

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

R.M., Appellant)	
)	
and)	Docket No. 26-0260
)	Issued: May 7, 2026
DEPARTMENT OF COMMERCE, U.S.)	
CENSUS BUREAU, Emeryville, CA, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 9, 2026 appellant filed a timely appeal from a July 15, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).¹ As more than 180 days elapsed from the last merit decision, dated February 20, 2024, to the filing of this appeal, pursuant to the

¹ Appellant submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of appellant's oral argument request, appellant asserted that oral argument should be granted because the expansion of the acceptance of her claim to include bilateral shoulder and colorectal region conditions had been erroneously denied. The Board, in exercising its discretion, denies appellant's request for oral argument because the Board does not have jurisdiction over the merits of the claim and arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.³

ISSUE

The issue is whether OWCP properly denied appellant's request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

On September 21, 2020 appellant, then a 34-year-old enumerator, filed a traumatic injury claim (Form CA-1) alleging that on September 12, 2020 she sustained injuries to her lower extremities, and lower back when a heavy gate closed on her left foot and she fell in a split leg position while in the performance of duty. She stopped work on September 12, 2020. OWCP accepted the claim for lower back muscle, fascia and tendon strain; bilateral hip muscle, fascia and tendon strains; bilateral thigh adductor muscle, fascia and tendon strains; strain of unspecified muscle(s) and tendon(s) of right leg; sprain of unspecified ligament of left ankle; other sprain of right hip; lumbar intervertebral disc displacement; chest pain on breathing; sacrococcygeal disorders; left hip trochanteric bursitis; right hip gluteal tendinitis; left let peroneal tendinitis and posterior tibial tendinitis; and adjustment disorder, unspecified.

On September 8, 2023 appellant requested that the acceptance of her claim be expanded to include additional diagnoses relative to her shoulders and colorectal region. Additional evidence was submitted in support of her expansion claim.

In a September 25, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed to establish her claim and provided a questionnaire for her completion. OWCP afforded 30 days to submit the necessary evidence.

OWCP subsequently received November 6, 2023 and January 8, 2024 reports from Dr. Rakesh Dixit, a Board-certified physiatrist, which contained diagnoses pertaining to appellant's shoulders.

By decision dated February 20, 2024, OWCP denied appellant's request for expansion of the acceptance of her claim to include additional diagnoses of the shoulders and colorectal region. It found that the medical evidence of record was insufficient to establish additional medical conditions causally related to the accepted September 12, 2020 employment injury.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that following the July 15, 2025 decision, appellant submitted additional evidence to OWCP and with her appeal to the Board. 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.*

OWCP continued to receive medical evidence.

On July 14, 2025 appellant, *via* OWCP's Employees' Compensation Operations & Management Portal (ECOMP), requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated July 15, 2025, OWCP denied appellant's request for an oral hearing, finding that the request was not made within 30 days of the February 20, 2024 decision and, therefore, was untimely filed. It 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

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."⁴ 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.⁵ 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.⁶ The date of filing for an oral hearing or review of the written record is fixed by postmark or other carrier's date marking,⁷ or the date received in ECOMP, and before the claimant has requested reconsideration.⁸ Although there is no right to a hearing/review of the written 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.⁹

ANALYSIS

The Board finds that OWCP properly denied appellant's request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).

⁴ 5 U.S.C. § 8124(b)(1).

⁵ 20 C.F.R. § 10.615.

⁶ *M.B.*, Docket No. 25-0828 (issued November 24, 2025); *T.A.*, Docket No. 18-0431 (issued November 7, 2018); *Ella M. Garner*, 36 ECAB 238, 241-42 (1984).

⁷ 20 C.F.R. § 10.616(a).

⁸ *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).

⁹ *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).

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.¹⁰ Appellant, therefore, had 30 days following OWCP's February 20, 2024 merit decision to request an oral hearing/review of the written record. As she did not request an oral hearing until July 14, 2025, more than 30 days after OWCP's February 20, 2024 decision, her request was untimely filed and she was, therefore, not entitled to a review of the written record as a matter of right.¹¹

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 July 15, 2025 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.¹² Accordingly, the Board finds that OWCP properly denied appellant's request for an oral hearing, as untimely filed, pursuant to 5 U.S.C. § 8124(b).

CONCLUSION

The Board finds that OWCP properly denied appellant's request for an oral hearing as untimely filed, pursuant to 5 U.S.C. § 8124(b).

¹⁰ *M.B.*, *supra* note 6; *J.C. (S.C.)*, Docket No. 24-0576 (issued August 28, 2024).

¹¹ *M.B.*, *id.*; *see W.N.*, Docket No. 20-1315 (issued July 6, 2021); *see also G.S.*, Docket No. 18-0388 (issued July 19, 2018).

¹² *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 July 15, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 7, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

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