

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On April 28, 2024 appellant, then a 65-year-old mail handler, filed a notice of traumatic injury (Form CA-1) alleging that, on March 23, 2024, she injured her right knee when she tripped and fell while in the performance of duty. She stopped work on March 30, 2024.

In a development letter dated May 7, 2024, OWCP informed appellant of the deficiencies in her claim. It advised her of the type of additional factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded her 60 days to submit the necessary evidence. No response was received.

In a follow-up letter dated June 5, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the May 7, 2024 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

On July 1, 2024 OWCP received discharge instructions from a medical center indicating that appellant was seen on March 29, 2024 by Dr. Ann Clarice Czarnik, Board-certified in emergency care, for right knee pain.

By decision dated July 17, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA. OWCP mailed the decision to appellant's last known address of record.

On February 6, 2025 appellant contacted OWCP and related that she had only received one page of the July 17, 2024 decision. On February 6, 2025 the claims examiner resent the July 17, 2024 decision to appellant.

On March 3, 2025 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review and also requested reconsideration. She also submitted additional medical evidence.

By decision dated March 19, 2025, OWCP denied appellant's request for an oral hearing, finding that it was untimely filed. It noted that the last merit decision was issued on July 17, 2024 and that she requested an oral hearing on March 3, 2025, more than 30 days after the issuance of the July 17, 2024 OWCP decision. OWCP further exercised its discretion and determined that the issue in the case could equally well be addressed through a request for reconsideration before OWCP.

LEGAL PRECEDENT

Section 8124(b)(1) of FECA provides that "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 [or her] claim before a representative of the

Secretary.”² Sections 10.617 and 10.618 of the federal regulations implementing this section of FECA provide that a claimant shall be afforded a choice of an oral hearing, or a review of the written record by a representative of the Secretary.³ A claimant is entitled to an oral hearing or review of the written record as a matter of right only if the request is filed within the requisite 30 days as determined by postmark or other carrier’s date marking, or the date received in the Employees’ Compensation Operations & Management Portal (ECOMP), and before the claimant has requested reconsideration.⁴ Although there is no right to a review of the written record or an oral hearing, if not requested within the 30-day time period, OWCP may within its discretionary powers grant or deny appellant’s request and must exercise its discretion.⁵

ANALYSIS

The Board finds that OWCP properly denied appellant’s request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).

OWCP’s regulations provide that a request for oral hearing or review of the written record must be made within 30 days of the decision for which review is sought. The 30th day following OWCP’s July 17, 2024 decision was August 16, 2024. As appellant requested an oral hearing on March 3, 2025, the request was made more than 30 days after OWCP’s July 17, 2024 decision and was therefore untimely. Section 8124(b)(1) is unequivocal on the time limitation for filing a request for a hearing or review of the written record.⁶ As such, the Board finds that appellant was not entitled to an oral hearing as a matter of right.⁷

OWCP also has the discretionary power to grant an oral hearing or review of the written record even if the claimant is not entitled to a review as a matter of right.⁸ The Board finds that OWCP, in its March 19, 2025 decision, properly exercised its discretion, noting that it had determined that the issue could be equally well addressed through a request for reconsideration before OWCP and submitting evidence not previously considered.

The Board has held that the only limitation on OWCP’s authority is reasonableness. An abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deduction

² *Supra* note 1 at § 8124(b)(1).

³ 20 C.F.R. §§ 10.616, 10.617.

⁴ *Id.* at § 10.616(a); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.4a (February 2024).

⁵ *See P.G.*, Docket No. 24-0447 (issued August 12, 2024); *W.H.*, Docket No. 20-0562 (issued August 6, 2020); *Eddie Franklin*, 51 ECAB 223 (1999); *Delmont L. Thompson*, 51 ECAB 155 (1999).

⁶ *See M.M.*, Docket No. 19-1171 (issued October 22, 2019); *William F. Osborne*, 46 ECAB 198 (1994).

⁷ *See D.S.*, Docket No. 19-1764 (issued March 13, 2020).

⁸ *Id.*

from established facts.⁹ Accordingly, the Board finds that OWCP properly denied appellant's request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).¹⁰

CONCLUSION

The Board finds that OWCP properly denied appellant's request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).

ORDER

IT IS HEREBY ORDERED THAT the March 19, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 6, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

⁹ See *T.G.*, Docket No. 19-0904 (issued November 25, 2019); *Daniel J. Perea*, 42 ECAB 214, 221 (1990).

¹⁰ See *C.G.*, Docket No. 25-0053 (issued December 12, 2024); *C.H.*, Docket No. 20-0540 (issued December 1, 2020).