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D.T., Appellant	)	
	)	
and	)	Docket No. 26-0354
	)	Issued: June 26, 2026
U.S. POSTAL SERVICE, NEW ORLEANS	)	
POST OFFICE, New Orleans, LA, Employer	)	
	)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On March 4, 2026 appellant filed a timely appeal from a February 19, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days elapsed from the last merit decision, dated January 31, 2024, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.

The issue is whether OWCP properly denied appellant's request for an oral hearing before a representative of OWCP's Branch of Hearings and Review, pursuant to 5 U.S.C. § 8124(b).

On August 3, 2023 appellant, then a 66-year-old office automation clerk, filed an occupational disease claim (Form CA-2) alleging that she tore her left rotator cuff due to factors of her federal employment which included repetitive movement of her left arm over a period of

¹ 5 U.S.C. § 8101 *et seq.*

time. She noted that she first became aware of her condition and realized its relation to her federal employment on November 28, 2012. Appellant was last exposed to conditions alleged to have caused her conditions on August 8, 2023.

OWCP received medical evidence in support of the claim.

By decision dated December 7, 2023, OWCP denied appellant's claim, finding that it was untimely filed, pursuant to 5 U.S.C. § 8122(a).

On January 12, 2024 appellant requested reconsideration.

By decision dated January 31, 2024, OWCP modified its December 7, 2023 decision finding that appellant failed to establish the factual component of her claim as she had not described the employment factors which caused or contributed to her claimed condition. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On February 13, 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.

By decision dated February 19, 2026, OWCP denied appellant's request for an oral hearing. It found that since she had previously requested reconsideration and a reconsideration decision was issued on January 31, 2024, she was not entitled, as a matter of right, to either an oral hearing or a review of the written record on the same issue. OWCP exercised its discretion and further found that her request could equally well be addressed by requesting reconsideration and submitting evidence not previously considered.

LEGAL PRECEDENT

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."²

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.³ Although a claimant who has previously sought reconsideration is not, as a 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.⁴

² 5 U.S.C. § 8124(b)(1).

³ 20 C.F.R. § 10.615.

⁴ See *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).

ANALYSIS

The Board finds that OWCP properly denied appellant's request for an oral hearing before a representative of OWCP's Branch of Hearings and Review, pursuant to 5 U.S.C. § 8124(b).

The most recent decision issued by OWCP prior to appellant's February 13, 2026 hearing request, was the January 31, 2024 reconsideration decision. By that decision, OWCP modified the December 7, 2023 decision from a denial based on an untimely filing to a denial based on the factual component of fact of injury. Consequently, the Board finds that appellant was not entitled to a hearing/review of the written record before a representative of OWCP's Branch of Hearings and Review as a matter of right as she had previously requested reconsideration.⁵

OWCP properly exercised its discretion in denying appellant's request for a hearing/review of the written record as she previously requested reconsideration and found that appellant's claim could be adequately addressed during the reconsideration process. The Board has held that the only limitation on OWCP's discretionary authority is reasonableness. An 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 probable deduction from established facts.⁶ In this case, the evidence of record does not establish that OWCP abused its discretion in denying appellant's request for a hearing/review of the written record. Accordingly, the Board finds that OWCP properly denied her request.⁷

CONCLUSION

The Board finds that OWCP properly denied appellant's request for an oral hearing before a representative of OWCP's Branch of Hearings and Review, pursuant to 5 U.S.C. § 8124(b).

⁵ *M.M.*, Docket No. 24-0858 (issued January 17, 2025).

⁶ *W.H.*, Docket No. 20-0562 (issued August 6, 2020); *Daniel J. Perea*, 42 ECAB 214 (1990).

⁷ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the February 19, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 26, 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