ALASKA WORKERS’ COMPENSATION BOARD

P.O. Box 115512 Juneau, Alaska 99811-5512

BRIANNA J. CAREY,	)	
	)	
Employee,	)	
Claimant,	)	
	)	INTERLOCUTORY
v.	)	DECISION AND ORDER
	)	
COOK INLET HOUSING AUTHORITY,	)	AWCB Case No. 202304006
	)	
Employer,	)	AWCB Decision No. 26-0037
and	)	
	)	Filed with AWCB Anchorage, Alaska
ALASKA NATIONAL INSURANCE	)	on May 18, 2026
COMPANY,	)	
	)	
Insurer,	)	
Defendants.	)	
	)	

Brianna Carey’s (Employee) March 17, 2026 petition for a second independent medical evaluation (SIME) was heard on the written record on April 23, 2026, a date selection on March 20, 2026. The petition gave rise to the hearing. Employee represented herself. Attorney Jeffrey Holloway represented Cook Inlet Housing Authority and Alaska National Insurance Company (Employer). The record closed at the hearing’s conclusion on April 23, 2026.

ISSUE

Employee contends there is a significant medical dispute between her attending physicians and employer’s medical evaluator (EME). She contends the EME opinion should be given less weight than her treating physicians. Employee contends this warrants an SIME and finding that her condition “remains causally related” to the work injury.

Employer contends there is no significant medical dispute in this case, and an SIME is not necessary. It contends Employee's SIME request was late and is based upon obsolete records. Employer contends an SIME is premature because the disputes are unclear since Employee has not filed a claim. It contends the request for an SIME should be denied.

Shall this decision order an SIME?

FINDINGS OF FACT

A preponderance of the evidence establishes the following facts and factual conclusions:

1) On March 21, 2023, Employee went to the emergency room with neck and back pain. She was at work carrying a box when she slipped and fell while getting out of a vehicle and fell backwards and struck the back of her shoulders on the step. Employee felt bilateral shoulder, neck, and back pain. She did not strike her head or lose consciousness. X-rays were taken of Employee's cervical and thoracic spine and shoulders, which showed no bony abnormality. Based on the history, physical exam, and imaging, it was "reassuring against acute bony abnormality. Likely has musculoskeletal strain. No clinical indication of neurologic injury." Employee was instructed to rest, use ice, and take Tylenol and Motrin. She was also provided with a work note to increase to light duty and then return to full duty as she was able to tolerate. (Samuel Broder, DO, record, March 21, 2023).

2) On March 23, 2023, Employer reported Employee was injured on March 21, 2023 when she was attending training on how to operate a shuttle; she was carrying a box while getting off the shuttle when she slipped on ice and she fell backwards and hit her neck and upper back on the last step of the stairs. (First Report of Injury, March 23, 2023).

3) On March 28, 2023, Employee stated she slipped and fell out of the bus on March 21, 2023, hitting her shoulder on the steps. She had neck stiffness immediately. Employee went to the emergency room and had a normal workup and was given lidocaine patches that were not sticking. She continued to have pain between her shoulder blades and neck stiffness and was taking ibuprofen. Natasha Sherrill, APRN, diagnosed back pain and neck stiffness. She recommended Employee use heat, muscle relaxers, soaks, and nonsteroidal anti-inflammatory

drug with proton pump inhibitor, and restricted her to light duty for one week. (Sherill record, March 28, 2023).

4) On April 12, 2023, Employee said it felt like it hurt between her shoulder blades. She had pain in her right and left shoulder; the left was worse. Employee was having difficulty sleeping and the muscle relaxers were too sedating. She used heat, not ice, picked up Voltaren gel, stopped taking Tylenol, and was getting an upset stomach from ibuprofen and Aleve. Employee was diagnosed with rhomboid muscle strain and trapezius muscle spasm. She was referred to physical and massage therapy, prescribed a TENS unit, and advised to use Tylenol and Voltaren gel and to stop ibuprofen and Aleve and Flexeril if it was too sedating. (Pebbles Shanley, MD, record, April 12, 2023). Employee was restricted from lifting more than 10 pounds and from crawling, sitting, climbing, reaching, and twisting for more than four to six hours, and from standing, walking, bending/squatting, driving, and using her feet and hands for more than six to eight hours. (Shanley, Alaska National Workers' Compensation Work Status Document, April 14, 2023).

