

<sup>3</sup> The Board notes that, following the January 8, 2026 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.*

## **ISSUES**

The issues are: (1) whether appellant has met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment; and (2) whether 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 May 30, 2025 appellant, then a 56-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she developed a back condition due to factors of her federal employment, including repetitive lifting. She noted that she first became aware of her condition on May 13, 2025, and realized its relation to her federal employment on May 21, 2025. Appellant did not stop work.

In a June 6, 2025 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her as to the type of factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence.

Appellant subsequently submitted medical evidence in support of her claim.

In a May 29, 2025 note, Cory Rice, a physician assistant, provided work restrictions of no lifting greater than 10 pounds.

In a June 9, 2025 narrative report, Dr. Layne A. Smith, a Board-certified obstetrician and gynecologist, reported that appellant was under his care and underwent surgery on February 11, 2025. Dr. Smith reported that appellant was doing well postoperatively and was subsequently released to work without restrictions. However, following her return to work, appellant was evaluated on May 21, 2025 and had developed complications. Appellant reported working for the employing establishment and described lifting heavy material regularly weighing up to 50 pounds. Dr. Smith referred appellant for further consultation and management.

In a June 25, 2025 statement, appellant described her employment duties which entailed lifting heavy boxes and loading them into her vehicle which began causing her severe back pain since May 13, 2025. She noted a prior back injury from 2011 which had resolved after she underwent a course of physical therapy and subsequently returned to work. Appellant reported that her supervisor instructed her to lift heavy boxes despite knowing about her prior back injury, causing her to seek treatment for her condition.

In support of her claim, appellant submitted a June 20, 2025 attending physician's report (Form CA-20) from Dr. Matthew Essman, a Board-certified physiatrist. He reported that appellant was pulling and lifting heavy boxes and had limited lumbar flexion due to pain but was neurologically intact. Dr. Essman diagnosed lumbar discogenic pain with radiculitis. When asked if the condition was caused or aggravated by the employment activity described, he reported that in the setting of significant lumbar spine osteoarthritis, appellant likely could have injured her back

with repetitive bending and lifting. Dr. Essman concluded that appellant was partially disabled as of June 20 through August 20, 2025.

In a follow-up letter dated July 9, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the June 6, 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 a July 17, 2025 Form CA-20, Dr. Aaron Conger, a Board-certified physiatrist, diagnosed lumbar spondylosis and spondyloses. When asked if the condition was caused or aggravated by the employment activity described, he opined that in the setting of significant lumbar spine osteoarthritis, appellant “likely” could have injured her back with repetitive bending and lifting. Dr. Conger concluded that appellant was partially disabled from June 20 through October 17, 2025.

On July 28, 2025, OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions, to Dr. Qing-Min Chen, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine whether appellant sustained a medical condition caused or aggravated by her federal employment.

In a September 9, 2025 report, Dr. Chen noted his review of the SOAF and medical record and discussed the history of injury on May 13, 2025 when appellant lifted a box of copy paper weighing 70 pounds. He provided examination findings and diagnosed possible cervical myelopathy which was not work related; likely degenerative scoliosis of the lumbar spine which was preexisting; and likely multilevel lumbar spine degenerative changes which was preexisting. Dr. Chen reported that based on his review of the diagnostic studies, appellant did not appear to have lumbar spondylosis or spondylolisthesis. He reported no objective evidence that a traumatic injury occurred as a result of her federal employment and she was likely experiencing degenerative scoliosis in her hip and pelvis which was unrelated to her employment duties of lifting boxes. Dr. Chen concluded that appellant could return to work as a rural carrier. In a September 9, 2025 work capacity evaluation (Form OWCP-5c), he advised that appellant could perform her usual job without restriction.

By decision dated October 21, 2025, OWCP denied appellant’s occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed condition and the accepted factors of her federal employment.

On December 30, 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 a December 18, 2025 report from Dr. Angela Krull, a Board-certified physiatrist, who discussed the May 13, 2025 lifting incident which resulted in an acute lumbar sprain/strain. Dr. Krull reported that the May 13, 2025 industrial injury was an exacerbation of her prior lumbar disc injury and recommended permanent lifting restrictions of 35 pounds as it was previously well controlled for her condition.

By decision dated January 8, 2026, OWCP denied appellant's request for a review of the written record, finding that the request was not made within 30 days of the October 21, 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 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,<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>8</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>9</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>10</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> *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).

<sup>6</sup> *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).

<sup>7</sup> *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).

<sup>8</sup> *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *see also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>9</sup> *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).

<sup>10</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

rationale explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).<sup>11</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment.

