

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

D.S., Appellant)
and) Docket No. 25-0831
U.S. POSTAL SERVICE, BIRMINGHAM POST)
OFFICE, Birmingham, AL, Employer)
Issued: September 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 28, 2025 appellant filed a timely appeal from a July 21, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from the last merit decision dated November 10, 2022 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 an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

This case has previously been before the Board.² The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On November 16, 2020 appellant, then a 34-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on November 13, 2020 she sustained five dog bites to the left leg and thigh while in the performance of duty. She stopped work on the date of the injury. OWCP assigned this claim OWCP File No. xxxxxxx642. Based on a November 5, 2021 Board decision,³ by decision dated December 21, 2021, OWCP accepted the claim for open bite left lower leg and left thigh.

On October 5, 2022 OWCP issued a notice of proposed termination of appellant's wage-loss compensation and medical benefits, finding that the weight of the medical evidence established that she no longer had residuals or disability from work due to her accepted work-related injury. It afforded her 30 days to submit additional evidence or argument.

By decision dated November 10, 2022, OWCP finalized the proposed termination of appellant's wage-loss compensation and medical benefits, effective on that date.

In a letter dated July 15, 2025, received by OWCP on July 19, 2025, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated July 21, 2025, OWCP denied appellant's request for an oral hearing, finding that it was untimely filed, pursuant to 5 U.S.C. § 8124(b).

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."⁴ 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.⁵ 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 and Management Portal (ECOMP), and before the claimant has requested

² Docket No. 21-0325 (issued November 5, 2021).

³ *Id.*

⁴ *Supra* note 1 at 8124(b)(1).

⁵ 20 C.F.R. §§ 10.616, 10.617.

reconsideration.⁶ 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.⁷

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. As appellant requested an oral hearing in a letter dated July 15, 2025 and received on July 19, 2025, the request was made more than 30 days after OWCP's December 30, 2022 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.⁸ As such, the Board finds that appellant was not entitled to an oral hearing as a matter of right.⁹

OWCP, however, may exercise its discretionary authority to grant the request even if the claimant is not entitled to a review as a matter of right. The Board finds that OWCP, in its July 21, 2025 decision, properly exercised its discretion by determining that the issue in the case could be equally well addressed through a request for reconsideration, along with the submission of additional evidence.

The Board thus finds that OWCP, in its July 21, 2025 decision, properly denied appellant's request for an oral hearing, pursuant to 5 U.S.C. § 8124(b).

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).

⁶ *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).

⁷ See *N.H.*, Docket No. 25-0821 (issued March 19, 2025); *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).

⁸ See *M.M.*, Docket No. 19-1171 (issued October 22, 2019); *William F. Osborne*, 46 ECAB 198 (1994).

⁹ See *D.S.*, Docket No. 19-1764 (issued March 13, 2020).

ORDER

IT IS HEREBY ORDERED THAT the July 21, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 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