5) On June 3, 2023, Dr. Shanley restricted Employee from lifting equal to or more than 10 pounds, repetitive squatting or bending, lifting items above her head; she required breaks of 15 minutes every hour "if doing repetitive movements with her arms/shoulders." (Shanley letter, June 6, 2023).

6) On August 15, 2023, Mary Beth Scott-Calor, DO, diagnosed thoracic back pain, shoulder pain, and myalgia/myositis. She prescribed a TENS unit and referred Employee for chiropractic care and counseling for the thoracic back pain and trigger point injections for the myalgia/myositis. Dr. Scott-Calor made "provisional diagnoses" of cervical facet arthropathy, cervical radiculitis in C7 distribution, and myalgia. She recommended Employee continue physical therapy "with that person being exercise steward," referred Employee for massage, consider reading "Treat your own neck" by Robin McKenzie and "Manage Pain Before It Manages You" by Caudill and Benson, consider water/pool therapy, walking, and elliptical for exercise rather than running/heavy lifting/axial loading exercise, gentle and infrequent strength training to strengthen each join, work on posture and ergonomics, and work more on core and balance than flexibility. Dr. Scott-Calor recommended Employee start cacao three times daily in powder, nib, or chocolate form, turmeric with piperine, vitamin D3, fish oil, magnesium glycinate, Epsom salt baths, NAD+ platinum, and a prescription of low dose naltrexone if "she

would like." She ordered a bilateral C4-C7 medial branch block, with the exact level to be determined based on imaging, and if it was successful, a radiofrequency ablation to provide up to two years of pain relief. Trigger point injections could be considered for muscle tension as needed. (Scott-Calor record, August 15, 2023).

7) On September 28, 2023, Dr. Scott-Calor said Employee may return to "work/school" on October 10, 2023. (Scott-Calor return to work/school note, September 28, 2023).

8) On December 11, 2023, Ernest Meinhardt, MD, noted Employee had been undergoing pain management at "Alpineglow pain management clinic" for a neck injury suffered on the job. She had been getting trigger point injections for chronic neck pain. Employee's neck injury was aggravated by a motor vehicle accident that occurred on Thanksgiving Day. She was rear-ended and suffered a whiplash injury. Employee stated her neck was "very tight." Dr. Meinhardt diagnosed cervicalgia and the "Plan" said, "I think this patient's neck pain/injury has become chronic and now its aggravated by a motor vehicle accident not related to the work comp injury. Work comp forms filled out. Patient is referred for a physical capacity evaluation and hopefully a disability rating." (Meinhardt record, December 11, 2023).

9) On February 9, 2024, Dr. Scott-Calor diagnosed thoracic back and shoulder pain, myalgia/myositis, neck pain, and cervical spondylosis without myelopathy. She recommended trigger point injections and valium for myalgia/myositis and medial branch block for cervical spondylosis without myelopathy. (Scott-Calor record, February 9, 2024).

10) On April 30, 2024, Dennis Chong, MD, a physical medicine and rehabilitation specialist, performed a records review EME. He diagnosed "Pre-existing elevated body mass index Class 2 - very high risk comorbidities. This is a significant risk factor for chronic mechanical neck pain;" "Slip and fall while descending the final step of a shuttle bus, landing backwards with upper body onto the step of the bus. Proximate emergency department diagnosis of cervicodorsal pain, without a pathological diagnosis. This is related and long since resolved[;]" and "Rear-end motor vehicle collision Thanksgiving 2023, with neck pain. This is unrelated to the index industrial event." Dr. Chong stated the substantial cause of Employee's subjective pain complaints is her preexisting elevated body mass index and the more recent rear-end motor vehicle collision; the work injury had long ceased to be a substantial cause of her subjective pain complaints. He opined the emergency room visit and the referral for physical therapy were reasonable and necessary but treatment beginning in 2023 with a new medical provider,

subsequent trigger point injections, and cervical spine magnetic resonance imaging (MRI) were not reasonable or necessary because there was no evidence of radiculopathy and the injections were not efficacious because Employee reported substantially elevated pain scores; and treatment after the collision was not reasonable and necessary for the work injury. Dr. Chong said at most, Employee would have sustained soft tissue injuries, which are expected to resolve in two to three months, by June 2023. He did not recommend any additional medical treatment, and Employee was medically stable by June 2023. Employee had no permanent partial impairment (PPI) rating and there was no objective basis to impose work restrictions. (Chong EME report, April 30, 2024).

11) On June 13, 2024, Dr. Scott-Calor excused Employee from "work/school" on "Monday June 10 and today June 13, 2024 due to post op pain." (Scott-Calor return to work/school note, June 13, 2024).

