United States Department of Labor
Employees' Compensation Appeals Board

C.C., Appellant	)	
and	)	**Docket No. 26-0520**
	)	**Issued: October 5, 2026**
U.S. POSTAL SERVICE, HOLLYWOOD STATION POST OFFICE, Los Angeles, 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
JANICE B. ASKIN, Judge

JURISDICTION

On May 8, 2026 appellant filed a timely appeal from December 10, 2025 and April 21, 2026 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUES

The issues are: (1) whether OWCP properly suspended appellant's compensation, effective December 10, 2025, for failure to complete a financial disclosure statement (Form EN-

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the April 21, 2026 decision, appellant submitted additional evidence to OWCP. 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.*

1032), as requested; and (2) whether OWCP properly denied appellant's request for modification of its February 5, 2013 loss of wage-earning capacity (LWEC) determination.

FACTUAL HISTORY

On April 24, 2001 appellant, then a 39-year-old sales associate/clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained injury to her knees due to her work duties which required prolonged standing and extensive bending and stooping. She noted that she first became aware of her claimed injury on April 9, 2001 and realized its relation to her federal employment on April 16, 2001. Appellant stopped work on April 19, 2001. OWCP initially accepted the claim for patellofemoral tendinitis of the knees. It paid appellant wage-loss compensation for disability from work on the supplemental rolls, effective April 9, 2001, and on the periodic rolls, effective January 22, 2006.

Appellant began participating in vocational rehabilitation efforts in May 2011, but the efforts did not result in successful job placement.

In a May 9, 2012 report, Dr. Mark Ganjianpour, a Board-certified orthopedic surgeon, opined that appellant could resume work with restrictions, including no prolonged standing or walking, and no lifting more than 15 pounds. He noted that she had the ability to stand or walk for four hours of her workday with no continuous standing or walking for more than 30 minutes at a time.

On July 6, 2012 appellant's rehabilitation counselor determined that appellant could earn wages in the selected position of customer complaint clerk (*Dictionary of Occupational Titles* (DOT) number 241.367-014). The rehabilitation counselor indicated that a state labor survey showed that the customer complaint clerk position was reasonably available within her commuting area with an average wage of $533.20 per week. The position, which involved investigating and responding to customer complaints, was classified as sedentary in nature. It was primarily performed while sitting and required occasional lifting of up to 10 pounds.

On January 24, 2013 Dr. Ganjianpour provided work restrictions which were similar to those contained in his May 9, 2012 report.

By decision dated February 5, 2013, OWCP adjusted appellant's compensation effective February 10, 2013, pursuant to 5 U.S.C. § 8106 and 5 U.S.C. § 8115, based on its determination that she was capable of earning wages in the constructed position of customer complaint clerk. It found that the constructed position of customer complaint clerk had wages of $533.20 per week and had been shown by a labor market survey to have been reasonably available in her commuting area. OWCP determined that the position represented appellant's wage-earning capacity as of February 5, 2013.

On October 20, 2023 appellant requested modification of OWCP's February 5, 2013 LWEC determination.

On October 25, 2023 OWCP expanded the acceptance of appellant's claim to include chondromalacia patellae of the knees.

By decision dated November 28, 2023, OWCP determined that appellant failed to meet her burden of proof to modify its February 5, 2013 LWEC determination. In support of her request for modification, appellant had submitted reports of Dr. Charles L. Herring, a Board-certified orthopedic surgeon, which were dated from February through October 2023.

On July 5, 2024 OWCP expanded the accepted conditions of appellant's claim to include primary osteoarthritis of the knees.

On November 22, 2024 appellant requested reconsideration of the November 28, 2023 decision. OWCP interpreted this request as a request to modify its February 5, 2013 LWEC determination.

By decision dated February 6, 2025, OWCP determined that appellant failed to meet her burden of proof to modify the February 5, 2013 LWEC determination. In support of her request for modification, appellant had submitted reports of Dr. Herring which were dated from December 2023 through January 2025.

Appellant subsequently submitted a February 26, 2025 report wherein Dr. Herring documented physical examination findings, noting that appellant had patella femoral crepitus, and medial/lateral joint tenderness in both knees. He diagnosed unilateral primary osteoarthritis of the right knee, and unilateral primary osteoarthritis of the left knee. Dr. Herring opined that appellant was unable to go to work because, due to her significant knee pain, she could not get to the bathroom in time to prevent accidents. He advised that she required knee replacement surgery and stated that her "work status remains the same."

