

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

L.K., Appellant

and

**U.S. POSTAL SERVICE, LITTLE ROCK POST
OFFICE, Little Rock, AR, Employer**

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**Docket No. 26-0523
Issued: August 18, 2026**

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 May 16, 2026 appellant filed a timely appeal from an April 28, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).¹ As more than 180 days elapsed from the last merit decision, dated August 14, 2025, pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.³

¹ Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's oral argument request, he argued the merits of his underlying occupational disease claim. The Board, in exercising its discretion, denies appellant's request for oral argument because the Board does not have jurisdiction over the merits of this case and, thus, the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the April 28, 2026 decision, OWCP received additional evidence. 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 determined that appellant abandoned his request for an oral hearing.

FACTUAL HISTORY

On May 12, 2025 appellant, then a 44-year-old tractor trailer operator, filed an occupational disease claim (Form CA-2) alleging that he developed pain and swelling in his right knee due to factors of his federal employment, including riding in a smaller truck. He noted that he first became aware of his condition on May 7, 2025 and realized its relationship to his federal employment on May 8, 2025. Appellant stopped work on May 10, 2025.

In a May 19, 2025 development letter, OWCP notified appellant of the deficiencies of his claim. It advised him of the type of medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP subsequently received factual and medical evidence.

By decision dated August 14, 2025, OWCP accepted the implicated employment factor. However, it denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish a diagnosis in connection with the accepted factor. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On September 9, 2025, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By notice dated March 17, 2026, OWCP's hearing representative informed appellant that an oral hearing was scheduled for April 16, 2026, at 10:00 a.m. Eastern Standard Time (EST). The notice provided call-in instructions, the toll-free telephone number, and the appropriate passcode to access the hearing. The hearing representative mailed the notice to appellant's last known address of record.

Appellant did not appear for the scheduled hearing.

By decision dated April 28, 2026, OWCP found that appellant had abandoned his request for an oral hearing, as he had received written notification of the hearing 30 days in advance, but failed to appear. The hearing representative further found that there was no indication in the case record that he had contacted the Branch of Hearings and Review either prior to or after the scheduled hearing to explain his failure to appear.

LEGAL PRECEDENT

A claimant who has received a final adverse decision by OWCP may obtain a hearing by writing to the address specified in the decision within 30 days of the date of the decision for which a hearing is sought.⁴ Unless otherwise directed in writing by the claimant, OWCP's hearing representative will mail a notice of the time and place of the hearing to the claimant and any

⁴ 20 C.F.R. § 10.616(a).

representative at least 30 days before the scheduled date.⁵ OWCP has the burden of proving that it properly mailed to a claimant and any representative of record a notice of a scheduled hearing.⁶

A claimant who fails to appear at a scheduled hearing may request in writing, within 10 days after the date set for the hearing, that another hearing be scheduled. Where good cause for failure to appear is shown, another hearing will be scheduled and conducted by teleconference.⁷

The failure of the claimant to request another hearing within 10 days, or the failure of the claimant to appear at a second scheduled hearing without good cause shown, shall constitute abandonment of the request for a hearing.⁸

ANALYSIS

The Board finds that OWCP properly determined that appellant abandoned his request for an oral hearing.

The record establishes that, on March 17, 2026, in response to appellant's request for an oral hearing, OWCP's Branch of Hearings and Review properly mailed a notice of the scheduled oral hearing which was scheduled for April 16, 2026 at 10:00 a.m. (EST). The hearing representative mailed the notice to appellant at his last known address of record and provided instructions for his participation.⁹ Appellant, however, failed to appear for the scheduled hearing and did not request a postponement or provide an explanation to OWCP for his failure to attend the hearing within 10 days of the scheduled hearing.

The Board, thus, finds that OWCP properly determined that appellant abandoned his request for an oral hearing.

CONCLUSION

The Board finds that OWCP properly determined that appellant abandoned his request for an oral hearing.

⁵ *Id.* at § 10.617(b).

⁶ *A.R.*, Docket No. 19-1691 (issued February 24, 2020); *M.R.*, Docket No. 18-1643 (issued March 1, 2019); *Michelle R. Littlejohn*, 42 ECAB 463(1991).

⁷ *Supra* note 4 at § 10.622(f).

⁸ *Id.*; Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.6g (September 2020); *see also A.J.*, Docket No. 18-0830 (issued January 10, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

⁹ Absent evidence to the contrary, a letter properly addressed and mailed in the ordinary course of business is presumed to have been received. This is called the mailbox rule. *See C.Y.*, Docket No. 18-0263 (issued September 14, 2018).

ORDER

IT IS HEREBY ORDERED THAT the April 28, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 18, 2026
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