

² The Board notes that, following the March 5, 2026 decision, OWCP received additional evidence. However, the Board’s *Rules of Procedure* 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.*

employment injury; and (2) whether OWCP properly denied appellant's request for review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

On February 17, 2023 appellant, then a 40-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 11, 2023 she injured her right ankle when she fell into a hole while in the performance of duty. She stopped work on February 12, 2023. OWCP accepted the claim for right ankle sprain and later expanded its acceptance of the claim to include partial tear of the tibiofibular ligament of the right ankle. It paid appellant wage-loss compensation on the supplemental rolls effective March 29, 2023 and on the periodic rolls effective May 21, 2023.

On September 21, 2023 appellant underwent surgery on her right ankle by Dr. Jason Weslosky, a Board-certified orthopedic surgeon.

On April 25, 2024 appellant returned to limited-duty work. OWCP paid her wage-loss compensation for partial disability on the supplemental rolls from April 22 through August 23, 2024.

In a medical report dated February 4, 2025, Dr. Weslosky diagnosed right-sided posterior tibial tendon dysfunction, gastrocnemius equinus, and pain. He released appellant to return to work up to eight hours per day with no restrictions.³

In a work note dated August 14, 2025, Dr. Anna Trostinskaia, Board-certified in internal medicine, indicated that appellant was unable to work from August 15 through September 15, 2025.

On September 18, 2025 appellant began filing claims for compensation (Form CA-7) for disability from work commencing August 16, 2025.

In an October 14, 2025 development letter, OWCP informed appellant of the deficiencies of her disability claim. It advised her of the type of medical evidence needed to establish her claim and afforded her 30 days to submit the necessary evidence.

OWCP subsequently received a September 18, 2025 work note by Dr. Trostinskaia, who recommended that appellant remain out of work through October 19, 2025.

In narrative medical reports dated November 7 and 12, 2025, Dr. Trostinskaia reviewed medical records and diagnosed right hip pain, impingement, and labral tear. She indicated that appellant's job required excessive walking which appellant related she was unable to do due to pain.

³ By decision dated July 8, 2025, OWCP granted appellant a schedule award for seven percent permanent impairment of the right leg. The award ran for 20.16 weeks from May 1, 2025 through September 19, 2025.

In a November 24, 2025 work note, Dr. Trostinskaia recommended that appellant remain off work through December 15, 2025.

In a letter dated December 15, 2025, Dr. Sarah Bethany McDade, a Board-certified physiatrist, diagnosed lumbar radiculopathy and advised that appellant was unable to work from December 15, 2025 through January 31, 2026.

OWCP received physical therapy reports.

By decision dated December 29, 2025, OWCP denied appellant's Form CA-7 claims for disability from work commencing August 16, 2025.

On February 28, 2026 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review. In support thereof, she submitted a November 7, 2025 medical report by Dr. Weslosky, who diagnosed right-sided posterior tibial tendon dysfunction, gastrocnemius equinus, and ankle sprain. Dr. Weslosky recommended that appellant maintain her current work restrictions.

Appellant also submitted a December 15, 2025 report, wherein Dr. McDade opined that appellant was unable to work due to lumbosacral radiculopathy, and a February 11, 2026 report, wherein Dr. Thomas Lynch, a Board-certified orthopedic surgeon, diagnosed right hip pain, impingement, and labral tear and performed a right hip joint injection/arthrocentesis.

By decision dated March 5, 2026, OWCP denied appellant's February 28, 2026 request for review of the written record. It found that the request was not made within 30 days of its December 29, 2025 decision, and, therefore, was untimely filed. OWCP 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 FECA⁴ has the burden of proof to establish the essential elements of his or her claim,⁵ including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁶ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.⁷ Whether a particular injury causes an

⁴ *Supra* note 1.

⁵ *See L.S.*, Docket No. 18-0264 (issued January 28, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019).

⁶ *See S.F.*, Docket No. 20-0347 (issued March 31, 2023); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁷ *T.K.*, Docket No. 26-0004 (issued February 18, 2026); *T.W.*, Docket No. 19-1286 (issued January 13, 2020).

employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.⁸

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the claimed disability and the accepted employment injury.⁹

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹⁰

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish disability from work commencing August 16, 2025, causally related to her accepted February 11, 2023 employment injury.

