

**United States Department of Labor
Employees' Compensation Appeals Board**

M.B., Appellant)
and) Docket No. 25-0828
U.S. POSTAL SERVICE, CLEVELAND POST)
OFFICE, Cleveland, OH, Employer)
Issued: November 24, 2025

)

Appearances:

Appellant, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

PATRICIA H. FITZGERALD, Deputy Chief Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 26, 2025 appellant filed a timely appeal from a March 20, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days elapsed from the last merit decision, dated January 8, 2025, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.

ISSUE

The issue is whether OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

On November 1, 2024 appellant, then a 61-year-old postal collect and delivery carrier, filed a traumatic injury claim (Form CA-1) alleging that on October 15, 2024 she sustained a lower back

¹ 5 U.S.C. § 8101 *et seq.*

injury when she put two trays of mail down while in the performance of duty. She stopped work on October 15, 2024.

Appellant submitted evidence in support of her traumatic injury claim.

In a November 7, 2024 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her as to the type of factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence.

In a November 13, 2024 letter, the employing establishment controverted the claim alleging that appellant's disability was not caused by a traumatic injury and provided a supporting witness statement.

In a follow-up letter dated December 2, 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 November 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.

Appellant subsequently submitted additional evidence in support of her claim.

By decision dated January 8, 2025, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted October 15, 2024 employment incident.

Appellant subsequently submitted additional medical evidence in support of her claim.

On February 27, 2025 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

By decision dated March 20, 2025, OWCP denied appellant's request for an oral hearing/review of the written record, finding that the request was not made within 30 days of the January 8, 2025 decision and, therefore, 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.

LEGAL PRECEDENT

Section 8124(b) of FECA states: "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 issuance of the decision, to a hearing on his or her claim before a representative of the Secretary."² 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

² 5 U.S.C. § 8124(b)(1).

representative.³ As section 8124(b)(1) is unequivocal in setting forth the time limitation for requesting a hearing, a claimant is not entitled to a hearing as a matter of right unless the request is made within the requisite 30 days.⁴ The date of filing for an oral hearing or review of the written record is fixed by postmark or other carrier's date marking,⁵ or the date received in Employees' Compensation Operations & Management Portal (ECOMP), and before the claimant has requested reconsideration.⁶ Although there is no right to a hearing/review of the written record 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.⁷

ANALYSIS

The Board finds that OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

OWCP's procedures provide that a request for an oral hearing/review of the written record must be made within 30 days of the date of the decision for which a review is sought.⁸ Appellant, therefore, had 30 days following OWCP's January 8, 2025 merit decision to request an oral hearing/review of the written record. As she did not request a review of the written record until February 27, 2025, more than 30 days after OWCP's January 8, 2025 decision, it was untimely filed and she was, therefore, not entitled to a review of the written record as a matter of right.⁹

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 review as a matter of right. The Board finds that OWCP, in its March 20, 2025 decision, properly exercised its discretion by determining that the issue in the case could be equally well addressed through a request for reconsideration before OWCP, along with the submission of additional evidence.

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

³ 20 C.F.R. § 10.615.

⁴ *T.A.*, Docket No. 18-0431 (issued November 7, 2018); *Ella M. Garner*, 36 ECAB 238, 241-42 (1984).

⁵ 20 C.F.R. § 10.616(a).

⁶ *Id.*; Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.4a (February 2024); *D.W.*, Docket No. 25-0019 (issued November 22, 2024).

⁷ *M.F.*, Docket No. 21-0878 (issued January 6, 2022); *W.H.*, Docket No. 20-0562 (issued August 6, 2020); *P.C.*, Docket No. 19-1003 (issued December 4, 2019); *Eddie Franklin*, 51 ECAB 223 (1999); *Delmont L. Thompson*, 51 ECAB 155 (1999).

⁸ *J.C. (S.C.)*, Docket No. 24-0576 (issued August 28, 2024).

⁹ See *W.N.*, Docket No. 20-1315 (issued July 6, 2021); see also *G.S.*, Docket No. 18-0388 (issued July 19, 2018).

from established facts.¹⁰ Accordingly, the Board finds that OWCP properly denied appellant's request for a review of the written record, as untimely filed, pursuant to 5 U.S.C. § 8124(b).

CONCLUSION

The Board finds that OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

ORDER

IT IS HEREBY ORDERED THAT the March 20, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 24, 2025
Washington, DC

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

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

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

¹⁰ See *S.I.*, Docket No. 22-0538 (issued October 3, 2022); *T.G.*, Docket No. 19-0904 (issued November 25, 2019); *Daniel J. Perea*, 42 ECAB 214 (1990). See also, *P.G.*, Docket No. 24-0447 (issued August 12, 2024); *D.S.*, Docket No. 21-1296 (issued March 23, 2022).