



## **ISSUES**

The issues are: (1) whether appellant has met his burden of proof to establish that a traumatic injury occurred in the performance of duty on April 24, 2025, as alleged; and (2) whether OWCP properly denied appellant's request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).

## **FACTUAL HISTORY**

On April 26, 2025 appellant, then a 59-year-old city delivery specialist, filed a traumatic injury claim (Form CA-1) alleging that on April 24, 2025 at 5:00 p.m. he sustained an injury to the left side of his upper and lower back while driving in the performance of duty. He noted that he had a previous injury under OWCP File No. xxxxxx742, that had recurred. On the reverse side of the CA-1 form, K.M., appellant's supervisor, indicated that appellant had no work hours on the alleged date of injury. Appellant returned to full-time regular-duty work on April 26, 2025.

In a May 13, 2025 report, Dr. Olujimi Oluwole, an osteopath and Board-certified family practitioner, related that appellant was performing his regular mail delivery duties on April 24, 2025 when he experienced pain in the cervical and lumbar areas of his spine after repetitive twisting and turning while driving. Appellant reported that this new injury was a sequela of an April 18, 2020 work injury, a closed claim. Dr. Oluwole noted that appellant was seen at a hospital on April 25, 2025. He provided examination findings and diagnosed cervical spine and lumbar spine ligament sprains. Dr. Oluwole opined that appellant's symptoms and findings aligned with the biomechanics of the reported mechanism of injury, which involved repetitive rotation and flexion of the spine while driving and delivering mail. Given the temporal relationship, the absence of a new non-occupational cause, and a resolved or asymptomatic similar past history, he opined that the current conditions represented either a direct new injury or a permanent aggravation of a previously dormant condition. Dr. Oluwole concluded that appellant's cervical and lumbar spine conditions were precipitated and/or aggravated by his April 24, 2025 occupational activities. In a May 13, 2025 duty status report (Form CA-17), he opined that appellant could return to modified work with restrictions.

OWCP continued to receive reports from Dr. Oluwole, wherein he reiterated his prior findings.

A magnetic resonance imaging (MRI) scan of appellant's cervical spine noted findings of loss of normal cervical lordosis, suggestive of possible injury with clinical correlation recommended; multilevel disc herniations and bulges from C2-C3 through C7-T1 suggestive of chronic degenerative disease with possible acute aggravation due to trauma; and thoracic disc abnormalities noted. The MRI scan of appellant's lumbar spine noted multilevel lumbar disc herniations and bulges, with associated neural foraminal stenosis, most severe at L5-S1 were found and were noted to represent either chronic pathology or trauma-related aggravation.

In a June 10, 2025 report, Dr. Oluwole diagnosed cervical and lumbar ligament spine sprains, cervical disc disorder with radiculopathy, unspecified cervical region, and intervertebral disc disorders with radiculopathy, lumbar region. He continued to opine that the injuries to appellant's cervical and lumbar areas of the spine were precipitated and/or aggravated by his occupational activities on April 24, 2025.

In a development letter dated June 24, 2025, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP continued to receive medical reports from Dr. Oluwole wherein he reiterated his prior findings.

On July 9, 2025 appellant submitted an illegible time and attendance collection system (TACS) timesheet.

In a follow-up letter dated July 17, 2025, OWCP advised appellant that it had conducted an interim review and determined that the evidence remained insufficient to establish his claim. It noted that he had 60 days from its June 24, 2025 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.

In response, OWCP received appellant's July 23, 2025 statement. Appellant noted that he had previously suffered an April 18, 2020 work-related motor vehicle accident when his vehicle was hit from behind and he suffered injuries to the cervical and lumbar areas of his spine. He stated that on Thursday April 24, 2025 at approximately 5:00 p.m., he was driving a route during a mail count when he experienced pain in his neck and back because of the twisting and turning while sitting in traffic. Appellant stated that he reported his injury to his supervisor that day and went to the hospital the next day, Friday April 25, 2025, as his symptoms worsened. He noted that his normal schedule was Monday through Friday from 9:00 a.m. through 5:50 p.m. and asserted that the TACS timesheet showed that he was at work on April 24, 2025 and had worked from 8:50 a.m. to 5:50 or 6:00 p.m. Appellant further stated that he was claiming a traumatic injury.