12) On November 4, 2024, Jennifer Davis, PA-C, responded to an October 30, 2024 letter sent with Dr. Chong's April 30, 2024 report from the claims adjuster, checking she concurred with Dr. Chong's April 30, 2024 evaluation. (Davis response, November 4, 2024).

13) On August 27, 2025, Nichelle Renk, MD, diagnosed thoracic spondylosis without myelopathy. She performed a left T4-7 radiofrequency ablation. (Renk record, August 27, 2025).

14) On August 28, 2025, Cynthia Dunleavy, PA-C, said Employee may return to work on August 29, 2025. (Dunleavy return to work/school note, August 28, 2025).

15) On September 18, 2025, PA-C Dunleavy stated the visit was "directed related to a workman's comp. case." Employee reported she fell at work on March 21, 2023, while stepping off a bus and hit her mid/upper back on the last step of the bus. Dr. Dunleavy diagnosed cervical spondylosis without myelopathy, thoracic spondylosis without myelopathy, chronic bilateral thoracic back pain, and myalgia. She recommended cervical radiofrequency lesioning for cervical spondylosis without myelopathy, lidocaine ointment and diclofenac gel for chronic bilateral thoracic back pain, and cyclobenzaprine and trigger point injection for myalgia. (Dunleavy record, September 18, 2025).

16) On December 10, 2025, Dr. Chong examined Employee for an EME. Employee stated she was last seen in September 2025 at the pain clinic and is planning to schedule a new appointment for her neck. She took three days off work for the work injury and returned to work. Then

Employee transferred to the call center from July to September 2023 because her original job as Resident Engagement Coordinator was causing too much discomfort. In October 2023, she began working remotely from home for FedEx until March 2024. Next Employee worked as a property manager at the apartment complex where she resided until December 2024. She was off work for a season and then resumed working April 2025 at Marriott Hotel on the night shift. Employee began working for the Municipality of Anchorage in May 2025 in a call center full time and she continued to be in that position at the time of the examination. Dr. Chong noted in the records section of his report that he issued a previous report dated April 30, 2024 diagnosing, "1. Preexisting elevated body mass index, Class 2 – very high risk comorbidities. This is a significant risk factor for chronic mechanical neck pain."; "2. Slip and fall on descending final step of a shuttle bus, landing backwards with upper body into the step of the bus. Proximate emergency department diagnosis of cervicodorsal pain, without a pathological diagnosis. This is related and long since resolved."; and "3. Rear-end MVC Thanksgiving 2023, with neck pain. This is unrelated to the index industrial event." He diagnosed

> 1. Preexisting elevated body mass index, Class 2 – very high risk comorbidities, progressed to Class 3 – extreme risk comorbidities. This is a significant risk factor for chronic mechanical neck and back pain. This is not industrially related.
> 2. Preexisting chronic anxiety as extensively noted in the primary care clinical records, with screeding GAD-7 score of severe anxiety today. This is not industrially related by and undoubtedly is a confounding factor for chronic pain symptoms.
> 3. Slip and fall while descending final step of a shuttle bus, landing backwards with upper body onto the step of the bus. Proximate emergency department diagnosis of cervicodorsal pain, without a pathologic diagnosis. This is related and long since resolved.
> 4. Rear-end MVC Thanksgiving 2023 with neck pain. This was not recalled today. This is unrelated to the index industrial event.

Dr. Chong stated Employee's chronic mechanical neck pain diagnosed in 2024 and chronic midback pain diagnosed in 2024 are unrelated to, not caused by, nor aggravated by the work injury. Medical treatment, including the emergency room visit, follow-up at Independent Park Medical Services, and a short course of physical therapy were reasonable and necessary but treatments since July 2023 are not related and not medically necessary for the work injury. Dr. Chong recommended no medical treatment for the work injury. The substantial cause of her current medical treatment is chronic mechanical pain from extreme risk comorbidities of

elevated BMI. Dr. Chong opined Employee was medically stable, should have attained medical stability two to three months after the work injury in June 2023, and had no permanent impairment. (Chong EME report, December 10, 2025).

17) On January 16, 2026, Employer denied all benefits as of December 10, 2025 based upon Dr. Chong's report stating Employee is medically stable with no permanent partial impairment and no future medical treatment recommendations for the work injury. (Controversion Notice, January 16, 2026).

