

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

P.L., Appellant)	
)	
and)	Docket No. 26-0048
)	Issued: May 20, 2026
U.S. POSTAL SERVICE, POST OFFICE, Chicago, IL, Employer)	
)	

Appearances:
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 23, 2025 appellant, through counsel, filed a timely appeal from an October 2, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the October 2, 2025 decision, appellant submitted additional evidence on appeal to the Board. However, the Board's *Rules of Procedures* 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.*

ISSUE

The issue is whether OWCP properly suspended appellant's entitlement to wage-loss compensation and medical benefits, effective February 26, 2025, pursuant to 5 U.S.C. § 8123(d), due to her failure to attend a scheduled medical examination.

FACTUAL HISTORY

This case has previously been before the Board on different issues.⁴ The facts and circumstances of the case as set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are as follows.

On December 2, 2006 appellant, then a 37-year-old carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 1, 2006 she sustained multiple injuries when she fell down stairs while in the performance of duty. By decision dated June 11, 2007, OWCP accepted appellant's claim for displacement of lumbar intervertebral disc without myelopathy. On September 28, 2011 it expanded the acceptance of the claim to include cervical radiculopathy, cervicgia, temporary aggravation of cervical degenerative disc disease, and pain in thoracic spine. OWCP paid appellant wage-loss compensation on the periodic rolls as of September 20, 2015.

On August 12, 2024, OWCP's scheduling service notified appellant that it had scheduled a September 4, 2024 second opinion examination at 10:45 a.m. Eastern Standard Time (EST) for her with Dr. Babak Lami, a Board-certified orthopedic surgeon. It explained that her entitlement to wage-loss compensation and medical benefits would be suspended for failure to report to or for obstruction of the examination, pursuant to 5 U.S.C. § 8123(d). The letter also contained the location of appellant's appointment.

The record reflects that, by letter dated September 5, 2024, Dr. Lami's office notified OWCP that appellant failed to attend the September 4, 2024 scheduled examination. In a notice of proposed suspension dated September 6, 2024, OWCP afforded appellant 14 days to present, in writing, good cause for her failure to attend the medical examination scheduled for September 4, 2024 with Dr. Lami. It advised that if good cause was not established, her compensation benefits would be suspended, pursuant to 5 U.S.C. § 8123(d), until she attended and fully cooperated with the examination. OWCP instructed appellant to contact it immediately if she intended to report to a rescheduled examination with Dr. Lami. It afforded her 14 days to respond.

On September 11, 2024, OWCP received a September 3, 2024 statement, wherein appellant contended that OWCP was scheming with the employing establishment in finding that the medical evidence of record was stale in an attempt to force her to attend a second opinion evaluation. She noted that if she refused to go to the evaluation, OWCP would threaten to terminate her compensation as a means of harassing and humiliating her. Appellant further asserted that she was previously injured during a second opinion examination, she waited nearly a year for travel reimbursement, and the distance to the examination was too burdensome to attend.

⁴ Docket No. 18-0813 (issued November 20, 2018); Docket No. 17-0146 (issued October 24, 2017); Docket No. 14-1875 (issued March 20, 2015).

By decision dated September 20, 2024, OWCP suspended appellant's wage-loss compensation and medical benefits, effective that date, pursuant to 5 U.S.C. § 8123(d), due to her failure, without good cause, to attend the September 4, 2024 medical examination.

On October 1, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated December 5, 2024, OWCP's hearing representative set aside the September 20, 2024 decision and remanded the case for a *de novo* decision because benefits were suspended prior to the termination of the 14-day period afforded to appellant in the proposed suspension.

Upon return of the case record, OWCP issued a notice of proposed suspension dated January 15, 2025, again finding that appellant failed to attend the September 4, 2024 medical examination with Dr. Lami. It afforded appellant 14 days to present, in writing, good cause for failure to attend the examination. OWCP advised that, if good cause was not established, appellant's compensation and medical benefits would be suspended, pursuant to 5 U.S.C. § 8123(d), until she attended and fully cooperated with the examination. It instructed her to contact OWCP immediately if she intended to report to a rescheduled examination with Dr. Lami.

In a February 6, 2025 letter, received on February 12, 2025, counsel contended that the January 15, 2025 proposed suspension was merely a reissuance of the September 6, 2024 proposed suspension letter requesting good cause for appellant's failure to attend the previously scheduled September 4, 2024 second opinion examination.

By *de novo* decision dated February 26, 2025, OWCP suspended appellant's wage-loss compensation and medical benefits, effective that date, pursuant to 5 U.S.C. § 8123(d), due to her failure, without good cause, to attend the medical examination scheduled for September 4, 2024.

On March 11, 2025 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In an undated statement, received by OWCP on March 24, 2025, appellant reiterated that OWCP was discriminating, harassing, and retaliating against her.

A hearing was held on July 23, 2025. During the hearing, appellant testified that she would attend a rescheduled examination. Counsel asserted that public transportation would have taken appellant approximately 2.5 hours to get to the appointment, and that OWCP must be reasonable in arranging its medical appointments and provide transportation assistance when needed. He submitted documentation demonstrating the distance and travel time to the second opinion examination.

