

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

D.L., Appellant

and

**U.S. POSTAL SERVICE, MOUNTAIN VIEW
POST OFFICE, Mountain View, CA, Employer**

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**Docket No. 26-0358
Issued: July 6, 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

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 7, 2026 appellant filed a timely appeal from a March 4, 2026¹ nonmerit decision of the Office of Workers' Compensation Programs (OWCP).² The most recent merit decision is a

¹ Appellant also appealed a July 26, 1995 letter decision whereby OWCP expanded acceptance of the conditions in the claim to include right hip contusion and lumbosacral spine strain/sprain. The Board has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act (FECA). 5 U.S.C. § 8101 *et seq.* For final adverse decisions of OWCP issued prior to November 19, 2008, the Board's review authority is limited to appeals which are filed within one year from the date of issuance of OWCP's decision. *See* 20 C.F.R. § 501.3(d)(2). As appellant did not file her appeal with the Board until March 7, 2026, more than one year after the July 26, 1995 decision, the Board is without jurisdiction to review the July 26, 1995 decision. *Id.* For final adverse decisions issued by OWCP on and after November 19, 2008, the Board's review authority is limited to appeals which are filed within 180 days from the date of issuance of OWCP's decision. *See id.* at § 501.3(e) (2009).

² 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, she indicated that she wished to request that OWCP formally expand acceptance of the conditions in the claim to include lumbar degenerative disc disease and associated conditions. The Board, in exercising its discretion, denies appellant's request for oral argument because the Board does not have jurisdiction over the merits of the claim and 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.

Board decision dated September 8, 2011, which became final after 30 days of issuance and is not subject to further review.³ As there is no merit decision by OWCP issued within 180 days of the filing of this appeal, pursuant to the Federal Employees' Compensation Act⁴ (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, pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

This case has previously been before the Board.⁵ The facts and circumstances of the case as set forth in the Board's prior decisions and prior orders are incorporated herein by reference. The relevant facts are as follows.

On August 24, 1992 appellant, then a 32-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on that day, she sustained an injury when she struck her left knee on the bumper of her delivery vehicle while in the performance of duty. OWCP accepted the claim for left knee strain.

On July 26, 1995 OWCP expanded its acceptance of the conditions in the claim to include right hip contusion and lumbosacral spine strain/strain. It paid appellant wage-loss compensation and on September 2, 1998 granted a schedule award for permanent impairment of the lower extremities due to her accepted lumbar condition.

On May 29, 2001 appellant filed a notice of recurrence (Form CA-2a) claiming a recurrence of total disability for the period May 7 through 28, 2001. She returned to work on May 29, 2001. OWCP further developed her claim including sending her to a second opinion physician.

By decision dated November 29, 2001, OWCP denied appellant's claim for recurrence of disability for the period May 7 through June 30, 2001. On December 10, 2001 appellant timely requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated June 17, 2002, an OWCP hearing representative set aside the November 29, 2001 decision and remanded the case for further development. She determined that there was a conflict of medical opinion between appellant's

³ 20 C.F.R. § 501.6(d). See also *M.D.*, Docket No. 26-0245 (issued April 20, 2026); *J.H.*, Docket No. 23-0055 (issued January 30, 2024); *J.T.*, Docket No. 21-0844 (issued April 21, 2023); *M.D.*, Docket No. 22-0542 (issued August 17, 2022).

⁴ 5 U.S.C. § 8101 *et seq.*

⁵ Docket No. 18-1112 (issued January 17, 2020), *denying petition for recon.*, Docket No. 18-1112 (issued April 10, 2023); Docket No. 11-294 (issued September 8, 2011); Docket No. 09-1549 (issued February 23, 2010); *Order Dismissing Appeal*, Docket No. 09-1637 (issued November 23, 2009); *Order Dismissing Appeal*, Docket No. 05-1915 (issued March 7, 2006), *denying petition for recon.*, Docket No. 05-1915 (issued November 30, 2006).

treating physician and the second opinion physician as to whether appellant had residuals of her August 24, 1992 employment injury.

On remand OWCP further developed the claim by referring appellant to an impartial medical examiner to resolve the conflict of opinion.

By *de novo* decision dated December 20, 2002, OWCP denied appellant's claim for a recurrence of disability commencing May 7, 2001.

Appellant timely requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated October 14, 2003, OWCP's hearing representative affirmed the December 20, 2002 decision.

On August 26, 2004 appellant requested reconsideration.

By decision dated November 18, 2004, OWCP denied modification of the October 14, 2003 decision denying appellant's claim for a recurrence of disability commencing May 7, 2001.

On January 27, 2009 appellant, through her representative, requested reconsideration of OWCP's November 29, 2001 decision "and all subsequent opinions" through OWCP's November 18, 2004 decision which denied her claim for recurrence of disability.

By decision dated April 27, 2009, OWCP denied appellant's reconsideration request, finding that it was untimely filed and failed to demonstrate clear evidence of error.

On June 1, 2009 appellant appealed to the Board. By decision dated February 23, 2010, the Board set aside the April 27, 2009 decision and remanded the case for further development.⁶

By decision dated August 25, 2010, OWCP denied modification of its November 29, 2001 decision which denied appellant's claim for a recurrence of disability commencing May 7, 2001.

On November 10, 2010 appellant, through counsel, appealed to the Board. By decision dated September 8, 2011, the Board affirmed OWCP's August 25, 2010 decision denying appellant's claim for a recurrence of disability commencing May 7, 2001.⁷

On April 24, 2018 appellant requested reconsideration asserting her entitlement to wage-loss compensation and medical benefits for the accepted August 24, 1992 employment injury in the present claim.