In a follow-up letter dated August 7, 2025, OWCP requested additional information from the employing establishment regarding the circumstances of the April 24, 2025 injury; specifically, whether appellant had work hours that day and, if so, the exact time of the injury, whether he was engaged in official duties which required him to be off the premises and whether he was performing assigned duties or any activity which, by its nature, was considered reasonably incidental to the assignment. It informed the employing establishment that, in the absence of a full reply, it may accept appellant's allegations as factual under 20 C.F.R. § 10.117(b).

OWCP received progress reports and CA-17 forms from Dr. Oluwole dated August 13, 2025.

Appellant subsequently reiterated the contentions made in his July 23, 2025 statement. He provided a copy of the TACS timesheet for the period April 19 through 25, 2025, which included a processed clock ring for April 24, 2025 noting a code of 05500. No begin tour (BT) or end tour (ET) times were listed for that date.

In an August 20, 2025 response to OWCP's development letter, the employing establishment explained that on April 24, 2025 appellant had no work hours according to the payroll journals. It indicated that the TACS timesheet showed that he was on annual leave from April 21 through 25, 2025 and that he returned to work on April 26, 2025.

By decision dated August 25, 2025, OWCP denied appellant's traumatic injury claim. It found that he had not established that the claimed incident occurred on April 24, 2025, as alleged. OWCP, therefore, concluded that the requirements had not been met to establish an injury as defined by FECA.

In a September 4, 2025 statement, the employing establishment again reiterated that, on April 24, 2025, appellant was on annual leave and that he was not on the premises or engaged in official duties off the premises.

On October 14, 2025 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review *via* the Employees' Compensation Operations & Management Portal (ECOMP).

In a work excuse note dated April 25, 2025, Vinisha Kalra, a physician assistant, indicated that appellant was treated at the emergency department that day and he could return to work on April 28, 2025.

By decision dated October 22, 2025, OWCP denied appellant's request for a review of the written record, finding that the request was not made within 30 days of the August 25, 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 -- ISSUE 1**

An employee seeking benefits under FECA<sup>4</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA,<sup>5</sup> that an injury was sustained while in the performance of duty as alleged; and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>6</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>7</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether the

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> *See S.B.*, Docket No. 24-0710 (issued August 26, 2024); *C.B.* Docket No. 21-1291 (issued April 28, 2022); *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>6</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *R.C.*, 59 ECAB 427 (2008).

<sup>7</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *Delores C. Ellyett*, 41 ECAB 992 (1990).

employee actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused an injury.<sup>8</sup>

To establish that, an injury occurred as alleged, the injury need not be confirmed by eyewitnesses, but the employee's statements must be consistent with the surrounding facts and circumstances and his or her subsequent course of action. The employee has not met his or her burden when there are such inconsistencies in the evidence as to cast serious doubt on the validity of the claim. Such circumstances as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury, and failure to obtain medical treatment may, if otherwise unexplained, cast serious doubt on the employee's statements in determining whether a *prima facie* case has been established.<sup>9</sup> An employee's statement alleging that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.<sup>10</sup>

### ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish that a traumatic injury occurred in the performance of duty on April 24, 2025, as alleged.