18) On March 1, 2026, the Board requires all PPI determinations and ratings under AS 23.30.190(b) be carried out using the American Medical Association's Guides to the Evaluation of Permanent Impairment, Sixth Edition 2025 effective April 1, 2026. (Bulletin 26-01, March 1, 2026).

19) On March 17, 2026, Employee requested a SIME stating, "I have not completed a disability rating or a physical capacity evaluation due to my treatments not being completed until August 2025. Then I had to have emergency surgery on September 22, 2025 not related to event." (Petition, March 17, 2026). She contended there is a medical dispute between her treating physicians, APRN Sherrill, Dr. Scott-Calor, Dr. Renk, and PA Dunleavy, and Employer's medical evaluator Dr. Chong on causation, treatment, degree of impairment, and medical stability. Employee sought an SIME with a "neurologist or someone who specializes in nerve injuries." She attached ARPN Sherrill's March 28, 2023 record, Dr. Scott-Calor's August 15, 2023 and February 8, 2024 records, Dr. Renk's August 27, 2025 record, PA Dunleavy's September 18, 2025 record, and Dr. Chong's December 10, 2025 report. (SIME form, March 17, 2026).

20) On March 20, 2026, the Division served the parties with notice of the April 23, 2026 written record hearing by certified mail, with briefs due on April 16, 2026. (Written Record Hearing Notice and Hearing Notice Written Record Served Event, March 20, 2026).

21) On March 22, 2026, Dr. Shanley signed a "FMLA Certification of Health Care Provider for the Serious Health Condition" form that Employee needed to work less than her normal work schedule for treatment one time per month, lasting four hours, and recurring episodes two times per month for one hour. The approximate date the symptoms and medical conditions started was March 21, 2023. (Shanley FMLA Certification of Health Care Provider for the Serious Health Condition, March 22, 2026).

22) On April 16, 2026, Employer filed a hearing brief contending there is no significant medical dispute because the medical opinions Employee relied on from her physicians are from 2023 and 2024 and are obsolete. It contended the last treatment record from September 18, 2025 does not contain an attending physician opinion on causation, PPI, or medical stability as required under 8 AAC 45.086. Employer contended Dr. Meinhardt stated on December 11, 2023 that Employee's pain had been aggravated by a motor vehicle accident during Thanksgiving 2023, and PA-C Davis concurred with Dr. Chong's April 30, 2024 report on November 4, 2024. It contended Employee's SIME petition was untimely because the latest medical report her SIME form relied upon was Dr. Chong's December 10, 2025 report, and she did not file it within 60 days of that report. Employer contended an SIME would be premature because Employee had not filed a claim. It contended Employee needs to seek opinions on medical stability, PPI, and treatment from her medical providers, not from an SIME physician and Employer should not have to pay for an expensive SIME because her providers failed to follow the regulation. Employer requested Employee's SIME petition be denied. (Brief of Cook Inlet Housing Authority, April 16, 2026).

23) On April 16, 2026, Employee filed a hearing brief "in opposition to" Dr. Chong's December 10, 2025 EME. She contended his conclusions are not supported by medical evidence and were reached without "a thorough or meaningful review of the Claimant's medical history, diagnostic imaging, or treating providers' opinions. Notably, despite the availability of relevant medical documentation, including MRI findings and longitudinal treatment records, there is no indication that Dr. Dennis Chong adequately considered this information before forming his conclusions. Instead, the report places disproportionate emphasis on the Claimant's body mass index while failing to address objective medical findings and consistent clinical observations documented by treating providers." Employee contended she was unaware of Dr. Chong's April 30, 2024 EME report and it was discovered during the December 10, 2025 appointment. She contended Dr. Chong's reports reference a motor vehicle collision in November 2023 as a contributing factor, but she can provide "official documentation from the Alaska Division of Motor Vehicles" and her automobile insurance carrier can confirm no such collision occurred. Employee contended Dr. Chong's report should be given little weight. She contended Dr. Chong's opinion is inconsistent with her treating providers longitudinal findings and their opinions should be given more weight because they observed her longitudinally and specialize in anesthesiology and pain

management. Employee contended Dr. Chong's report failed to account for her ongoing and escalating treatment. She contended her work restrictions and her loss of earning capacity undermines Dr. Chong's report. Employee contended her weight, which has fluctuated since 2021 and was lower when she was injured, proves her weight was not a contributing factor. She contended the November 2023 incident did not cause a new injury, only temporarily aggravated symptoms from her established work injury. Employee contended the November 2023 incident did not involve a collision or a rear end accident; she sought emergency care for increased neck pain after her vehicle lost traction while driving downhill near Abbott and Lake Otis when she applied her brakes repeatedly resulting in a sudden jarring motion. She said she is working with Providence to correct the error. Employee requested the Board reject Dr. Chong's December 10, 2025 EME report, give greater weight to her primary and treating physicians, find her condition "remains causally related" to the work injury, and award her an SIME that specializes in neurology or nerve injuries. (Claimant's Written Brief in Opposition to IME, April 16, 2026).