By decision dated May 2, 2018, OWCP denied appellant's April 24, 2018 reconsideration request, finding that it was untimely filed and failed to demonstrate clear evidence of error. Appellant then appealed to the Board.

⁶ Docket No. 09-1549 (issued February 23, 2010).

⁷ Docket No. 11-294 (issued September 8, 2011). The Board also affirmed OWCP's May 28, 2010 decision which denied appellant's claim for a recurrence of disability commencing November 14, 2008.

By decision dated January 17, 2020, the Board affirmed OWCP's May 2, 2018 decision, finding that appellant's request for reconsideration was untimely filed and failed to demonstrate clear evidence of error in OWCP's decisions denying appellant's claims for a recurrence of disability beginning May 7, 2001.⁸

On February 27, 2026 appellant, *via* OWCP's Employees' Compensation Operations & Management Portal (ECOMP), requested an oral hearing before a representative of OWCP's Branch of Hearings and Review from OWCP's August 25, 2010 decision.⁹ She asserted entitlement to unspecified periods of compensation for total disability related to lumbar conditions and right-sided sciatica.

By decision dated March 4, 2026, OWCP denied appellant's hearing request, pursuant to 5 U.S.C. § 8124(b). It found that she was not entitled to a hearing as a matter of right as she had previously requested reconsideration.¹⁰ OWCP further denied appellant's request as the issues in this case could equally well be addressed by another request for reconsideration and submission of additional evidence to OWCP.

LEGAL PRECEDENT

A claimant dissatisfied with an OWCP decision shall be afforded an opportunity for either an oral hearing or a review of the written record.¹¹ Section 8124(b) of FECA, concerning a claimant's entitlement to a hearing, 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."¹² OWCP's regulations further explain that the claimant must have not previously submitted a reconsideration request (whether or not it was granted) on the same decision.¹³ Although a claimant who has previously sought reconsideration is not, as a

⁸ Docket No. 18-1112 (issued January 17, 2020), *denying petition for recon.*, Docket No. 18-1112 (issued April 10, 2023). The Board also found that appellant had not established clear evidence of error in OWCP's decision denying a recurrence of disability commencing November 14, 2008.

⁹ In her February 27, 2026 request, appellant also asserted that OWCP had erred by failing to process unspecified Form CA-7 claims for disability, and requested that OWCP review and process claims for disability related to OWCP's July 26, 1995 decision accepting right hip contusion and lumbosacral spine strain/sprain.

¹⁰ On its face, OWCP's March 4, 2026 decision identified a decision dated August 4, 2010. However, there is no decision of record dated August 4, 2010. On examination of the case record, it appears that OWCP intended to refer to its August 25, 2010 decision which denied reconsideration of its November 29, 2001 decision denying a recurrence of disability for the period May 7 through June 30, 2001.

¹¹ 5 U.S.C. § 8124(b)(1); 20 C.F.R. § 10.615.

¹² *Id.* at § 8124(b)(1).

¹³ *Id.*

matter of right, entitled to a hearing or review of the written record, the Branch of Hearings and Review may exercise its discretion to either grant or deny a hearing following reconsideration.¹⁴

ANALYSIS

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

Appellant has previously requested reconsideration on multiple occasions regarding the denial of her May 7, 2001 recurrence claim. Her requests were dated August 26, 2004, January 27, 2009, and April 24, 2018.

On February 27, 2026, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

The Board finds that as appellant had previously requested reconsideration, she was not entitled to an oral hearing as a matter of right under 5 U.S.C. § 8124(b)(1).¹⁵ OWCP properly exercised its discretion and determined that the issue in the case could be equally well addressed through a request for reconsideration and the submission of new evidence.¹⁶ The Board has held that as the only limitation on OWCP's authority is reasonableness. Abuse of discretion is generally shown through proof of manifest error, a clearly unreasonable exercise of judgment, or actions taken which are contrary to logic and deductions from known facts.¹⁷ Therefore, the Board finds that OWCP, in its March 4, 2026 decision, properly denied appellant's February 27, 2026 request for an oral hearing.

CONCLUSION

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

¹⁴ See *B.B.*, Docket No. 25-0661 (issued September 9, 2025); *C.V.*, Docket No. 23-0782 (issued June 17, 2025); *H.T.*, Docket No. 20-1318 (issued April 27, 2021); *E.S.*, Docket No. 19-1144 (issued August 3, 2020); *J.C.*, Docket No. 19-1293 (issued December 16, 2019); *T.M.*, Docket No. 18-1418 (issued February 7, 2019); *M.W.*, Docket No. 16-1560 (issued May 8, 2017); *D.E.*, 59 ECAB 438 (2008); *Hubert Jones, Jr.*, 57 ECAB 467 (2006).

¹⁵ 20 C.F.R. § 10.616(a); *C.V.*, *id.*; *L.L.*, Docket No. 23-1179 (issued March 1, 2024); *E.S.*, Docket No. 19-1144 (issued August 3, 2020); *J.C.*, Docket No. 19-1293 (issued December 16, 2019); *T.M.*, Docket No. 18-1418 (issued February 7, 2019); *J.H.*, Docket No. 17-1796 (issued February 6, 2018).

¹⁶ *Id.*

¹⁷ See *S.I.*, Docket No. 22-0538 (issued October 3, 2022); *R.Z.*, Docket No. 10-1915 (issued May 19, 2011); *Daniel J. Perea*, 42 ECAB 214 (1990) (Thomas, Alternate Member, dissenting).

ORDER

IT IS HEREBY ORDERED THAT the March 4, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 6, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board