

<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on an appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

Compensation Programs (OWCP).<sup>2</sup> The Clerk of the Appellate Boards assigned the appeal Docket No. 25-0711.<sup>3</sup>

On May 16, 2002 the employee, then a 46-year-old data collection technician, filed an occupational disease claim (Form CA-2) alleging that he developed depression and acute stress disorder due to factors of his federal employment, including receiving racially discriminatory emails. OWCP accepted the claim for depression and post-traumatic stress disorder (PTSD). It paid the employee wage-loss compensation on the supplemental rolls commencing June 19, 2002 and on the periodic rolls commencing November 2, 2003.

The case record establishes that the employee passed away on February 19, 2021. The death certificate noted his cause of death as nontraumatic hemorrhagic cerebrovascular accident and hypertension.

On June 10, 2024 appellant, the employee's widow, filed a claim for compensation by surviving spouse and or children (Form CA-5). She submitted medical evidence in support of her claim.

By decision dated February 14, 2025, OWCP summarily denied appellant's claim for survivor's benefits.<sup>4</sup>

On March 20, 2025 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated April 2, 2025, OWCP denied appellant's request for an oral hearing finding that it was untimely filed. It further exercised its discretion and determined that the issue in the case could equally well be addressed through a request for reconsideration before OWCP along with the submission of new evidence which established that the employee's death was causally related to his accepted May 16, 2002 employment injury.

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

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<sup>2</sup> The Board notes that, following the April 2, 2025 merit decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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.*

<sup>3</sup> Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). She asserted that the employee's death was causally related to his accepted employment injury and that her request for an oral hearing was timely filed. Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). The Board, in exercising its discretion, denies appellant's request for oral argument as the arguments on appeal can be adequately addressed in a decision based on a review of the case record. Oral argument in this appeal would not serve a useful purpose. Therefore, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

<sup>4</sup> OWCP noted that the denial was based on the reasons stated in an enclosed compensation order; however, the case record reflects that no such order was enclosed.

Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.<sup>5</sup> Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.<sup>6</sup> As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence, which would overcome it.<sup>7</sup>

OWCP, in its February 14, 2025 decision, summarily denied appellant's survivor's benefits claim without providing any findings in support of its decision.

The Board therefore finds that OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the basis for the decision denying her claim for survivor's benefits.<sup>8</sup>

Therefore, the Board shall set aside OWCP's February 14 and April 2, 2025 decisions and remand the case for findings of fact and a statement of reasons explaining its February 14, 2025 denial decision, pursuant to 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

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<sup>5</sup> 5 U.S.C. § 8124(a).

<sup>6</sup> 20 C.F.R. § 10.126.

<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

<sup>8</sup> *Supra* notes 6 and 7.

**IT IS HEREBY ORDERED THAT** the February 14, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this order of the Board. The April 2, 2025 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: August 27, 2025  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board