24) On April 16, 2026, Employee sought temporary total disability (TTD) and temporary partial disability (TPD) benefits, penalty for late paid compensation, and interest. She stated the reason she filed the claim was, "I was never compensated for anything after 03/2023. I didn't received [sic] TPD for working light duty for over 4 months, had to move from my initial position to a low paying position at CIHA call center and eventually had to resign due to stationary position causing extreme discomfort. Adjuster was aware that they never compensated me for anything after 03/28/23. Adjust [sic] lacked communication never answered the phone or call back." (Claim for Workers' Compensation Benefits, April 16, 2023).

PRINCIPLES OF LAW

> **AS 23.30.001. Legislative intent.** It is the intent of the legislature that
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> (1) this chapter be interpreted so as to ensure . . . quick, efficient, fair, and predictable delivery of . . . benefits to injured workers at a reasonable cost to . . . employers; . . .

The Board may base its decision on not only direct testimony and other tangible evidence, but also on the Board's "experience, judgment, observations, unique or peculiar facts of the case, and inferences drawn from all of the above." *Fairbanks North Star Borough v. Rogers & Babler*, 747 P.2d 528, 533-34 (Alaska 1987).

In *Richard v. Fireman's Fund*, 384 P.2d 445, 449 (Alaska 1963), the Alaska Supreme Court said:

> We hold to the view that a workmen's compensation board or commission owes to every applicant for compensation that duty of fully advising him as to all the real facts which bear upon his condition and his right to compensation, so far as it may know them, and of instructing him on how to pursue that right under the law.

Bohlmann v. Alaska Construction & Engineering, 205 P.2d 316, 319-21 (Alaska 2009) addressed this same issue and said:

> In *Richard* . . . we held that the board must assist claimants by advising them of the important facts of their case and instructing them how to pursue their right to compensation. We have not considered the extent of the board's duty to advise claimants. . . .
> . . . .
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> Here, the board at a minimum should have informed Bohlmann how to preserve his claim. . . . Its failure to recognize that it had to do so in this case was an abuse of discretion. . . .

> **AS 23.30.095. Medical treatments, services, and examinations**. . . . (k) In the event of a medical dispute regarding . . . causation, medical stability, ability to enter a reemployment plan, degree of impairment, functional capacity, the amount and efficacy of the continuance of or necessity of treatment, or compensability between the employee's attending physician and the employer's independent medical evaluation, the board may require that a second independent medical evaluation be conducted by a physician or physicians selected by the board from a list established and maintained by the board. The cost of an examination and medical report shall be paid by the employer.

The Alaska Workers' Compensation Appeals Commission in *Bah v. Trident Seafoods Corp.,* AWCAC Dec. No. 073 (February 27, 2008) addressed the Board's authority to order an SIME under §095(k). *Bah* stated in *dicta*, that before ordering an SIME it is necessary to find the medical dispute is significant or relevant to a pending claim or petition. *Bah* said when deciding whether to order an SIME, the Board considers three criteria, though the statute requires only one:

> 1) Is there a medical dispute between Employee's physician and an EME?
> 2) Is the dispute significant? and
> 3) Will an SIME physician's opinion assist the Board in resolving the disputes? (*Id.*).

> **AS 23.30.110. Procedure on claims.** . . . . (g) An injured employee claiming or entitled to compensation shall submit to the physical examination by a duly qualified physician which the board may require.
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> **AS 23.30.135. Procedure before the board**. (a) . . . The board may make its investigation or inquiry or conduct its hearing in the manner by which it may best ascertain the rights of the parties. . . .
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> **AS 23.30.150. Commencement of compensation.** Compensation may not be allowed for the first three days of the disability, except the benefits provided for in AS 23.30.095; if, however, the injury results in disability of more than 28 days, compensation shall be allowed from the date of the disability.
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> **AS 23.30.155. Payment of compensation**. . . . (h) The board may upon its own initiative at any time in a case in which payments are being made with or without an award, where right to compensation is controverted, or where payments of compensation have been increased, reduced, terminated, changed, or suspended, upon receipt of notice from a person entitled to compensation, or from the employer, that the right to compensation is controverted, or that payments of compensation have been increased, reduced, terminated, changed, or suspended, make the investigations, cause the medical examinations to be made, or hold the hearings, and take the further action which it considers will properly protect the rights of all parties.