In a March 5, 2025 report, Dr. Herring diagnosed unilateral primary osteoarthritis of the right knee, and unilateral primary osteoarthritis of the left knee. He requested that appellant receive authorization from OWCP for an orthopedic surgeon to perform knee replacement surgery on both knees.

OWCP periodically requested that appellant complete EN-1032 forms which solicited information about her employment, volunteer work, dependent(s) status, receipt of other federal benefits and/or payments, and third-party settlements. On October 16, 2025 it provided her with a Form EN-1032 and informed her that federal regulations required her to report any earnings received or employment performed during the previous 15 months. OWCP advised appellant that she was required to fully answer all questions on the Form EN-1032, and return it within 30 days or her benefits would be suspended pursuant to 20 C.F.R. § 10.528. It mailed the letter to appellant's last known address of record. No response was received.

On November 13, 2025 OWCP received a September 24, 2025 report wherein Dr. Herring documented physical examination findings, noting that appellant had patella femoral crepitus, mild effusion, and medial/lateral joint tenderness in both knees. Dr. Herring diagnosed unilateral primary osteoarthritis of the right knee, and unilateral primary osteoarthritis of the left knee. He opined that appellant had work-related bilateral knee tricompartmental osteoarthritis which was the cause of her inability to work and her need for bilateral total knee arthroplasty. Dr. Herring further opined that she could not sit for an entire day because such extended sitting

would cause stiffness and difficulty in getting up and walking. He indicated that appellant's arthritis, though not solely caused by her work, was hastened by her work activities.

By decision dated December 10, 2025, OWCP suspended appellant's wage-loss compensation benefits, effective that date, due to her failure to submit a Form EN-1032 as requested. It noted that she had not responded to its October 16, 2025 letter. OWCP advised that, if appellant completed and returned an enclosed copy of the Form EN-1032, it would reinstate her wage-loss compensation benefits retroactive to the date of suspension.

OWCP received a December 12, 2025 report wherein Dr. Herring documented physical examination findings, noting that appellant had patella femoral crepitus, mild effusion/swelling, and medial/lateral joint tenderness in both knees. Dr. Herring diagnosed unilateral primary osteoarthritis of the right knee, and unilateral primary osteoarthritis of the left knee. He opined that there was a causal relationship between appellant's job activities and the worsening aggravation of her arthritis. Appellant also submitted medical evidence which had previously been submitted and considered by OWCP.

On January 21, 2026 appellant requested reconsideration of her claim, noting that she was requesting modification of the February 5, 2013 LWEC determination. She argued that there had been a material change in the nature and extent of her injury-related condition, and that the original February 5, 2013 LWEC determination was, in fact, erroneous.

By decision dated April 21, 2026, OWCP determined that appellant failed to meet her burden of proof to modify the February 5, 2013 LWEC determination, finding that she failed to demonstrate that the February 5, 2013 LWEC determination was erroneous, that she had been retrained or otherwise been vocationally rehabilitated, or that her employment-related medical condition materially changed such that she ceased to be able to work in the constructed position of customer complaint clerk. It explained that the medical evidence of record was insufficient to establish a material change or worsening of her medical conditions. However, OWCP summarily concluded that appellant had not shown that the original LWEC determination was erroneous.

LEGAL PRECEDENT -- ISSUE 1

Section 8106(b) of FECA authorizes the Secretary of Labor to require a partially disabled employee to report his or her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.[3]

Under section 10.528 of OWCP's implementing federal regulations, an employee in receipt of compensation benefits must complete an affidavit as to any work or activity indicating an ability to work which the employee has performed for the prior 15 months.[4] If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or

[3] 5 U.S.C. § 8106(b).

[4] 20 C.F.R. § 10.528. *See also R.B.*, Docket No. 20-0176 (issued June 25, 2020); *A.H.*, Docket No. 15-0241 (issued April 3, 2015).

her right to compensation for wage loss is suspended until OWCP receives the requested report. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.[5]

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly suspended appellant's compensation, effective December 10, 2025, for failure to complete a Form EN-1032, as requested.

