulder or adhesive capsulitis. Ms. Blackwell received a cortisone injection in her right shoulder.

On May 18, 2025, Ms. Blackwell underwent a right shoulder MRI revealing no full thickness or partial rotator cuff tears, degenerative tendinopathy in the rotator cuff, moderate degenerative joint disease in the AC joint with subacromial subdeltoid mild bursitis, small glenohumeral joint effusion, no labral tears, and no rotator cuff muscle fatty atrophy.

Dr. Mukkamala issued a report dated May 27, 2025, noting that he previously evaluated Ms. Blackwell on April 24, 2025. Upon review of Dr. Crow’s April 23, 2025, report, Dr. Mukkamala indicated that he did not agree with Dr. Crow’s recommendation

for a pain clinic. However, Dr. Mukkamala felt that the referral to physical therapy as well as the referral to an orthopedic surgeon were appropriate.

On June 13, 2025, Ms. Blackwell followed up with Dr. Haupt and reported that she continued to have a burning sensation and pain throughout the neck and right shoulder. She indicated that the cortisone injection was not helpful. Ms. Blackwell further reported that her symptoms worsened with physical therapy, that she was unable to sleep due to discomfort and numbness/tingling throughout the extremity, and she was unable to perform daily home activities. She was trying to work her normal job but had worsening pain. Upon physical examination, Dr. Haupt noted Ms. Blackwell had significant tenderness throughout the AC joint, and at the lateral, and posterior right shoulder. Dr. Haupt also noted edema and tenderness over the trapezius, and he instructed Ms. Blackwell to continue working light duty.

Ms. Blackwell underwent a right shoulder MRI on June 17, 2025, revealing supraspinatus tendinopathy, moderate AC joint osteoarthritis, and minor muscle edema of the deltoid. On June 23, 2025, Dr. Haupt noted that Ms. Blackwell had a right shoulder contusion and subacromial impingement and was developing adhesive capsulitis. Ms. Blackwell reported that her symptoms had persisted since the last visit. Dr. Haupt indicated that he reviewed a video of Ms. Blackwell at a sporting event where she comfortably put a cushion over her shoulder using her arm freely. According to Dr. Haupt, Ms. Blackwell responded that the cushion was light. Dr. Haupt stated that as far as her shoulder was concerned, Ms. Blackwell could return to work full duty. He further noted that she had inflammation in the shoulder, particularly the rotator cuff that was taking longer than normal to completely resolve, but he opined that it would resolve nonoperatively.

On August 20, 2025, Ms. Blackwell underwent exploratory arthroscopy of the right shoulder with debridement of the middle glenohumeral ligament and SLAP repair with open distal clavicle excision, performed by David Ede, M.D. The preoperative diagnosis was right shoulder pain with AC joint osteoarthritis. Dr. Ede noted that Ms. Blackwell was a candidate for the exploratory surgery because she had persistent right shoulder pain and had failed conservative treatment. In his operative note, Dr. Ede said he evaluated the joint surfaces and found no significant chondromalacia changes. The postoperative diagnosis was SLAP tear in the right shoulder with middle glenohumeral ligament impingement and AC joint osteoarthritis.

The Board noted that Ms. Blackwell requested to add arthrosis of the right shoulder AC joint to the claim as a compensable diagnosis by letter dated September 4, 2025, based on Dr. Ede's notes. On September 4, 2025, Ms. Blackwell followed up with Dr. Ede, who noted that she was two weeks post-surgery. The assessment was arthrosis of the AC joint, status post repair of glenoid labrum, and type 1 SLAP tear of right shoulder.

Aaron Olsen, D.O., evaluated Ms. Blackwell and issued a report dated September 12, 2025. Dr. Olsen noted that Ms. Blackwell received physical therapy and was seen by Dr. Haupt most recently on June 23, 2025. He further noted that Ms. Blackwell underwent right shoulder arthroscopy on August 20, 2025. Ms. Blackwell reported shoulder pain associated with the surgery and some low back pain. Dr. Olsen opined that Ms. Blackwell was at MMI with respect to the compensable conditions, which he listed as thoracic strain, cervical strain, lower back strain, and contusions to the right shoulder and right elbow. He further opined that the requested surgery was not related to the compensable conditions of contusion to the right shoulder or elbow.

On September 23, 2025, Randall Short, D.O., completed a Physician Review report indicating that he was requested to review the medical necessity of right shoulder arthroscopy with debridement of middle glenohumeral ligament, SLAP repair with distal clavicle excision, and a Diagnosis Update to add right AC joint arthrosis and right shoulder pain. Dr. Short noted that the compensable conditions in the claim were neck strain, thoracic wall strain, lower back strain, contusion of right shoulder, and contusion of right elbow. He opined that the diagnosis updates should be denied as AC joint arthrosis was preexisting and right shoulder pain is a symptom, not a diagnosis. Dr. Short recommended that the upcoming medical evaluator review and address the causal relationship of the surgery to the compensable injury.