Section 095(k) and §110(g) are procedural in nature, not substantive, for the reasons outlined in *Deal v. Municipality of Anchorage*, AWCB Dec. No. 97-0165 (July 23, 1997). Under §135(a) and §155(h), wide discretion exists to consider any evidence available when deciding whether to order an SIME to assist in investigating and deciding medical issues in claims, to best "protect the rights of the parties." Under §110(g) the Board may order an SIME when there is a significant "gap" in the medical evidence, or a lack of understanding of the medical or scientific evidence prevents the Board from ascertaining the rights of the parties and an SIME opinion would help. *Bah*.

An SIME's purpose is to have an independent medical expert provide an opinion about a contested issue. *Seybert v. Cominco Alaska Exploration*, 182 P.3d 1079, 1097 (Alaska 2008). The decision to order an SIME rests in the discretion of the Board, even if jointly requested by the parties. *Olafson v. State Department of Transportation*, AWCAC Dec. No. 06-0301 (October 25, 2007). Although a party has a right to request an SIME, a party does not have a right to an SIME if the Board decides one is not necessary for the Board's purposes. *Id*. at 8. An SIME is not a discovery tool exercised

by the parties; it is an investigative tool exercised by the Board to assist it by providing a disinterested opinion. *Id*. at 15.

> **AS 23.30.185. Compensation for temporary total disability.** In case of disability total in character but temporary in quality, 80 percent of the injured employee's spendable weekly wages shall be paid to the employee during the continuance of the disability. Temporary total disability benefits may not be paid for any period of disability occurring after the date of medical stability.
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> **AS 23.30.200. Temporary partial disability.** (a) In case of temporary partial disability resulting in decrease of earning capacity the compensation shall be 80 percent of the difference between the injured employee's spendable weekly wages before the injury and the wage-earning capacity of the employee after the injury in the same or another employment, to be paid during the continuance of the disability, but not to be paid for more than five years. Temporary partial disability benefits may not be paid for a period of disability occurring after the date of medical stability.
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> (b) The wage-earning capacity of an injured employee is determined by the actual spendable weekly wage of the employee if the actual spendable weekly wage fairly and reasonably represents the wage-earning capacity of the employee. The board may, in the interest of justice, fix the wage-earning capacity that is reasonable, having due regard to the nature of the injury, the degree of physical impairment, the usual employment, and other factors or circumstances in the case that may affect the capacity of the employee to earn wages in a disabled condition, including the effect of disability as it may naturally extend into the future.
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> **AS 23.30.395. Definitions.** In this chapter,
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> . . . .
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> (28) "medical stability" means the date after which further objectively measurable improvement from the effects of the compensable injury is not reasonably expected to result from additional medical care or treatment, notwithstanding the possible need for additional medical care or the possibility of improvement or deterioration resulting from the passage of time; medical stability shall be presumed in the absence of objectively measurable improvement for a period of 45 days; this presumption may be rebutted by clear and convincing evidence;
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> **8 AAC 45.092. Second independent medical evaluation.**
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> . . . .
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> (g) If there exists a medical dispute under AS 23.30.095(k),
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> (1) the parties may file a

(A) completed second independent medical form, available from the division, listing the dispute together with copies of the medical records reflecting the dispute, and

(B) stipulation signed by all parties agreeing

(i) upon the type of specialty to perform the evaluation or the physician to perform the evaluation; and

(ii) that either the board or the board's designee determine whether a dispute under AS 23.30.095(k) exists, and requesting the board or the board's designee to exercise discretion under AS 23.30.095(k) and require an evaluation;

(2) a party may petition the board to order an evaluation; the petition must be filed within 60 days after the party received the medical reports reflecting a dispute, or the party's right to request an evaluation under AS 23.30.095(k) is waived;

(A) the completed petition must be filed timely together with a completed second independent medical form, available from the division, listing the dispute; and

(B) copies of the medical records reflecting the dispute; or

(3) the board will, in its discretion, order an evaluation under AS 23.30.095(k) even if no party timely requested an evaluation under (2) of this subsection if

(A) the parties stipulate, in accordance with (1) of this subsection, to the contrary and the board determines the evaluation is necessary; or

(B) the board on its own motion determines an evaluation is necessary.