On October 16, 2025 OWCP provided appellant with the Form EN-1032 and notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. It properly notified her that, if she did not completely answer all questions and return the form within 30 days, her benefits would be suspended. The record reflects that OWCP's October 16, 2025 letter was sent to appellant's last known address of record and there is no indication that it was returned as undeliverable.[6] Under the mailbox rule, a document mailed in the ordinary course of the sender's business practices to the addressee's last known address is presumed to be received by the addressee.[7]

Appellant failed to timely submit the Form EN-1032 within 30 days of OWCP's October 16, 2025 request. She was receiving wage-loss compensation and was, therefore, required to complete the Form EN-1032.[8] Appellant's failure to file a Form EN-1032 within 30 days properly resulted in the suspension of her wage-loss compensation. Thus, the Board finds that OWCP properly suspended her wage-loss compensation benefits, effective December 10, 2025, pursuant to 20 C.F.R. § 10.528.[9]

LEGAL PRECEDENT -- ISSUE 2

Once OWCP accepts a claim it has the burden of proof to justify termination or modification of compensation benefits.[10] An injured employee who is either unable to return to the position held at the time of injury or unable to earn equivalent wages, but who is not totally disabled for all gainful employment, is entitled to compensation computed based on his or her LWEC.[11] An employee's actual earnings generally best reflect his or her wage-earning

[5] *See D.R.,* Docket No. 26-0493 (issued August 14, 2026); *P.M.*, Docket No. 16-0382 (issued May 19, 2016).

[6] *See J.H.*, Docket No. 20-0785 (issued October 23, 2020); *Kenneth E. Harris*, 54 ECAB 502 (2003).

[7] *Id.*

[8] *See P.S.,* Docket No. 25-0159 (issued January 13, 2025); *R.S.*, Docket No. 20-0580 (issued September 14, 2020); *A.S.*, Docket No. 17-1530 (issued November 7, 2017).

[9] *See K.H.,* Docket No. 25-0814 (issued September 18, 2025); *M.W.*, Docket No. 15-0507 (issued June 18, 2015).

[10] *D.G.,* Docket No. 25-0735 (issued September 9, 2025); *T.D.,* Docket No. 20-1088 (issued June 14, 2021); *James B. Christenson*, 47 ECAB 775, 778 (1996); *Wilson L. Clow*, *Jr.*, 44 ECAB 157 (1992).

[11] 5 U.S.C. § 8115(a); 20 C.F.R. §§ 10.402, 10.403; *see J.N.,* Docket No. 25-0653 (issued August 12, 2025); *Alfred R. Hafer*, 46 ECAB 553, 556 (1995).

capacity.[12] Absent evidence that actual earnings do not fairly and reasonably represent the employee's wage-earning capacity, such earnings must be accepted as representative of the individual's wage-earning capacity.[13] But if actual earnings do not fairly and reasonably represent the employee's wage-earning capacity or the employee has no actual earnings, then wage-earning capacity is determined with due regard to the nature of the injury, the degree of physical impairment, the employee's usual employment, age, qualifications for other employment, the availability of suitable employment, and other factors and circumstances that may affect wage-earning capacity in his or her disabled condition.[14]

OWCP must initially determine the employee's medical condition and work restrictions before selecting an appropriate position that reflects his or her vocational wage-earning capacity.[15] The medical evidence OWCP relies upon must provide a detailed description of the employee's condition and the evaluation must be reasonably current.[16] Where suitability is to be determined based on a position not actually held, the selected position must accommodate the employee's limitations from both injury-related and preexisting conditions, but not limitations attributable to post-injury or subsequently-acquired conditions.[17]

When OWCP makes a medical determination of partial disability and of specific work restrictions, it may refer the employee's case to an OWCP wage-earning capacity specialist for selection of a position listed in the Department of Labor's *Dictionary of Occupational Titles* or otherwise available in the open labor market that fits the employee's capabilities with regard to his or her physical limitations, education, age, and prior experience.[18] Once this selection is made, a determination of wage rate and availability in the open labor market should be made through contact with the state employment service or other applicable service.[19] Finally, application of the principles set forth in the *Shadrick* decision will result in the percentage of the employee's LWEC.[20]

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[12] *J.G.,* Docket No. 25-0471 (issued June 3, 2025); *Hayden C. Ross*, 55 ECAB 455, 460 (2004).

[13] *S.J.,* Docket No. 19-0186 (issued August 2, 2019).

[14] 5 U.S.C. § 8115(a); *L.M.,* Docket No. 20-1038 (issued March 10, 2021); *Mary Jo Colvert*, 45 ECAB 575 (1994); *Keith Hanselman*, 42 ECAB 680 (1991).

[15] *A.D.,* Docket No. 25-0301 (issued April 24, 2025); *M.A.*, 59 ECAB 624, 631 (2008).

[16] *Id.*; Federal (FECA) Procedure Manual, Part 2 -- Claims, *Determining Wage-Earning Capacity Based on a Constructed Position*, Chapter 2.816.4d (version 1.0, issued March 16, 2026).

