United States Department of Labor
Employees' Compensation Appeals Board

J.P., JR., Appellant	)	
and	)	**Docket No. 25-0860**
	)	**Issued: January 5, 2026**
U.S. POSTAL SERVICE, LYNCHBURG POST OFFICE, Lynchburg, VA, 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 September 9, 2025, appellant filed a timely appeal from June 9 and 13, 2025 merit decisions and an August 4, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish a medical condition causally related to the accepted January 7, 2025 employment incident; and (2) whether

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the August 4, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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*.

OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124.

FACTUAL HISTORY

On January 8, 2025, appellant, then a 57-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 7, 2025 he sustained a broken left ankle when he slipped on ice and fell backwards on his leg when headed back to his delivery vehicle while in the performance of duty. On the reverse side of the claim form, the employing establishment checked boxes marked "Yes" indicating that he was in the performance of duty when injured and that its knowledge of the facts about this injury agreed with his statement. Appellant stopped work on the alleged date of injury.

OWCP received an official position description for a rural carrier. No additional evidence was received.

In a January 21, 2025 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence required and provided a factual questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a January 22, 2025 development letter, OWCP requested that the employing establishment provide additional information regarding appellant's claim, including comments from a knowledgeable supervisor. It afforded the employing establishment 30 days to respond.

On January 23, 2025, the employing establishment responded to OWCP's development letter, reporting that appellant's route as a rural carrier amounted to 48 hours per week, and that he had not yet returned to work and would continue to receive continuation of pay (COP) through February 21, 2025. It provided a copy of a standard job description for a rural carrier as well as documentation of the number of hours that appellant worked on his mail route.

In a follow-up letter dated February 19, 2025, OWCP advised appellant that it conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the January 21, 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 support of his claim, appellant submitted January 27 and February 26, 2025 after-visit summaries wherein James Shorten, a physician assistant, documented treatment for a closed fracture of the distal end of appellant's left fibula.

By decision dated March 24, 2025, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a diagnosed condition in connection with the accepted January 7, 2025 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP continued to receive evidence. Appellant submitted reports dated January 27 through March 27, 2025 wherein Mr. Shorten documented treatment for the left ankle. Mr. Shorten noted that appellant was evaluated for a left ankle injury after he slipped on ice at

work around January 6, 2025. He reported that left ankle x-rays revealed left ankle distal fibula and posterior malleolus nondisplaced fractures for which appellant was put in a short leg cast and instructed to remain non-weight bearing. Mr. Shorten's subsequent evaluations indicated complaints of ongoing pain and a diagnosis of left bimalleolar fracture, reporting that appellant was not working due to his employment injury.

On April 12, 2025, appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

In support thereof, appellant submitted an April 9, 2025 attending physician's report (Form CA-20) received on April 22, 2025 from Dr. M. Truitt Cooper, a Board-certified orthopedic surgeon. Dr. Cooper diagnosed closed fracture of distal end of left fibula after slipping on thin ice and answered "No" when asked if the condition was caused or aggravated by the employment activity described. He determined that appellant was totally disabled from work as of January 27, 2025, with an anticipated return to work date of May 8, 2025.

By decision dated June 9, 2025, OWCP's hearing representative modified the March 24, 2025 decision to find that the medical evidence of record established a diagnosed condition in connection with the accepted January 7, 2025 employment incident. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between his diagnosed medical condition and the accepted January 7, 2025 employment incident.

By decision dated June 13, 2025, OWCP, on its own motion, denied appellant's claim, finding that the evidence of record was insufficient to establish that his diagnosed medical condition was causally related to the accepted January 7, 2025 employment incident.

Appellant subsequently submitted a copy of Dr. Cooper's April 9, 2025 Form CA-20 from Dr. Cooper which had been corrected to answer "Yes" when asked if the condition was caused or aggravated by the employment activity described. Dr. Cooper determined that appellant was totally disabled from work as of January 27, 2025 with an anticipated return to work date of May 8, 2025.

On July 31, 2025, appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

By decision dated August 4, 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 June 13, 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[3] has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United

[3] *Supra* note 1.

States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,[4] that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[5] These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time and place, and in the manner alleged. Second, the employee must submit sufficient medical evidence to establish that the employment incident caused an injury.[7]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[8] The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.[9]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish a medical condition causally related to the accepted January 7, 2025 employment incident.

In support of his claim, appellant submitted an April 9, 2025 Form CA-20, wherein Dr. Cooper diagnosed closed fracture of distal end of left fibula after slipping on thin ice. Dr. Cooper answered "No" when asked if his condition was caused or aggravated by the employment activity described. As this report negates causal relationship, it is of no probative value.[10] This evidence is therefore insufficient to establish appellant's claim.

[4] *E.K.*, Docket No. 22-1130 (issued December 30, 2022); *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

[5] *S.H.*, Docket No. 22-0391 (issued June 29, 2022); *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[6] *E.H.*, Docket No. 22-0401 (issued June 29, 2022); *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.,* Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[7] *H.M.*, Docket No. 22-0343 (issued June 28, 2022); *T.J.*, Docket No. 19-0461 (issued August 11, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[8] *S.M.*, Docket No. 22-0075 (issued May 6, 2022); *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

[9] *J.D.*, Docket No. 22-0935 (issued December 16, 2022); *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[10] *See T.W.*, Docket No. 19-0677 (issued August 16, 2019).

Appellant also submitted after-visit summaries and progress reports dated January 27 through March 27, 2025 from Mr. Shorten, a physician assistant, documenting treatment for his left ankle. The Board has held, however, that certain medical providers such as a physician assistant, registered nurse, or medical assistant are not considered physicians as defined under FECA and they are, therefore, not competent to provide medical opinions.[11] Consequently, their medical findings and/or opinions will not suffice for the purpose of establishing entitlement to FECA benefits.[12] Accordingly, these reports are of no probative value and are insufficient to establish the claim.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted January 7, 2025 employment incident, the Board finds that appellant has not met his burden of proof.

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."[13] 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.[14] 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.[15] The date of filing for an oral hearing or review of the written record is fixed by postmark or other carrier's date marking,[16] or the date received in Employees' Compensation Operations & Management Portal (ECOMP), and before the claimant

[11] Section 8101(2) provides that physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law, 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk,* 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *H.S.,* Docket No. 20-0939 (issued February 12, 2021) (physician assistants are not considered physicians as defined under FECA).

[12] *Id.*

[13] 5 U.S.C. § 8124(b)(1).

[14] 20 C.F.R. § 10.615.

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

[16] 20 C.F.R. § 10.616(a).

has requested reconsideration.[17] 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.[18]

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.[19] Appellant, therefore, had 30 days following OWCP's June 13, 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 July 31, 2025, more than 30 days after OWCP's June 13, 2025 decision, it was untimely filed and he was, therefore, not entitled to a review of the written record as a matter of right.[20]

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 August 4, 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.[21] 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 a medical condition causally related to the accepted January 7, 2025 employment incident. The Board

[17] *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).

[18] *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).

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

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

[21] *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).

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).

ORDER

IT IS HEREBY ORDERED THAT the June 9 and 13, 2025 and August 4, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: January 5, 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