ANALYSIS

Shall this decision order an SIME?

Employee contends there are significant medical disputes regarding causation, treatment, degree of impairment, and medical stability between her treating physicians, APRN Sherrill, Dr. Scott-Calor, Dr. Renk, and PA Dunleavy, and Employer's medical evaluator, Dr. Chong. She contends she has not completed a disability rating or physical capacity evaluation since her medical treatments were not completed until August 2025 due to an emergency surgery.

Employee contends her treating physicians' opinions should be given more weight than Dr. Chong's opinion. Employer contends there is no dispute regarding causation, PPI, or medical stability because Employee's treating physician failed to address them as required under 8 AAC 45.086. It contends there is no significant medical dispute because Employee's treating physicians' opinions are obsolete because they are from 2023 and 2024.

8 AAC 45.092(g)(2) requires a party to file a petition for an SIME within 60 days after receiving medical records reflecting the dispute, or the right to request an SIME is waived. While Employer claimed Employee's treating physicians' opinions are obsolete, or outdated, there is no evidence in the record showing when Employee received the medical records which she contends reflect disputes in her SIME form.

An SIME may be ordered if there is a significant medical dispute between Employee's physicians and the EME. *Bah*. On March 28, 2023, Employee was diagnosed with back pain and neck stiffness from the work injury; she was restricted to light duty for one week. On August 15, 2023, Dr. Scott-Calor diagnosed thoracic back pain, shoulder pain, and myalgia/myositis; she did not provide any work restrictions. However, on June 3, 2023, Dr. Shanley restricted Employee from lifting equal to or more than 10 pounds, repetitive squatting or bending, and lifting items above her head and she required breaks of 15 minutes every hour if Employee was doing repetitive motions with her arms or shoulders. On April 30, 2024 and December 10, 2025, Dr. Chong diagnosed cervicodorsal pain related to the work injury that had long since resolved, by June 2023. He opined the substantial cause of her symptoms is Employee's preexisting elevated body max index and the more recent motor vehicle collision, no additional medical treatment is needed after June 2023 for the work injury, and there are no work restrictions. There is a dispute regarding causation of medical treatment and disability.

On September 28, 2023, Dr. Dunleavy recommended cervical radiofrequency lesioning for cervical spondylosis without myelopathy, lidocaine ointment and diclofenac gel for chronic bilateral thoracic back pain, and cyclobenzaprine and trigger point injection for myalgia. On February 9, 2024, Dr. Scott-Calor recommended trigger point injections and valium for myalgia/myositis and medial branch block for cervical spondylosis without myelopathy. Dr.

Chong stated no further medical treatment was needed and treatments since July 2023 are not related and not medically necessary for the work injury. There is a dispute regarding medical treatment.

On December 11, 2023, Dr. Meinhardt stated Employee's neck injury became chronic and was aggravated by the motor vehicle accident; he referred Employee for a physical capacity evaluation and a disability rating. Employee has not undergone a PPI rating by her treating physicians. On September 18, 2025, PA-C Dunleavy did not address medical stability or PPI; she said the appointment was related to Employee's work injury and recommended cervical radiofrequency lesioning for cervical spondylosis without myelopathy, lidocaine ointment and diclofenac gel for chronic bilateral thoracic back pain, and cyclobenzaprine and trigger point injection for myalgia. Dr. Chong stated Employee reached medical stability by June 2023 and had no PPI. On November 4, 2024, PA-C Davis checked she concurred with Dr. Chong's April 30, 2024 report. There is no dispute regarding medical stability or degree of impairment.

On April 16, 2023, Employee filed a claim for TTD and TPD benefits after Employer denied all benefits as of December 10, 2025 based upon Dr. Chong's report on January 16, 2026. She did not seek medical benefits or PPI benefits in her claim. As determined above, there is no dispute regarding medical stability; and TPD and TTD benefits are not payable after medical stability. Based on the medical record and the benefits Employee seeks, there are no significant medical disputes between Employee's physicians and the EME. *Bah*. Furthermore, an SIME is used to provide an expert opinion about a contested issue and is not a tool for Employee to obtain an opinion regarding medical stability, a PPI rating, or a functional capacity evaluation. *Seybert*; *Olafson*. Employee must seek an opinion regarding medical stability, a PPI rating, and her functional capacity from her treating physician. A lack of medical opinion from a treating physician does not constitute a gap in the medical evidence. *Bah.* The panel does not lack understanding of the medical or scientific evidence preventing the Board from ascertaining the rights of the parties in this case. AS 23.30.135(a); AS 23.30.155(h); *Bah*. An SIME opinion will not assist the Board in resolving Employee's claim for TTD and TPD benefits at this time. *Bah*. It would not be quick, fair, or efficient to order an SIME when there are no significant medical disputes, no gap in the medical evidence, and an SIME opinion would not assist the Board in

resolving Employee's claim for TTD and TPD benefits. AS 23.30.001(1). An SIME shall not be ordered; Employee's request for an SIME will be denied. AS 23.30.095(k); *Bah*; *Olafson*.

