

¹ 5 U.S.C. § 8101 *et seq.*

pull tubs of manual flats to hand to a coworker while in the performance of duty. She stopped work on April 11, 2025, and returned to work on May 8, 2025.

In a June 9, 2025 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence.

In a July 1, 2025 letter, OWCP advised appellant that it had performed an interim review of the case file and found that the evidence remained insufficient to support her claim. It informed her that she had 60 days from the date of its June 9, 2025 letter to provide 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.

OWCP received an April 16, 2025 witness statement. Appellant's co-worker, V.F., confirmed that appellant was helping him tear down tubs on April 11, 2025 when she gasped and stated that she may have tweaked something.

OWCP also received an authorization for examination and/or treatment (Form CA-16). The employing establishment issued the form on April 17, 2025 to a chiropractic wellness center. In an April 23, 2025 attending physician's report, Part B of the Form CA-16, Dr. Brian Massimini, a chiropractor, noted appellant's history of injury and diagnosed a lumbar sprain, which he opined was caused or aggravated by the employment activity. Work status notes from Dr. Massimini dated April 17 and 23, and May 6 and 7, 2025 were also received.

In a May 29, 2025 form report, Dr. Massimini diagnosed sprain of lumbar spine and segmental and somatic dysfunction of lumbar region. He estimated that appellant would be disabled from work for approximately one to three months.

In duty status reports (Form CA-17) dated April 15 and May 19, 2025, Dr. Massimini diagnosed lumbar spine sprain causally related to the claimed April 11, 2025 work incident. He also indicated that appellant was totally disabled from work. In a July 1, 2025 attending physician's report (Form CA-20), Dr. Massimini related that appellant had returned to work on June 11, 2025.

By decision dated August 20, 2025, OWCP accepted that the April 11, 2025 employment incident occurred, as alleged. However, it denied the claim, finding that appellant had not submitted medical evidence containing a medical diagnosis from a qualified physician in connection with the accepted April 11, 2025 employment incident. Consequently, OWCP found that the requirements had not been met to establish an injury as defined by FECA.

OWCP continued to receive factual and medical evidence.

On September 20, 2025, *via* OWCP's Employees' Compensation Operations & Management Portal (ECOMP), appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated November 4, 2025, OWCP denied appellant's request for an oral hearing, finding that the request was not made within 30 days of the August 20, 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 FECA² 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 States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,³ 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.⁴ 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.⁵

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.⁶

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁷ 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.⁸

Section 8101(2) of FECA provides that the term physician, as used therein, includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the Secretary.⁹ OWCP's implementing federal regulation at 20 C.F.R.

² *Supra* note 1.

³ *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).

⁴ *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).

⁵ *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).

⁶ *B.H.*, Docket No. 26-0067 (issued March 3, 2026); *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).

⁷ *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).

⁸ *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).

⁹ 5 U.S.C. § 8101(2); 20 C.F.R. § 10.311.

§ 10.5(bb) defines subluxation as an incomplete dislocation, off-centering, misalignment, fixation or abnormal spacing of the vertebrae which must be demonstrated on x-ray.

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted April 11, 2025 employment incident.

Dr. Massimini, a chiropractor, diagnosed sprain of lumbar spine and segmental and somatic dysfunction of lumbar region. However, he did not indicate that x-rays had been taken of appellant's lumbar spine. As Dr. Massimini did not diagnose a subluxation as demonstrated to exist on x-ray examination, he is not considered a physician as defined under FECA and his reports do not constitute competent medical evidence.¹⁰ Therefore, these reports cannot establish the medical portion of the claim.

There is no other medical evidence of record to establish a diagnosed medical condition in connection with the accepted April 11, 2025 employment incident.

As the medical evidence of record is insufficient to establish a diagnosed medical condition in connection with the accepted April 11, 2025 employment incident, the Board finds that appellant has not met her burden of proof.¹¹

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 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."¹² 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.¹³ 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

¹⁰ *Id.*; see also *A.P.*, Docket No. 25-0629 (issued July 22, 2025); *E.B.*, Docket No. 24-0762 (issued September 10, 2024); *J.D.*, Docket No. 22-0240 (issued June 8, 2022); *R.P.*, Docket No. 19-0271 (issued July 24, 2019).

¹¹ The Board notes the employing establishment issued an April 17, 2025 Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracey P. Spillane*, 54 ECAB 608 (2003).

¹² 5 U.S.C. § 8124(b)(1).

¹³ 20 C.F.R. § 10.615.

is made within the requisite 30 days.¹⁴ The date of filing for an oral hearing or review of the written record is fixed by postmark or other carrier's date marking,¹⁵ or the date received in ECOMP, and before the claimant has requested reconsideration.¹⁶ 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.¹⁷

ANALYSIS -- ISSUE 2

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 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.¹⁸ Appellant, therefore, had 30 days from OWCP's August 20, 2025 merit decision or until September 19, 2025 to request an oral hearing. As she did not request an oral hearing until September 20, 2025, more than 30 days after OWCP's August 20, 2025 decision, it was untimely filed and she was, therefore, not entitled to an oral hearing as a matter of right.¹⁹

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 November 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.²⁰ Accordingly, 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).

¹⁴ *M.B.*, Docket No. 25-0828 (issued November 24, 2025); *T.A.*, Docket No. 18-0431 (issued November 7, 2018); *Ella M. Garner*, 36 ECAB 238, 241-42 (1984).

¹⁵ 20 C.F.R. § 10.616(a).

¹⁶ *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).

¹⁷ *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).

¹⁸ *M.B.*, *supra* note 14; *J.C. (S.C.)*, Docket No. 24-0576 (issued August 28, 2024).

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

²⁰ *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).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a diagnosed medical condition in connection with the accepted April 11, 2025 employment incident. The Board further finds that OWCP properly denied appellant's request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).

ORDER

IT IS HEREBY ORDERED THAT the August 20 and November 4, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: June 3, 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