

On August 22, 2025 OWCP referred appellant, together with a statement of accepted facts (SOAF), the medical record, and list of questions, to Dr. Albert E. Becker, a Board-certified orthopedic surgeon, for a second opinion evaluation on the nature and extent of appellant's injury-related residuals and any ongoing disability. The appointment was scheduled for September 11, 2025 at 10:00 a.m.

By decision dated September 12, 2025, OWCP denied appellant's claim for wage-loss compensation for the period July 26, 2025 and continuing as the medical evidence of file did not establish that she was disabled from work as a result of the accepted March 22, 2025 employment injury.

On December 23, 2025 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.

By decision dated January 2, 2026, OWCP denied appellant's hearing request, pursuant to 5 U.S.C. § 8124(b). It found that appellant was not entitled to a hearing as a matter of right as her request for an oral hearing was not made within 30 days of the September 12, 2025 decision. OWCP further exercised its discretion and determined that the issue in the case could equally well be addressed by requesting reconsideration and submitting additional evidence to OWCP.

The Board, having duly considered this matter, finds that the case is not in posture for decision.

OWCP scheduled a second opinion evaluation with Dr. Becker for September 11, 2025 to determine the status of appellant's accepted conditions and ongoing disability. However, prior to receiving a report from Dr. Becker, it issued a merit decision on September 12, 2025. OWCP should have obtained Dr. Becker's second opinion report prior to the issuance of the September 12, 2025 decision. Once OWCP undertakes development of the medical evidence, it has the responsibility to do so in a manner that will resolve the relevant issues in the case.¹

Accordingly, the case shall be remanded to enable OWCP to secure and review the report obtained from Dr. Becker, its second opinion physician. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision regarding appellant's wage-loss compensation claim.² Accordingly,

¹ See *Order Remanding Case*, C.S., Docket No. 24-0732 (issued August 24, 2023); *M.B.*, Docket No. 21-0060 (issued March 17, 2022); *D.S.*, Docket No. 19-0292 (issued June 21, 2019), *C.R.*, Docket No. 17-0964 (issued September 9, 2019).

² The Board notes that during the pendency of this appeal, OWCP issued a decision dated April 20, 2026 expanding acceptance of the claim to include temporary degenerative cervical disc disease. This decision is null and void as the Board and OWCP may not simultaneously exercise jurisdiction over the same underlying issue in a case on appeal. 20 C.F.R. §§ 501.2(c)(3), 10.626; see e.g., *M.C.*, Docket No. 18-1278 (issued March 7, 2019); *Lawrence Sherman*, 55 ECAB 359, 360 n.4 (2004); *Douglas E. Billings*, 41 ECAB 880 (1990).

IT IS HEREBY ORDERED THAT the September 12, 2025 decision of the Office of Workers' Compensation Programs is set aside, and this case is remanded for further proceedings consistent with this order of the Board. The January 2, 2026 decision is set aside as moot.

Issued: June 15, 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