

**United States Department of Labor
Employees' Compensation Appeals Board**

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M.O., Appellant)	
)	
and)	
)	Docket No. 26-0164
)	Issued: March 27, 2026
DEPARTMENT OF VETERANS AFFAIRS,)	
SAN FRANCISCO VA MEDICAL CENTER,)	
San Francisco, CA, Employer)	
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On December 8, 2025 appellant filed a timely appeal from November 3 and 7, 2025 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to rescind the acceptance of appellant's claim for laceration of scalp, contusion of scalp, and left subdural hematoma; and (2) whether appellant has met her burden of proof to establish a medical condition, causally related to her accepted July 29, 2025 employment incident.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On August 1, 2025 appellant, then a 56-year-old licensed practical nurse, filed a traumatic injury claim (Form CA-1) alleging that on July 29, 2025 she developed syncope when she passed out on the clinic floor while weighing a patient in the performance of duty. She stopped work on the date of the claimed injury.

In support of her claim, appellant submitted an August 1, 2025 note, wherein Dr. Andrew Orr, an employing establishment physician, excused appellant from work through September 1, 2025.

In a letter dated August 6, 2025, the employing establishment controverted appellant's claim, contending that she had not submitted rationalized medical evidence supporting causal relationship.

OWCP, in an August 14, 2025 development letter, informed appellant that the evidence of record was insufficient to establish her claim. It appended a series of questions and advised her of the type of factual and medical evidence needed. OWCP afforded appellant 60 days to respond.

OWCP thereafter received medical evidence. In a hospital discharge summary dated August 1, 2025, Dr. Orr noted that appellant had been admitted on July 29, 2025, and discharged on August 1, 2025, for syncope and subdural hematoma. He noted appellant's history of an aortic dissection graft repair in 2021, migraines, and an episode of syncope in April 2025. Appellant was admitted that day following a witnessed episode of syncope with head strike at work. He related diagnoses of subdural tentorial leaflet hematoma, scalp hematoma, following appellant's syncopal episode; and migraine/neck pain following the syncopal episode.

In an August 25, 2025 medical report, Dr. Sandeep Guntur, Board-certified in occupational medicine, diagnosed right parietal laceration, contusion of the scalp, and left subdural hematoma, causally related to the alleged July 29, 2025 employment incident.

In a follow-up letter dated September 25, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the August 14, 2025 letter to submit the requested necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

In a September 29, 2025 response to OWCP's August 14, 2025 letter, appellant related that while weighing a patient, she lost consciousness and fell backwards striking the back of her head on the cement floor. She also noted that her cardiologist believed that her fall may have been related to her anti-hypertensive medications. Appellant additionally noted that according to her cardiologist, she had a history of fainting associated with vasovagal syncope or low blood pressure. She did not have a history of an ascending aortic aneurysm dissection with operative repair that was being followed and was stable. Appellant maintained that there were no special or hazardous conditions that led to her fall. She noted that she fell straight back onto the cemented floor without any chair, wall, or desk in her way.

Appellant submitted a progress note dated August 22, 2025, wherein Dr. Elizabeth Lancaster, a Board-certified surgeon, noted that appellant had a history of syncope events, including an event in July 2025. She diagnosed chronic daily headache; generalized anxiety disorder; migraine; hypertension; anemia, iron deficiency; bursitis of bilateral Achilles bursa; descending thoracic aortic aneurysm; and history of repair dissecting aneurysm of thoracic aorta.

By decision dated October 31, 2025, OWCP accepted appellant's claim for laceration of scalp, contusion of scalp, and left subdural hematoma.

By decision dated November 3, 2025, OWCP "set aside" its October 31, 2025 decision, wherein it accepted appellant's claim for laceration of scalp, contusion of scalp, and left subdural hematoma. It found that, appellant had filed a claim for one or more conditions which were not fully developed in accordance with established OWCP procedures. OWCP informed appellant that she would receive further development notifications under separate cover.

