

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

J.M., Appellant)
and) Docket No. 25-0755
DEPARTMENT OF THE ARMY, U.S ARMY)
FORCES COMMAND, Fort McCoy, WI,) Issued: September 2, 2025
Employer)

)

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
JANICE B. ASKIN, Judge

JURISDICTION

On July 29, 2025 appellant filed a timely appeal from a June 16, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that appellant submitted additional evidence to the Board on appeal. However, the Board's *Rules of Procedure* 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.*

ISSUE

The issue is whether OWCP properly suspended appellant's entitlement to compensation benefits pursuant to 5 U.S.C. § 8123(d), effective June 16, 2025, due to obstruction of a scheduled medical examination.

FACTUAL HISTORY

On March 8, 2000 appellant, then a 38-year-old target system mechanic, filed a traumatic injury claim (Form CA-1) alleging that on March 7, 2000 he sustained a lower back injury while lifting an auger machine out of a hole in the performance of duty. He stopped work on March 8, 2000. OWCP accepted the claim for lumbar sprain and lumbar intervertebral disc displacement without myelopathy. It paid appellant wage-loss compensation on the periodic rolls effective June 16, 2002.

In a November 4, 2024 letter, OWCP, through its medical scheduling service, notified appellant that he was being referred for a second opinion examination on November 26, 2024 with Dr. Kris Parchuri, an osteopathic Board-certified orthopedic surgeon, to determine the status of his accepted employment-related conditions. The letter informed appellant of his obligations to attend and cooperate with the examination, and explained that his compensation benefits would be suspended for failure to report to or for obstruction of the examination, pursuant to 5 U.S.C. § 8123(d). The letter also contained the date, time, and location of appellant's examination appointment.

In email correspondence dated November 27, 2024, OWCP's scheduling service advised that while appellant attended the appointment on November 26, 2024, he refused to complete the new patient paperwork prior to the examination and treated the staff so poorly they did not want to see him.

In a notice of proposed suspension dated December 9, 2024, OWCP advised appellant that 5 U.S.C. § 8123(d) provides that, if an employee refuses to submit to or obstructs an examination, his or her right to compensation is suspended until the refusal or obstruction stops. It found that he obstructed the examination with Dr. Parchuri on November 26, 2024 as he was unwilling to complete the new patient paperwork and treated the staff so poorly that they are not willing to see him on that date or any future date. OWCP advised appellant that he must submit a new and pertinent explanation for obstructing the examination with Dr. Parchuri within 14 days of the notice of proposed suspension. If good cause was not established, entitlement to compensation and medical benefits would be suspended in accordance with 5 U.S.C. § 8123(d) until he attended and fully cooperated with the examination. Appellant did not submit any additional evidence/argument within the allotted period.³

By decision dated June 16, 2025, OWCP finalized its notice of proposed suspension, effective that date. It found that appellant neither established good cause for obstruction of the medical examination, nor rescheduled a medical appointment with Dr. Parchuri.

³ A Form OWCP CA-110 indicates that appellant called OWCP on December 17, 2024 regarding the December 9, 2024 letter, however, he did not leave an explicit message regarding his attendance at the medical examination.

LEGAL PRECEDENT

Section 8123 of FECA authorizes OWCP to require an employee, who claims disability as a result of federal employment, to undergo a physical examination as it deems necessary.⁴ The determination of the need for an examination, the type of examination, the choice of locale, and the choice of medical examiners are matters within the province and discretion of OWCP.⁵ OWCP's regulations provide that a claimant must submit to an examination by a qualified physician as often and at such times and places as OWCP considers reasonably necessary.⁶ Section 8123(d) of FECA and OWCP regulations provide that, if an employee refuses to submit to or obstructs a directed medical examination, his or her right to compensation is suspended until the refusal or obstruction ceases.⁷ OWCP's procedures provide that, before OWCP may invoke these provisions, the employee is to be provided a period of 14 days within which to present in writing his or her reasons for the refusal or obstruction.⁸ If good cause for the refusal or obstruction is not established, entitlement to compensation is suspended in accordance with section 8123(d) of FECA.⁹

ANALYSIS

The Board finds that OWCP properly suspended appellant's entitlement to compensation benefits pursuant to 5 U.S.C. § 8123(d), effective June 16, 2025, due to his obstruction of a scheduled medical appointment.

In a November 4, 2024 letter, OWCP advised appellant of a second opinion examination with Dr. Parchuri to determine the status of his accepted employment-related conditions. Appellant appeared at Dr. Parchuri's office, but refused to complete the new patient paperwork and treated the staff poorly, and as such, was not examined by Dr. Parchuri. In a December 9, 2024 notice of proposed suspension, OWCP advised that 5 U.S.C. § 8123(d) provides that, if an employee refuses to submit to or obstructs an examination, his or her right to compensation is suspended until the refusal or obstruction stops. It further advised that he must submit an explanation for obstructing the examination with Dr. Parchuri within 14 days of the notice of proposed suspension. If good cause was not established, entitlement to wage-loss compensation and medical benefits would be suspended in accordance with 5 U.S.C. § 8123(d) until he attended and fully cooperated with the examination. Appellant did not submit any additional evidence/argument within the allotted period.

⁴ 5 U.S.C. § 8123.

⁵ C.G., Docket No. 25-0652 (issued July 25, 2025); L.B., Docket No. 17-1891 (issued December 11, 2018); J.T., 59 ECAB 293 (2008).

⁶ 20 C.F.R. § 10.320.

⁷ 5 U.S.C. § 8123(d); 20 C.F.R. § 10.323; C.G., *supra* note 5; D.K., Docket No. 18-0217 (issued June 27, 2018).

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.13d (February 2022).

⁹ *Id.* at Chapter 2.810.13e.

The determination of the need for an examination, the type of examination, the choice of locale, and the choice of medical examiners are matters within the province and discretion of OWCP.¹⁰ Under the circumstances of the present case, the Board finds that OWCP did not abuse its discretion in directing appellant to appear for a second opinion examination with Dr. Parchuri.¹¹ OWCP's actions in this regard were reasonable and it properly found that appellant failed to provide good cause for obstructing the examination with Dr. Parchuri on November 26, 2024.¹² The Board thus finds that OWCP properly suspended appellant's wage-loss compensation pursuant to 5 U.S.C. § 8123(d).

On appeal, appellant provided his account of what occurred in the doctor's office. However, as explained above, the evidence of record establishes that OWCP properly suspended appellant's wage-loss compensation pursuant to 5 U.S.C. § 8123(d).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP properly suspended appellant's entitlement to compensation benefits pursuant to 5 U.S.C. § 8123(d), effective June 16, 2025, due to obstruction of a scheduled medical appointment.

¹⁰ See *supra* note 5.

¹¹ 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 deductions from established facts. *See M.N.*, Docket No. 19-1865 (issued May 29, 2020); *C.F.*, Docket No. 18-0791 (issued February 26, 2019).

¹² *M.N.*, *id.*; *E.S.*, Docket No. 18-1606 (issued April 16, 2019).

ORDER

IT IS HEREBY ORDERED THAT the June 16, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 2, 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