In response to a September 4, 2025, Diagnosis Update request, the claim administrator issued an order dated September 23, 2025, which denied the diagnoses of AC joint arthrosis and right shoulder pain as compensable diagnoses based on Dr. Short's report. On September 30, 2025, Dr. Olsen issued an addendum report, in which he opined that Ms. Blackwell was indicated for exploratory arthroscopy and distal clavicle excision for AC joint osteoarthritis. He noted that the August 20, 2025, operative report described the indication for surgery as right shoulder pain with AC joint osteoarthritis and negative MRI. Dr. Olsen opined that it was his medical opinion that the surgical indication was consistent with Ms. Blackwell's chronic degenerative changes and not related to the compensable conditions in this claim.

Ms. Blackwell returned to Dr. Ede's office on October 21, 2025, and reported that she continued to have pain and stiffness in the shoulder and stated that physical therapy was not helping. Dr. Ede indicated that she was progressing, but slowly. Dr. Ede completed a Diagnosis Update form on November 6, 2025, requesting the addition of arthrosis of right AC joint and status post repair of glenoid labrum to the claim as compensable conditions.²

² The Board indicated that, as of the date of its order, there was no indication that the claim administrator had issued an order related to Dr. Ede's request.

On October 21, 2025, the claim administrator issued an order denying Dr. Ede's request for right shoulder arthroscopy with debridement of middle glenohumeral ligament and SLAP repair with distal clavicle excision based on the findings of the Encova Select Grievance Board dated October 21, 2025. Ms. Blackwell protested this order.

On March 20, 2026, the Board reversed the claim administrator's order, which denied a request for right shoulder arthroscopy with debridement of middle glenohumeral ligament and SLAP repair with distal clavicle excision. The Board found that the evidence supported a finding that the requested surgery is reasonable and necessary treatment for the compensable injury. WVUHS now appeals the Board's order.

Our standard of review is set forth in West Virginia Code § 23-5-12a(b) (2022), in part, as follows:

The Intermediate Court of Appeals may affirm the order or decision of the Workers' Compensation Board of Review or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the Workers' Compensation Board of Review, if the substantial rights of the petitioner or petitioners have been prejudiced because the Board of Review's findings are:

- (1) In violation of statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the Board of Review;
- (3) Made upon unlawful procedures;
- (4) Affected by other error of law;
- (5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Syl. Pt. 2, *Duff v. Kanawha Cnty. Comm'n*, 250 W. Va. 510, 905 S.E.2d 528 (2024).

WVUHS argues the requested surgery is not reasonably required for treatment of the compensable injury because the condition necessitating the surgery is not compensable in the claim. WVUHS further argued that Ms. Blackwell failed to establish with medical evidence that the "necessitating condition" is related to the compensable injury. We disagree.

Here, the Board found that Dr. Ede was in the best position to determine the proper course of medical treatment for Ms. Blackwell as her treating physician. The Board noted that Ms. Blackwell continued to have right shoulder pain and limited range of motion after the compensable injury despite conservative care. The Board further noted that following

the exploratory surgery, Dr. Ede's postoperative diagnosis was right shoulder SLAP tear with middle glenohumeral ligament impingement and AC joint osteoarthritis. As to the other evaluating physicians, the Board noted that Dr. Mukkamala agreed with the referral to Dr. Ede for the continued right shoulder symptoms; and that Dr. Short failed to provide an opinion regarding the causal relationship of the surgery to the compensable injury. The Board noted that Dr. Olsen is the only evaluating physician of record who specifically addressed whether the right shoulder arthroscopy was related to the compensable injury. However, the Board further noted that Dr. Olsen failed to provide an analysis of whether it was reasonable and necessary to perform the exploratory surgery in light of persistent right shoulder symptoms despite conservative treatment.

The Board noted that the record contained no preinjury records suggesting previous symptoms or treatment for the right shoulder nor did it contain evidence of a subsequent intervening right shoulder injury. Ultimately, the Board determined that Dr. Ede's treatment recommendations were credible and were entitled to more weight than the opinions from the other physicians. Thus, the Board found that Dr. Ede's request for exploratory arthroscopic right shoulder surgery was reasonable and necessary treatment for the compensable injury.

Upon review, we conclude that the Board was not clearly wrong in finding that arthroscopic right shoulder surgery was reasonable and necessary treatment for the compensable injury. We conclude that Ms. Blackwell's argument that the only responsible thing for Dr. Ede to do, once he discovered the SLAP tear, was to repair it then, without delay or imposing a second surgery is reasonable. Further, we conclude that the Board was not clearly wrong in finding that Dr. Ede was in the best position to determine the proper course of medical treatment for Ms. Blackwell as her treating physician. As the Supreme Court of Appeals of West Virginia has set forth, "[t]he 'clearly wrong' and the 'arbitrary and capricious' standards of review are deferential ones which presume an agency's actions are valid as long as the decision is supported by substantial evidence or by a rational basis." Syl. Pt. 3, *In re Queen*, 196 W. Va. 442, 473 S.E.2d 483 (1996). With this deferential standard of review in mind, we cannot conclude that the Board was clearly wrong in reversing the claim administrator's order.

Accordingly, we affirm the Board's March 20, 2026, order.

Affirmed.

ISSUED: September 25, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White