OWCP, by *de novo* decision dated November 7, 2025, accepted that the July 29, 2025 incident occurred as alleged and that medical conditions had been diagnosed. It denied the claim, however, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted July 29, 2025 employment incident. OWCP explained that the fall was idiopathic as it was the result of a preexisting condition and, therefore, not compensable under FECA.

LEGAL PRECEDENT -- ISSUE 1

Section 8128 of FECA provides that the Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application.² The Board has upheld OWCP's authority under this section to reopen a claim at any time on its own motion and, where supported by the evidence, set aside or modify a prior decision and issue a new decision.³ The Board has noted, however, that the power to annul an award is not arbitrary and that an award for compensation can only be set aside in the manner provided by the compensation statute.⁴

Workers' compensation authorities generally recognize that compensation awards may be corrected, in the discretion of the compensation agency and in conformity with statutory provision, where there is good cause for so doing, such as mistake or fraud. Once OWCP accepts a claim, it has the burden of proof to justify termination or modification of compensation benefits.⁵ This also holds true where OWCP later decides that it erroneously accepted a claim.⁶

² 5 U.S.C. § 8128.

³ See *S.C.*, Docket No. 19-1045 (issued July 24, 2020); *M.H.*, Docket No. 19-0941 (issued April 29, 2020); *W.H.*, Docket No. 17-1390 (issued April 23, 2018); 20 C.F.R. § 10.610.

⁴ *S.C.*, *id.*; *M.H.*, *id.*; *D.W.*, Docket No. 17-1535 (issued February 12, 2018).

⁵ *R.D.*, Docket No. 22-1203 (issued November 19, 2024); *S.R.*, Docket No. 09-2332 (issued August 16, 2010).

⁶ *M.H.*, *supra* note 3; *V.R.*, Docket No. 18-1179 (issued June 11, 2019).

OWCP bears the burden of proof to justify rescission of acceptance on the basis of new evidence, legal argument, and/or rationale.⁷ Probative and substantial positive evidence or sufficient legal argument must establish that the original determination was erroneous. OWCP must also provide a clear explanation of the rationale for rescission.⁸

ANALYSIS -- ISSUE 1

The Board finds that OWCP failed to meet its burden of proof to rescind the acceptance of appellant's claim for laceration of scalp, contusion of scalp, and left subdural hematoma.

Preliminarily, the Board finds that OWCP's November 3, 2025 decision constituted a rescission of the acceptance of appellant's claim.⁹ OWCP's procedures provide that if, after proper development, it finds that the original decision was issued in error, the claims examiner must issue a proposed and final decision rescinding the original finding.¹⁰ Its procedures further provide that a rescission decision should contain a brief background of the claim, discuss the evidence on which the original decision was based, and explain why OWCP finds that the decision should be rescinded. The evidence used to rescind the claim should be thoroughly discussed so that it is clear to the reader how the case was incorrectly adjudicated and why the original decision is now being invalidated.¹¹ As OWCP failed to follow these procedures, the Board finds that it did not meet its burden of proof to rescind acceptance of appellant's claim.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to rescind the acceptance of appellant's claim for laceration of scalp, contusion of scalp, and left subdural hematoma.¹²

⁷ *M.H., id.; L.G.*, Docket No. 17-0124 (issued May 1, 2018).

⁸ *M.H., id.; W.H.*, *supra* note 3.

⁹ *See M.K.*, Docket No. 19-0995 (issued December 3, 2019); *D.V.*, Docket No. 11-1629 (issued February 3, 2012).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.19b (February 2013).

¹¹ *Id.* at Chapter 2.1400.19(d); *see also R.D.*, *supra* note 5; *D.S.*, Docket No. 17-0250 (issued August 29, 2017).

¹² In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the November 3, 2025 decision of the Office of Workers' Compensation Programs is reversed. The November 7, 2025 decision of the Office of the Workers' Compensation Programs is set aside as moot.

Issued: March 27, 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