

September 13, 2022 OWCP received appellant's request for reconsideration of its August 30, 2021 decision.

By decision dated December 13, 2022, OWCP denied appellant's September 13, 2022 request for reconsideration, finding that it was untimely filed, and failed to demonstrate clear evidence of error.

The Board, having duly considered this matter, finds that the case is not in posture for decision.

Section 8124(b)(1) of the Federal Employees' Compensation Act (FECA), concerning a claimant's entitlement to a hearing before an OWCP hearing representative, provides in pertinent part: "Before review under section 8128(a) of this title, a claimant for compensation not satisfied with a decision of the Secretary ... is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his claim before a representative of the Secretary."¹ Section 10.615 of OWCP's federal regulations, implementing this section of FECA, provides that a claimant who requests a hearing can choose between two formats, either an oral hearing or a review of the written record by an OWCP hearing representative.² The date of filing is fixed by postmark or other carrier's date marking.³

According to OWCP's procedures, if a request for a hearing in the form of a request for a review of the written record is received in the case file and is not properly indexed as such a request, OWCP's Branch of Hearings and Review shall be notified as soon as possible so that a Branch of Hearings and Review record can be created and the request can be tracked,⁴ and acted upon.

The Board finds that, on September 13, 2021, appellant filed a timely request for review of the written record regarding OWCP's August 30, 2021 decision.⁵ The case must be remanded to OWCP for it to forward appellant's timely request for review of the written record to its Branch of Hearings and Review, pursuant to OWCP's procedures.⁶ An OWCP hearing representative shall conduct such a review and, following such further development as deemed necessary, shall issue a *de novo* decision. Accordingly,

¹ 5 U.S.C. § 8124(b)(1).

² 20 C.F.R. § 10.615.

³ *Id.* at § 10.616(a).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.3b (September 2020). OWCP's procedures further provide that OWCP should notify its Branch of Hearings and Review by advising the Branch Chief and Assistant Chief *via* e-mail of the untracked request. *Id.*

⁵ *See supra* notes 1 through 3.

⁶ *See supra* note 4.

IT IS HEREBY ORDERED THAT the December 13, 2022 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this order of the Board.

Issued: July 8, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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