



wrist tendinitis. It administratively combined OWCP File Nos. xxxxxx879 and xxxxxx314, with the latter serving as the master file number.<sup>1</sup>

By decision dated August 24, 2016, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date, based on the opinion of Dr. Mohammad H. Zamani, a Board-certified orthopedic surgeon, serving as an impartial medical examiner.

In an appeal request form dated September 20, 2016, postmarked September 21, 2016, and received on September 23, 2016, appellant requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

In a letter dated September 23, 2016, the Branch of Hearings and Review acknowledged that it had received appellant's hearing request. Appellant was advised that if it was determined that the case was in posture for oral hearing, a hearing would be scheduled within six to eight months.

By decision dated October 12, 2016, a hearing representative denied appellant's hearing request, pursuant to 5 U.S.C. § 8124(b). The hearing representative found that appellant was not entitled to a hearing as a matter of right as her request for reconsideration was postmarked "September 24, 2016," more than 30 days after the August 24, 2016 decision. OWCP further denied appellant's request as the issue in this case could equally well be addressed by requesting reconsideration and submitting additional evidence to OWCP.

On August 13, 2025 appellant requested reconsideration of the October 12, 2016 OWCP decision, alleging that she had timely requested a hearing before its Branch of Hearings and Review.

By decision dated October 23, 2025, OWCP denied appellant's request for reconsideration finding that it was untimely filed and failed to demonstrate clear evidence of error.

The Board, having duly considered this matter, notes that OWCP terminated appellant's wage-loss compensation and medical benefits by decision dated August 24, 2016. On September 23, 2016, it received appellant's request for a hearing before a representative of OWCP's Branch of Hearings and Review. OWCP denied appellant's request for hearing by decision dated October 12, 2016. Appellant requested reconsideration of the October 12, 2016 decision on August 13, 2025. 20 C.F.R. § 10.607(a) of OWCP's regulations provides that a request for reconsideration must be received within one year of the date of OWCP's last merit decision for which review is sought. Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS).<sup>2</sup> As appellant's request for reconsideration was received by OWCP on August 13, 2025, almost nine years after the October 12, 2016 decision, pursuant to 20 C.F.R. § 10.607(a), the request for reconsideration was untimely filed. Consequently, appellant

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<sup>1</sup> Master File No. xxxxx314 has also been combined with OWCP File No. xxxxxx166 (January 1, 1997 date of injury); File No. xxxxxx220 (April 27, 2004 date of injury); and File No. xxxxxx521 (date of injury January 1, 1997).

<sup>2</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4(b) (September 2020).

must demonstrate clear evidence of error on the part of OWCP in determining that she failed to timely file a hearing request pursuant to 5 U.S.C. § 8124(b).<sup>3</sup>

The Board finds that appellant has established clear evidence of error.

Section 8124(b)(1) of FECA provides that a claimant for compensation not satisfied with a decision of the Secretary is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his or her claim before a representative of the Secretary.<sup>4</sup> Sections 10.617 and 10.618 of the federal regulations implementing this section of FECA provide that a claimant shall be afforded a choice of an oral hearing or a review of the written record by a representative of the Secretary.<sup>5</sup> A claimant is entitled to a hearing or review of the written record as a matter of right only if the request is filed within the requisite 30 days as determined by postmark or other carrier's date marking and before the claimant has requested reconsideration.<sup>6</sup> Although there is no right to a review of the written record or an oral hearing if not requested within the 30-day time period, OWCP may within its discretionary powers grant or deny his or her request and must exercise its discretion.<sup>7</sup> Its procedures require that it exercise its discretion to grant or deny a hearing when the request is untimely or made after reconsideration under section 8128(a).<sup>8</sup>

OWCP acknowledged in the September 23, 2016 letter to appellant that it had received her oral hearing request. The time limitation to request a hearing from OWCP's Branch of Hearings and Review expired on Friday, September 23, 2016, 30 days after OWCP's August 24, 2016 merit decision. Section 8124(b)(1) sets an unequivocal time limitation for requesting an oral hearing.<sup>9</sup> As appellant's request was received by September 23, 2016, it was therefore filed timely. Appellant, was, therefore, entitled to an oral hearing of OWCP's August 24, 2016 termination decision as a matter of right.

The Board will reverse OWCP's October 23, 2025 decision and remand the case for a hearing before a representative of OWCP's Branch of Hearing and Review to be followed by a *de novo* decision.

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<sup>3</sup> 20 C.F.R. § 10.607(b); *D.Z.*, Docket No. 25-0422 (issued June 26, 2025); *S.C.*, Docket No. 20-1537 (issued April 14, 2021); *R.T.*, Docket No. 19-0604 (issued September 13, 2019); see *Debra McDavid*, 57 ECAB 149 (2005).

<sup>4</sup> 5 U.S.C. § 8124(b)(1).

<sup>5</sup> 20 C.F.R. §§ 10.616, 10.617.

<sup>6</sup> *Id.* at § 10.616(a).

<sup>7</sup> See *B.R.*, Docket No. 18-0277 (issued August 27, 2018); *E.K.*, Docket No. 17-1265 (issued August 16, 2018); *Eddie Franklin*, 51 ECAB 223 (1999); *Delmont L. Thompson*, 51 ECAB 155 (1999).

<sup>8</sup> See *B.R.*; *id.*; *E.K.*, *id.*; *R.T.*, Docket No. 08-0408 (issued December 16, 2008).

<sup>9</sup> See *William F. Osborne*, 46 ECAB 198 (1994).

**IT IS HEREBY ORDERED THAT** the October 23, 2025 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: March 16, 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