

FACTUAL HISTORY

On May 22, 2003 appellant, then a 38-year-old mail processor, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her right hand and shoulder when sweeping and sorting mail while in the performance of duty. OWCP accepted the claim for right shoulder sprain. It subsequently expanded the acceptance of the claim to include rotator cuff tear or rupture of the right shoulder, carpal tunnel syndrome of the right upper limb, medial epicondylitis of the right elbow, and lateral epicondylitis of the right elbow. OWCP paid appellant wage-loss compensation on the supplemental rolls, effective April 2, 2004, and on the periodic rolls, effective November 22, 2009.

In a series of reports dated June 25, 2019 through December 22, 2022, Dr. Adrian Bartoli, a Board-certified anesthesiologist, renewed appellant's prescription for Butrans patches, noting that she required the name-brand Butrans because the generic patch did not stick to her skin effectively.

In letters dated July 7 and October 14, 2022, Optum, OWCP's pharmacy benefit manager (PBM), advised appellant that pharmacy benefits for injured employees under FECA were managed under a drug formulary that went into effect December 9, 2021. It related that the prescription for Butrans was outside the formulary allowances, but would be allowed until December 8, 2022. The PBM requested that appellant's prescriber take appropriate action. It referred to the drug formulary and information regarding the prior authorization process including the prior authorization request form (PARF) *via* the FECA PBM prescriber portal.

In letters dated July 7 and October 14, 2022, the PBM informed Dr. Bartoli that the formulary contained a list of medications, including quantity and generic allowances, that injured employees were eligible to receive under FECA. The PBM advised that appellant's prescription for Butrans was outside the formulary allowances, but would be allowed until December 8, 2022. It advised him to take one of the following actions: (1) transition appellant's prescription to comply with the formulary allowances; (2) transition appellant to a different formulary medication, complying with the formulary allowances; or (3) request a prior authorization *via* the prescriber portal to obtain approval or an exception to the formulary allowance. No response was received.

In a letter dated May 10, 2023, OWCP noted that appellant was currently receiving Butrans, a medication falling outside formulary allowances, which was last filled on March 13, 2023. It advised her that, while the medication currently prescribed would be covered until June 30, 2023, this letter was a final notice to allow time for her prescriber to safely transition to an alternative on formulary medication or submit a PARF *via* the PBM prescriber portal for consideration. No response was received.

By decision dated June 21, 2023, OWCP denied authorization for Butrans, finding that the evidence of record was insufficient to establish that the medication was medically necessary to address the effects of her accepted condition under FECA.

LEGAL PRECEDENT

Section 8103(a) of FECA³ provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree, or the period of disability, or aid in lessening the amount of monthly compensation.⁴ While OWCP is obligated to pay for treatment of employment-related conditions, the employee has the burden of proof to establish that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.⁵

In interpreting section 8103 of FECA, the Board has recognized that OWCP has broad discretion in approving services provided, with the only limitation on OWCP's authority being that of reasonableness.⁶ OWCP has the general objective of ensuring that an employee recovers from his or her injury to the fullest extent possible, in the shortest amount of time. It, therefore, has broad administrative discretion in choosing means to achieve this goal.⁷

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 deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.⁸

ANALYSIS

The Board finds that OWCP properly denied authorization for a nonformulary prescription medication.

In letters dated July 7 and October 14, 2022, the PBM advised appellant that pharmacy benefits for injured employees under FECA were managed under a drug formulary that went into effect December 9, 2021. It related that the prescription for Butrans was outside the formulary allowances, but would be allowed until December 8, 2022. The PBM requested that appellant's prescriber take appropriate action. It referred to the drug formulary and information regarding the prior authorization process including the PARF *via* the FECA PBM prescriber portal.

In letters dated July 7 and October 14, 2022, the PBM informed Dr. Bartoli that the formulary contained a list of medications, including quantity and generic allowances, that injured

³ *Supra* note 1.

⁴ *Id.* § 8103(a); *see O.M.*, Docket No. 21-1383 (issued March 1, 2023); *R.B.*, Docket No. 21-0598 (issued May 19, 2022); *N.G.*, Docket No. 18-1340 (issued March 6, 2019); *Thomas W. Stevens*, 50 ECAB 288 (1999).

⁵ *R.B., id.*; *J.M.*, Docket No. 20-0396 (issued April 9, 2020); *M.P.*, Docket No. 19-1557 (issued February 24, 2020); *M.B.*, 58 ECAB 588 (2007).

⁶ *O.M., supra* note 4; *J.M.*, Docket No. 20-0457 (issued July 16, 2020); *Daniel J. Perea*, 42 ECAB 214 (1990) (holding that abuse of discretion by OWCP is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or administrative actions which are contrary to both logic, and probable deductions from established facts).

⁷ *R.B., supra* note 4; *P.L.*, Docket No. 18-0260 (issued April 14, 2020).

⁸ *Supra* note 6; *C.S.*, Docket No. 19-0516 (issued August 15, 2019).

employees were eligible to receive under FECA. The PBM advised that the prescription for Butrans was outside the formulary allowances, but would be allowed until December 8, 2022. It advised him to take one of the following actions: (1) transition appellant's prescription to comply with the formulary allowances; (2) transition appellant to a different formulary medication, complying with the formulary allowances; or (3) request a prior authorization *via* the prescriber portal to obtain approval or an exception to the formulary allowance. No response was received.

However, the Board notes that the record contains no evidence in response to OWCP's request. Thus, the Board finds that OWCP properly denied authorization for the prescription for Butrans.⁹

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.

CONCLUSION

The Board finds that OWCP properly denied authorization for a nonformulary prescription medication.

ORDER

IT IS HEREBY ORDERED THAT the June 21, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 5, 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

⁹ See FECA Bulletin No. 21-07 (issued March 9, 2021); FECA Bulletin No. 22-02 (issued November 23, 2021).