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

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| **R.W., Appellant** | ) | |
| **and** | ) | **Docket No. 26-0579** |
| | ) | **Issued: October 30, 2026** |
| **U.S. POSTAL SERVICE, HARRISBURG POST OFFICE, Harrisburg, PA, Employer** | ) | |

*Appearances:*
*Appellant*, *pro se*
*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 June 8, 2026 appellant filed a timely appeal from an April 29, 2026 merit decision and a June 3, 2026 nonmerit decision 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 appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted November 26, 2025 employment incident; and

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the June 3, 2026 decision, OWCP received additional evidence. 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*.

(2) whether OWCP properly denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

## ***FACTUAL HISTORY***

On January 27, 2026 appellant, then a 50-year-old motor vehicle operator, filed a traumatic injury claim (Form CA-1) alleging that on November 26, 2025 he felt ill and experienced a headache while in the performance of duty. He recounted that he was exposed to exhaust fumes inside his government-owned vehicle (GOV) and that his supervisor transported him to the hospital.[3] Appellant stopped work on the date of the claimed injury and returned to work on December 1, 2025.

In an after-visit summary dated November 26, 2025, Dr. Dennis P. Hanlon, Board-certified in emergency medicine, noted that appellant was seen for "toxic inhalation." He diagnosed headache.

On January 28, 2026 appellant reported to the employing establishment that his truck had again filled with exhaust fumes. He requested repairs to the engine.

In a letter dated February 13, 2026, the employing establishment controverted appellant's claim.

In a February 17, 2026 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to submit the necessary evidence.

In a February 21, 2026 response to OWCP's development questionnaire, appellant further described the November 26, 2025 employment incident. He also submitted a medical bill for an emergency room visit on that date.

In a follow-up letter dated March 16, 2026, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the February 17, 2026 letter to submit the 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. No further evidence was received.

By decision dated April 29, 2026, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted November 26, 2025 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

[3] OWCP assigned the present claim OWCP File No. xxxxxx586. Appellant subsequently filed a Form CA-1 alleging that on May 28, 2025 he became ill and developed a headache due to exposure to high heat inside his truck cab. OWCP denied the claim under OWCP File No. xxxxxx825. It has not administratively combined these claims.

On May 10, 2026 appellant requested reconsideration of OWCP's April 29, 2026 decision and submitted a statement further detailing the facts and circumstances surrounding his claimed exposure to exhaust fumes from his GOV on November 26, 2025.

By decision dated June 3, 2026, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

## ***LEGAL PRECEDENT -- ISSUE 1***

An employee seeking benefits under FECA[4] has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,[5] that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[6] These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[7]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component is whether the employee actually experienced the employment incident at the time and place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.[8]

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.[9] The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the

[4] *Supra* note 1.

[5] *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

[6] *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[7] *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[8] *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

[9] *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

nature of the relationship between the diagnosed condition and specific employment incident identified by the employee.[10]

## ***ANALYSIS -- ISSUE 1***

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted November 26, 2025 employment incident.

In an after-visit summary dated November 26, 2025, Dr. Hanlon noted that appellant was seen for "toxic inhalation." He diagnosed headache. The Board, has consistently held, however, that a headache is a symptom and not a diagnosis.[11] As such, this report is insufficient to establish a diagnosed medical condition in connection with the accepted November 26, 2025 employment incident.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

## ***LEGAL PRECEDENT -- ISSUE 2***

Section 8128 (a) of FECA does not entitle a claimant to review of an OWCP decision as a matter of right.[12] OWCP has discretionary authority in this regard and has imposed certain limitations in exercising its authority.[13] One such limitation is that the request for reconsideration must be received by OWCP within one year of the date of the decision for which review is sought.[14] A timely application for reconsideration, including all supporting documents, must set forth arguments and contain evidence that either: (i) shows that OWCP erroneously applied or interpreted a specific point of law; (ii) advances a relevant legal argument not previously considered by OWCP; or (iii) constitutes relevant and pertinent new evidence not previously considered by OWCP.[15] When a timely request for reconsideration does not meet at least one of

[10] *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[11] *See R.E.,* Docket No. 26-0584 (issued September 9, 2026); *K.V.,* Docket No. 26-0448 (issued July 29, 2026); *A.K.,* Docket No. 23-0990) issued January 10, 2024); *M.V.,* Docket No. 07-0437 (issued April 25, 2007).

[12] This section provides in pertinent part: "[t]he Secretary of Labor may review an award for or against payment of compensation at any time on [his/her] own motion or on application." 5 U.S.C. § 8128(a).

[13] 20 C.F.R. § 10.607.

[14] *Id.* § 10.607(a). For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (version 1.2, issued May 4, 2026). 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). *Id.* at Chapter 2.1602.4b.

[15] 20 C.F.R. § 10.606(b)(3).

the above-noted requirements, OWCP will deny the request for reconsideration without reopening the case for a review on the merits.[16]

## ***ANALYSIS -- ISSUE 2***

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

In support of his request for reconsideration appellant submitted a statement wherein he further detailed the facts and circumstances surrounding his claimed exposure to exhaust fumes from his GOV on November 26, 2025. However, he neither showed that OWCP erroneously applied or interpreted a specific point of law, nor did he advance a relevant legal argument not previously considered by OWCP.[17] Accordingly, the Board finds that appellant is not entitled to a review of the merits of his claim based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).

The underlying issue of whether appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted November 26, 2025 employment incident is medical in nature. However, appellant did not submit any medical evidence in support of his reconsideration request. Because appellant did not submit relevant and pertinent new evidence with his request for reconsideration, he was not entitled to a review of the merits based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).[18]

The Board, therefore, finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

## ***CONCLUSION***

The Board finds that appellant has not met his burden of proof to establish a diagnosed medical condition in connection with the accepted November 26, 2025 employment incident. The Board further finds that OWCP properly denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

[16] *Id.* at § 10.608(a), (b).

[17] *See M.W.,* Docket No. 26-0576 (issued September 8, 2026); *L.W.,* Docket No. 21-0607 (issued October 18, 2022).

[18] *See* 20 C.F.R. § 10.606(b)(3)(iii); *see also M.W., id.*; *S.W.,* Docket No. 25-0261 (issued February 24, 2025).

## ***ORDER***

**IT IS HEREBY ORDERED THAT** the April 29 and June 3, 2026 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 30, 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