Pursuant to *Richard* and *Bohlmann*, Employee is advised benefits cannot be awarded at a hearing on a petition for an SIME; benefits can only be awarded after a hearing is held on her claim for benefits. She may request a hearing using an affidavit of readiness for hearing form once she is ready for a hearing on her claim. Employee's request to find her condition "remains causally related" to the work injury in her brief is denied without prejudice.

Employee is advised that 8 AAC 45.092(g)(2) requires her to file a petition for an SIME within 60 days after receiving medical records reflecting the dispute, or her right to request an SIME is waived. She is advised no compensation benefits are paid for the first three days of disability unless she is ultimately disabled more than 28 calendar days; if she was disabled more than 28 days, the insurer is required to then pay compensation benefits for the first three days of disability. AS 23.30.150. Employee is advised TPD benefits are calculated by taking 80 percent of the difference between her spendable weekly wage before her injury and her spendable weekly wage after returning to work, and she is required to provide Employer proof of her actual wages. AS 23.30.200. She is advised TTD and TPD benefits are not payable for periods of disability occurring after medical stability. AS 23.30.185; AS 23.30.200. Medical stability is defined the date after which further objectively measurable improvement from the effects of the compensable injury is not reasonably expected to result from additional medical care or treatment, notwithstanding the possible need for additional medical care or the possibility of improvement or deterioration resulting from the passage of time. AS 23.30.395(28). It is presumed in the absence of objectively measurable improvement for a period of 45 days; this presumption may be rebutted by clear and convincing evidence. *Id*. Employee is advised she may amend her claim to add medical and PPI benefits by filing an amended claim or by orally amending her claim at the May 26, 2026 prehearing conference. She is advised that effective April 1, 2026, her doctor must use the American Medical Association's (AMA) *Guides to the Evaluation of Permanent Impairment*, (Sixth Edition) (2025) to rate any impairment related to her work injury. AS 23.30.190; Bulletin 26-01.

CONCLUSION OF LAW

This decision shall not order an SIME.

ORDER

1) Employee's March 17, 2026 petition for an SIME is denied.

Dated in Anchorage, Alaska on May 18, 2026.

ALASKA WORKERS' COMPENSATION BOARD

/s/
Kathryn Setzer, Designated Chair

/s/
Randy Beltz, Member

PETITION FOR REVIEW

A party may seek review of an interlocutory or other non-final Board decision and order by filing a petition for review with the Alaska Workers' Compensation Appeals Commission. Unless a petition for reconsideration of a Board decision or order is timely filed with the board under AS 44.62.540, a petition for review must be filed with the commission within 15 days after service of the board's decision and order. If a petition for reconsideration is timely filed with the board, a petition for review must be filed within 15 days after the board serves the reconsideration decision, or within 15 days from date the petition for reconsideration is considered denied absent Board action, whichever is earlier.

RECONSIDERATION

A party may ask the board to reconsider this decision by filing a petition for reconsideration under AS 44.62.540 and in accordance with 8 AAC 45.050. The petition requesting reconsideration must be filed with the board within 15 days after delivery or mailing of this decision.

MODIFICATION

Within one year after the rejection of a claim, or within one year after the last payment of benefits under AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, a party may ask the board to modify this decision under AS 23.30.130 by filing a petition in accordance with 8 AAC 45.150 and 8 AAC 45.050.

CERTIFICATION

I hereby certify the foregoing is a full, true and correct copy of the Interlocutory Decision and Order in the matter of Brianna J. Carey, employee / claimant v. Cook Inlet Housing Authority, employer; Alaska National Insurance Company, insurer / defendants; Case No. 202304006; dated and filed in the Alaska Workers' Compensation Board's office in Anchorage, Alaska, and served on the parties by certified U.S. Mail, postage prepaid, on May 18, 2026.

/s/
Trisha Palmer, Workers' Compensation Technician