[17] *Id*. at Chapter 2.816.4c (version 1.0, issued March 16, 2026).

[18] *Id.* at Chapter 2.813.7b (version 1.0, issued March 16, 2026).

[19] The job selected for determining wage-earning capacity must be a position that is reasonably available in the general labor market in the commuting area in which the employee resides. *Id.* at Chapter 2.816.6 (version 1.0, issued March 16, 2026); *see also B.E.,* Docket No. 22-0423 (issued December 1, 2022); *David L. Scott*, 55 ECAB 330, 335 n.9 (2004).

[20] *See Albert C. Shadrick*, 5 ECAB 376 (1953), codified at 20 C.F.R. § 10.403(d).

Once the wage-earning capacity of an injured employee is determined, a modification of such determination is not warranted unless there is a material change in the nature and extent of the injury-related condition, the employee has been retrained or otherwise vocationally rehabilitated, or the original determination was, in fact, erroneous.[21] The burden of proof is on the party attempting to show a modification of the wage-earning capacity determination.[22]

ANALYSIS -- ISSUE 2

The Board finds that this case is not in posture for decision regarding whether OWCP properly denied appellant's request for modification of its February 5, 2013 LWEC determination.

Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.[23] Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.[24] As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence, which would overcome it.[25]

In its April 21, 2026 decision, OWCP determined that appellant failed to meet her burden of proof to modify the February 5, 2013 LWEC determination, finding that she failed to demonstrate that the February 5, 2013 LWEC determination was erroneous, that she had been retrained or otherwise been vocationally rehabilitated, or that her employment-related medical condition materially changed such that she ceased to be able to work in the constructed position of customer complaint clerk.[26]

The Board finds, however, that OWCP failed to provide adequate factual findings and a statement of reasons in its April 21, 2026 decision to support its determination that appellant did not satisfy the above-described test for modifying an existing LWEC determination. OWCP did not provide adequate factual findings and a statement of reasons regarding why it found that appellant did not establish that OWCP's original February 5, 2013 LWEC determination was, in fact, erroneous. Such an analysis would require a discussion of matters, such as the vocational suitability of the selected position of customer complaint clerk, the reasonable availability of the position within appellant's commuting area, and the medical suitability of the position given

[21] *D.O.,* Docket No. 25-0221 (issued February 20, 2025); *C.R.,* Docket No. 14-0111 (issued April 4, 2014); *Sharon C. Clement,* 55 ECAB 552 (2004).

[22] *See D.O., id.*; *T.M.*, Docket No. 08-975 (issued February 6, 2009).

[23] 5 U.S.C. § 8124(a).

[24] 20 C.F.R. § 10.126.

[25] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (version 1.0, issued March 16, 2026) (all decisions should contain findings of fact sufficient to identify the benefit being denied and the reason for the disallowance).

[26] *See supra* notes 21 and 22.

appellant's medical restrictions and the physical requirements of the position.[27] OWCP made no such analysis in the present case.

In its April 21, 2026 decision, OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons, explaining the disposition, so that appellant could understand the basis for its decision denying her request for modification of the February 5, 2013 LWEC determination.[28] It summarily denied her claim without complying with the review requirements of FECA and its implementing regulations.[29]

Therefore, the Board shall set aside OWCP's April 21, 2026 decision and remand the case for findings of fact and a statement of reasons for its decision pursuant to the standards set forth in section 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation, effective December 10, 2025, for failure to complete a Form EN-1032, as requested. The Board further finds that this case is not in posture for decision regarding whether OWCP properly denied appellant's request for modification of its February 5, 2013 LWEC determination.

[27] *See supra* notes 14 through 20.

[28] *See D.O.*, Docket No. 22-0315 (issued June 29, 2022).

[29] *See Order Remanding Case, T.B.,* Docket No. 25-0421 (issued June 23, 2025); *Order Remanding Case, J.B.,* Docket No. 24-0760 (issued August 28, 2024); *Order Remanding Case, J.D.,* Docket No. 24-0044 (issued April 22, 2024); *Order Remanding Case, R.G.,* Docket No. 23-0011 (issued June 14, 2023); *Order Remanding Case, C.G.,* Docket No. 20-0051 (issued June 29, 2020); *see also* 20 C.F.R. § 10.607(b).

ORDER

IT IS HEREBY ORDERED THAT the December 10, 2025 decision of the Office of Workers' Compensation Programs is affirmed. The April 21, 2026 decision is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: October 5, 2026
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board