In support of her disability claim, appellant submitted work notes and medical reports by Dr. Trostinskaia, who diagnosed right hip conditions and recommended that she remain off work for the period August 14 through November 24, 2025. In a report dated December 15, 2025, Dr. McDade diagnosed lumbar radiculopathy and recommended that she remain off work through January 31, 2026. However, neither physician offered an opinion as to whether appellant was disabled from work due to the accepted conditions during the claimed period. Therefore, these reports are of no probative value and are insufficient to establish her claim for compensation.¹¹

Appellant also submitted reports by Dr. Weslosky, who opined that she was able to work up to eight hours per day with no restrictions. As these reports negate disability from work during the claimed period of disability, they are of no probative value and are insufficient to establish the disability claim.¹²

The remaining evidence of record consists of physical therapy reports. These reports do not constitute competent medical evidence because physical therapists are not considered

⁸ *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291-92 (2001).

⁹ *F.B.*, Docket No. 22-0679 (issued January 23, 2024); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

¹⁰ *J.B.*, Docket No. 19-0715 (issued September 12, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 293 (2001).

¹¹ *Supra* note 6; *see also L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² *See M.B.*, Docket No. 24-0466 (issued June 20, 2024); *S.H.*, Docket No. 21-0987 (issued September 1, 2023); *see also T.H.*, Docket No. 21-1429 (issued November 2, 2023); *S.H.*, Docket No. 21-0640 (issued February 2, 2023).

physicians as defined under FECA.¹³ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to compensation benefits.¹⁴

As the medical evidence of record is insufficient to establish disability from work commencing August 16, 2025, causally related to the accepted February 11, 2023 employment injury, the Board finds that appellant has not met her burden of proof.

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.”¹⁵ 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.¹⁶ 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 is made within the requisite 30 days.¹⁷ The date of filing for an oral hearing or review of the written record is fixed by postmark or other carrier’s date marking,¹⁸ or the date received in the Employees’ Compensation Operations & Management Portal (ECOMP), and before the claimant has requested reconsideration.¹⁹ Although there is no right to a hearing/review of the written

¹³ 5 U.S.C. § 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.” 20 C.F.R. § 10.5(t). *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *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); *V.R.*, Docket No. 19-0758 (issued March 16, 2021) (physical therapists are not considered physicians under FECA); *C.K.*, Docket No. 19-1549 (issued June 30, 2020) (physical therapists are not considered physicians as defined under FECA).

¹⁴ *V.R.*, *id.*; *B.B.*, Docket No. 18-0732 (issued March 11, 2020).

¹⁵ 5 U.S.C. § 8124(b)(1).

¹⁶ 20 C.F.R. § 10.615.

¹⁷ *T.A.*, Docket No. 18-0431 (issued November 7, 2018); *Ella M. Garner*, 36 ECAB 238, 241-42 (1984).

¹⁸ 20 C.F.R. § 10.616(a).

¹⁹ *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).

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.²⁰

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.²¹ Appellant, therefore, had 30 days following OWCP's December 29, 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 February 28, 2026, more than 30 days after OWCP's December 29, 2025 decision, it was untimely filed and she was, therefore, not entitled to a review of the written record as a matter of right.²²

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 March 5, 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 from established facts.²³ 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).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish disability from work commencing August 16, 2025, causally related to her accepted February 11, 2023 employment injury. 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).

²⁰ *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).

²¹ *J.P.*, Docket No. 25-0860 (issued January 5, 2026); *J.C. (S.C.)*, Docket No. 24-0576 (issued August 28, 2024).

²² *J.P.*, *id.*; *see W.N.*, Docket No. 20-1315 (issued July 6, 2021); *see also G.S.*, Docket No. 18-0388 (issued July 19, 2018).

²³ *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).

ORDER

IT IS HEREBY ORDERED THAT the December 29, 2025 and March 5, 2026 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: June 17, 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