OWCP referred appellant to Dr. Chen for a second opinion evaluation regarding her occupational disease claim. In a September 9, 2025 report, he reviewed the SOAF and medical record. Dr. Chen provided physical examination findings and diagnosed possible cervical myelopathy which was not work related and likely degenerative scoliosis of the lumbar spine and multilevel lumbar spine degenerative changes which were preexisting. He opined that appellant did not have objective clinical evidence of lumbar spondylosis or spondylolisthesis causally related to the traumatic incident or accepted employment factors of her federal employment which entailed lifting heavy boxes. Dr. Chen reported that she was likely experiencing degenerative scoliosis in her hip and pelvis which was unrelated to her employment duties and advised that appellant could perform her usual job without restriction. The Board has reviewed the September 9, 2025 report and finds that it provided a thorough factual and medical history and accurately summarized the relevant medical evidence.<sup>12</sup> Dr. Chen further provided medical rationale for his opinion. As his report is detailed, well rationalized, and based on a proper factual background, his opinion represents the weight of the medical evidence.<sup>13</sup>

In a June 9, 2025 narrative report, Dr. Smith reported that appellant underwent surgery on February 11, 2025, and noted that following her return to work, she developed complications and described lifting heavy material regularly weighing up to 50 pounds in her employment duties. He did not, however, provide an opinion on the cause of the diagnosed medical condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>14</sup> Therefore, this evidence is insufficient to establish appellant's claim.

Appellant also submitted a June 20, 2025 Form CA-20 report from Dr. Essman who diagnosed discogenic pain with radiculitis and a July 17, 2025 report from Dr. Conger who diagnosed lumbar spondylosis and spondyloses. When asked if the condition was caused or aggravated by the employment activity described, both physicians reported that in the setting of significant lumbar spine osteoarthritis, appellant "likely" could have injured her back with

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<sup>11</sup> *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*, *supra* note 8.

<sup>12</sup> *G.V.*, Docket No. 22-1257 (issued March 14, 2024); *V.B.*, Docket No. 22-0799 (issued October 25, 2022); *J.W.*, Docket No. 18-0670 (issued September 11, 2018).

<sup>13</sup> *T.M.*, Docket No. 21-0677 (issued March 31, 2023); *V.S.*, Docket No. 19-1679 (issued July 8, 2020); *T.F.*, Docket No. 19-157 (issued April 21, 2020).

<sup>14</sup> *See B.B.*, Docket No. 25-0661 (issued September 9, 2025); *G.R.*, Docket No. 25-0540 (issued June 26, 2025); *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

repetitive bending and lifting. However, the Board has held that medical opinions that are speculative or equivocal are of diminished probative value.<sup>15</sup> Therefore, this evidence is insufficient to establish appellant's claim.

The remaining evidence includes a report signed by a physician assistant. The Board has held, however, that medical reports signed solely by a physician assistant, registered nurse, or medical assistant are of no probative value as such healthcare providers are not considered physicians as defined under FECA and are, therefore, not competent to provide medical opinions.<sup>16</sup> Consequently, their medical findings and/or opinions will not suffice for the purpose of establishing entitlement to FECA benefits.<sup>17</sup> As such, this evidence is of no probative value and insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish causal relationship between a medical condition and the accepted factors of federal employment, the Board finds that appellant has not met her burden of proof.<sup>18</sup>

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>19</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>20</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

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<sup>15</sup> See *D.D.*, Docket No. 25-0751 (issued August 27, 2025); *F.S.*, Docket No. 22-0070 (issued June 14, 2023); *M.L.*, Docket No. 18-0153 (issued January 22, 2020); *N.B.*, Docket No. 19-0221 (issued July 15, 2019); *Z.B.*, Docket No. 17-1336 (issued January 10, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

<sup>16</sup> 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).

<sup>17</sup> *Id.*

<sup>18</sup> *I.D.*, Docket No. 22-0848 (issued September 2, 2022); *T.G.*, Docket No. 14-751 (issued October 20, 2014).

<sup>19</sup> 5 U.S.C. § 8124(b)(1).

<sup>20</sup> 20 C.F.R. § 10.615.

is made within the requisite 30 days.<sup>21</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>22</sup> or the date received in the Employees' Compensation Operations & Management Portal (ECOMP), and before the claimant has requested reconsideration.<sup>23</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>24</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>25</sup> Appellant, therefore, had 30 days following OWCP's October 21, 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 December 30, 2025, more than 30 days after OWCP's October 21, 2025 decision, it was untimely filed and she was, therefore, not entitled to a review of the written record as a matter of right.<sup>26</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 January 8, 2026 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

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<sup>21</sup> *T.A.*, Docket No. 18-0431 (issued November 7, 2018); *Ella M. Garner*, 36 ECAB 238, 241-42 (1984).

<sup>22</sup> 20 C.F.R. § 10.616(a).

<sup>23</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>24</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>25</sup> *J.C. (S.C.)*, Docket No. 24-0576 (issued August 28, 2024).

<sup>26</sup> *See W.N.*, Docket No. 20-1315 (issued July 6, 2021); *see also G.S.*, Docket No. 18-0388 (issued July 19, 2018).

from established facts.<sup>27</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).<sup>28</sup>

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment. The Board further finds that OWCP properly denied her 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 October 21, 2025 and January 8, 2026 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: June 8, 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

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<sup>27</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). See also, *P.G.*, Docket No. 24-0447 (issued August 12, 2024); *D.S.*, Docket No. 21-1296 (issued March 23, 2022).

<sup>28</sup> On return of the case record, for full and fair adjudication, OWCP may consider administratively combining the present claim with appellant's other relevant claims.