Following the hearing, on August 22, 2025, appellant submitted a statement in support of her claim. She asserted that her sister's funeral and burial was on August 30, 2024, which was not fairly assessed by OWCP as an explanation for her failure to attend the scheduled medical examination.

By decision dated October 2, 2025, OWCP's hearing representative affirmed the February 26, 2025 decision.

LEGAL PRECEDENT

Section 8123(d) of FECA authorizes OWCP to require an employee, who claims disability as a result of federal employment, to undergo a physical examination as it deems necessary.⁵ The determination of the need for an examination, the type of examination, the choice of locale, and the choice of medical examiners are matters within the province and discretion of OWCP.⁶ OWCP's regulations provide that a claimant must submit to an examination by a qualified physician as often and at such times and places as OWCP considers reasonably necessary.⁷ Section 8123(d) of FECA and OWCP regulations provide that, if an employee refuses to submit to or obstructs a directed medical examination, his or her right to compensation is suspended until the refusal or obstruction ceases.⁸ OWCP's procedures provide that, before OWCP may invoke these provisions, the employee is to be provided a period of 14 days within which to present in writing his or her reasons for the refusal or obstruction.⁹ If good cause for the refusal or obstruction is not established, entitlement to compensation is suspended in accordance with section 8123(d) of FECA until the date on which the claimant agrees to attend the examination.¹⁰

ANALYSIS

The Board finds that OWCP properly suspended appellant's entitlement to wage-loss compensation and medical benefits, pursuant to 5 U.S.C. § 8123(d), effective February 26, 2025, due to her failure to attend a scheduled medical examination.

In an August 12, 2024 letter, OWCP's scheduling service notified appellant that she was being referred for a second opinion medical examination on September 4, 2024 with Dr. Lami. The letter informed her of her obligations to attend and cooperate with the examination and explained that her compensation benefits would be suspended, pursuant to 5 U.S.C. § 8123(d), for failure to report to or for obstruction of the examination. The letter also contained the date, time, and location of appellant's appointment.

Appellant did not appear for the September 4, 2024 appointment, nor did she attempt to reschedule the appointment prior to the designated time. In a notice of proposed suspension dated January 15, 2025, OWCP provided her 14 days to present, in writing, good cause for her failure to attend the scheduled medical appointment.

⁵ 5 U.S.C. § 8123(d).

⁶ See *T.A.*, Docket No. 21-0528 (issued December 14, 2021); *L.B.*, Docket No. 17-1891 (issued December 11, 2018); *J.T.*, 59 ECAB 293 (2008).

⁷ 20 C.F.R. § 10.320.

⁸ See 5 U.S.C. § 8123; *id.* at § 10.323; *A.P.*, Docket No. 19-0328 (issued August 6, 2019); *D.K.*, Docket No. 18-0217 (issued June 27, 2018).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.13d (February 2022).

¹⁰ *Id.* at Chapter 2.810.13e.

In her September 3, 2024 statement, received by OWCP on September 11, 2024, appellant asserted that OWCP did not have a reasonable basis for requesting such examination, and that OWCP and the employing establishment were utilizing the second opinion examination as a means to harass her and thereby suspend her benefits. She further asserted that she was previously injured during a second opinion examination, she waited nearly a year for travel reimbursement. These allegations, however, are unsubstantiated by the evidence of record.¹¹ Appellant further asserted that she was unable to attend the scheduled medical examination because the travel distance was too far. The Board has previously explained that distance alone is an insufficient reason to explain a failure to attend a medical evaluation.¹² Moreover, appellant did not provide medical documentation indicating her travel limitation.¹³

Appellant's remaining reasons for her failure to appear for the September 4, 2024 examination, including that her sister's funeral and burial was on August 30, 2024, were not presented, in writing, within 14 days of the January 15, 2025 notice of proposed suspension.¹⁴

For these reasons, the Board finds that appellant has not established good cause for failing to appear for the September 4, 2024 examination.¹⁵ As appellant failed to attend the scheduled examination and failed to provide good cause for failing to appear within 14 days of OWCP's January 15, 2025 notice of proposed suspension, the Board finds that OWCP properly suspended appellant's wage-loss compensation and medical benefits, effective February 26, 2025, pursuant to 5 U.S.C. § 8123(d).

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation and medical benefits, effective February 26, 2025, pursuant to 5 U.S.C. § 8123(d), due to her failure to attend a scheduled medical examination.

¹¹ *N.B.*, Docket No. 13-1604 (issued December 3, 2013).

¹² *R.L.*, Docket No. 23-1008 (issued January 4, 2024).

¹³ *C.R.*, Docket No. 20-1089 (issued January 26, 2021); *R.L.*, Docket No. 20-0160 (issued October 30, 2020); *Sherry J. Fryman*, Docket No. 04-1683 (issued December 17, 2004); *Joseph Courto*, Docket No. 11-1392 (issued December 18, 2001).

¹⁴ *Supra* note 12.

¹⁵ *G.T.*, Docket No. 23-0123 (issued November 22, 2023).

ORDER

IT IS HEREBY ORDERED THAT the October 2, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 20, 2026
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board