In support of his claim, appellant submitted narrative statements in which he alleged that he was driving a route during a mail count on Thursday April 24, 2025 when, at approximately 5:00 p.m. he experienced pain in his neck and back due to twisting and turning. He indicated that he had reported the incident to his supervisor that day and asserted that his timesheet showed that he had worked on April 24, 2025 from 8:50 a.m. to 5:50 or 6:00 p.m. However, despite appellant's assertions, the record does not establish that he was in a work status on April 24, 2025. The TACS timesheet for the period April 19 through 25, 2025 included a processed clock ring for April 24, 2025 noting a code of 05500. No begin tour (BT) or end tour (ET) times were listed for that date. In its August 20, 2025 response to OWCP's development letter, the employing establishment explained that on April 24, 2025 appellant had no work hours according to the payroll journals. It indicated that the TACS timesheet showed that he was on annual leave from April 21 through April 25, 2025 and that he returned to work on April 26, 2025. The Board finds that statements from the employing establishment cast serious doubt on the validity of appellant's claim and overcome the probative value generally afforded to a claimant's statement.<sup>11</sup>

In light of the strong and persuasive evidence from the employing establishment, the Board finds that appellant has not met his burden of proof to establish that a traumatic injury occurred in the performance of duty on April 24, 2025, as alleged. Consequently, it is unnecessary to address the medical evidence of record.<sup>12</sup>

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<sup>8</sup> See *A.H.*, Docket No. 22-0912 (issued October 26, 2023); *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>9</sup> *T.T.*, Docket No. 22-0792 (issued October 18, 2022); *C.M.*, Docket No. 20-1519 (issued March 22, 2021); *Betty J. Smith*, 54 ECAB 174 (2002).

<sup>10</sup> See *M.C.*, Docket No. 18-1278 (issued March 7, 2019); *D.B.*, 58 ECAB 464, 466-67 (2007).

<sup>11</sup> *S.R.*, Docket No. 25-0117 (issued February 3, 2025); *D.P.*, Docket No. 18-0190 (issued May 22, 2018).

<sup>12</sup> See *S.R.*, *id.*; *M.P.*, Docket No. 15-0952 (issued July 23, 2015); *Alvin V. Gadd*, 57 ECAB 172 (2005).

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.

### **LEGAL PRECEDENT -- ISSUE 2**

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.”<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> The date of filing for an oral hearing or review of the written record is fixed by postmark or other carrier’s date marking,<sup>16</sup> or the date received in ECOMP, and before the claimant has requested reconsideration.<sup>17</sup> 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.<sup>18</sup>

### **ANALYSIS -- ISSUE 2**

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.<sup>19</sup> Appellant, therefore, had 30 days following OWCP’s August 25, 2025 merit decision to request an oral hearing/review of the written record. As appellant did not request a review of the written record until October 14, 2025, more than 30 days after OWCP’s August 25, 2025 decision, it was

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<sup>13</sup> 5 U.S.C. § 8124(b)(1).

<sup>14</sup> 20 C.F.R. § 10.615.

<sup>15</sup> *T.A.*, Docket No. 18-0431 (issued November 7, 2018); *Ella M. Garner*, 36 ECAB 238, 241-42 (1984).

<sup>16</sup> 20 C.F.R. § 10.616(a).

<sup>17</sup> *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).

<sup>18</sup> *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).

<sup>19</sup> *J.P., Jr.*, Docket No. 25-0860 (issued January 5, 2026); *J.C. (S.C.)*, Docket No. 24-0576 (issued August 28, 2024).

untimely filed and he was, therefore, not entitled to a review of the written record as a matter of right.<sup>20</sup>

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 October 22, 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 from established facts.<sup>21</sup> 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 appellant has not met his burden of proof to establish that a traumatic injury occurred on April 24, 2025 in the performance of duty, as alleged. The Board further finds that OWCP properly denied his request for review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

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<sup>20</sup> *J.P., Jr., id.*; *see W.N.*, Docket No. 20-1315 (issued July 6, 2021); *see also G.S.*, Docket No. 18-0388 (issued July 19, 2018).

<sup>21</sup> *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) (Thomas, Alternate Member, dissenting). *See also, P.G.*, Docket No. 24-0447 (issued August 12, 2024); *D.S.*, Docket No. 21-1296 (issued March 23, 2022).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 25 and October 22, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 28, 2026  
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