United States Department of Labor
Employees' Compensation Appeals Board

B.S., Appellant	)	
and	)	**Docket No. 26-0663**
	)	**Issued: October 9, 2026**
DEPARTMENT OF VETERANS AFFAIRS, DORIS MILLER VA MEDICAL CENTER, Waco, TX, 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 July 6, 2026 appellant filed a timely appeal from a January 26, 2026 merit decision and April 10, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employee's 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 her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment; and (2) whether OWCP properly denied appellant's request for an oral hearing, pursuant to 5 U.S.C. § 8124(b).

[1] 5 U.S.C. § 8101 *et seq.*

[2] Following the April 10, 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.*

FACTUAL HISTORY

On September 16, 2025 appellant, then a 61-year-old licensed practical nurse, filed an occupational disease claim (Form CA-2) alleging that she injured her shoulders, arms and neck due to factors of her federal employment, including pushing and pulling a heavy medication cart. She noted that she first became aware of her condition on February 1, 2025, and realized its relation to her federal employment on August 21, 2025.

In a September 26, 2025 development letter, OWCP informed appellant that the evidence of record was insufficient to establish her claim. It advised her of the type of factual evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence. In a separate letter of even date, it requested information from the employing establishment, including comments from a knowledgeable supervisor. OWCP afforded the employing establishment 30 days to respond.

In a September 11, 2025 medical report, Dr. Gilbert Mayorga Jr., an attending general practitioner, noted appellant's history of injury that on or about February 1, 2025 she experienced an onset of pain and discomfort in the shoulders, arms, and neck regions due to pushing a heavy medication cart on an uneven surface for numerous years while working at the employing establishment. He also noted a history of her medical treatment. Dr. Mayorga provided his findings on physical examination of the cervical spine, right and left shoulders, and upper extremities. He provided impressions of cervical spine sprain, bilateral shoulder sprain, cervical radiculopathy, internal derangement of the right and left shoulders, bilateral upper arms strain, and bilateral lower arms strain.

OWCP subsequently received additional reports from Dr. Mayorga. In duty status reports (Form CA-17) dated September 11 and 25, October 23, November 20, and December 18, 2025, Dr. Mayorga noted a date of injury as February 1, 2025. He provided clinical findings of decreased range of motion (ROM) and strength and diagnosed bilateral shoulder injury due to injury. Dr. Mayorga advised that appellant was unable to perform her regular work and provided work restrictions.

In a follow-up letter dated January 15, 2026, 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 September 26, 2025 letter to submit the necessary evidence. OWCP further advised that if the necessary evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No additional evidence was received.

By decision dated January 26, 2026, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted factors of her federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On April 1, 2026 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

OWCP subsequently received a Form CA-17 report dated March 27, 2026 wherein Dr. Mayorga reiterated his prior examination findings and appellant's work restrictions.

By decision dated April 10, 2026, OWCP denied appellant's request for an oral hearing. It found that the April 1, 2026 request was not made within 30 days of the January 26, 2026 decision, and, therefore, was untimely filed. OWCP 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 -- ISSUE 1

An employee seeking benefits under FECA[3] 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,[4] 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.[5] 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.[6]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.[7]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[8] The opinion of the physician must be based upon a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors.[9]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment.

---

[3] *Supra* note 1.

[4] *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).

[5] *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).

[6] *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).

[7] *P.L.*, Docket No. 19-1750 (issued March 26, 2020); *R.G.*, Docket No. 19-0233 (issued July 16, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, *id.*

[8] *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

[9] *D.C.*, Docket No. 19-1093 (issued June 25, 2020); *see L.B.*, Docket No. 18-0533 (issued August 27, 2018).

In his report dated September 11, 2025, Dr. Mayorga noted appellant's history of injury. He provided impressions of cervical spine sprain, bilateral shoulder sprain, cervical radiculopathy, internal derangement of the right and left shoulders, bilateral upper arms strain, and bilateral lower arms strain. However, Dr. Mayorga did not offer an opinion on causal relationship between appellant's diagnosed conditions and the accepted employment factors. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[10] Therefore, this evidence is also insufficient to establish the claim.

In CA-17 form reports dated September 11 through December 18, 2025, he provided clinical findings of decreased ROM and strength and diagnosed bilateral shoulder injury due to injury. Dr. Mayorga advised that appellant was unable to perform her regular work and provided work restrictions. However, he did not provide an opinion on causal relationship between appellant's bilateral shoulder injury and the accepted employment factors. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[11] Therefore, this evidence is insufficient to establish appellant's claim.

As the medical evidence of record is insufficient to establish a medical condition causally related to the accepted employment factors, the Board finds that appellant has not met her burden of proof.

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 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."[12] 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.[13] 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.[14] The date of filing for an oral hearing or review of

[10] *J.G.,* Docket No. 24-0265 (issued April 23, 2024); *T.S.*, Docket No. 23-0539 (issued September 19, 2023); *M.O.*, Docket No. 22-1035 (issued March 22, 2023); *J.B.*, Docket No. 21-0211 (issued March 21, 2023); *M.C.*, Docket No. 22-0992 (issued March 15, 2023); *D.H.*, Docket No. 20-1410 (issued December 21, 2022); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

[11] *Id.*

[12] 5 U.S.C. § 8124(b)(1).

[13] 20 C.F.R. § 10.615.

[14] *T.A.*, Docket No. 18-0431 (issued November 7, 2018); *Ella M. Garner*, 36 ECAB 238, 241-42 (1984).

the written record is fixed by postmark or other carrier's date marking,[15] or the date received in the Employees' Compensation Operations & Management Portal (ECOMP), and before the claimant has requested reconsideration.[16] 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.[17]

ANALYSIS -- ISSUE 2

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

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.[18] Appellant, therefore, had 30 days following OWCP's January 26, 2026 merit decision to request an oral hearing/review of the written record. As she did not request an oral hearing until April 1, 2026, more than 30 days after OWCP's January 26, 2026 decision, it was untimely filed and she was, therefore, not entitled to an oral hearing as a matter of right.[19]

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 June 26, 2026 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.[20] 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).[21]

---

[15] 20 C.F.R. § 10.616(a).

[16] *Id.*; Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.4a (version 1, issued March 16, 2026); *D.W.*, Docket No. 25-0019 (issued November 22, 2024).

[17] *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).

[18] *S.L.,* Docket No. 26-0368 (issued June 17, 2026); *J.P.*, Docket No. 25-0860 (issued January 5, 2026); *J.C. (S.C.)*, Docket No. 24-0576 (issued August 28, 2024).

[19] *T.T.,* Docket No. 26-0517 (issued August 24, 2026); *J.P., id.*; *see W.N.,* Docket No. 20-1315 (issued July 6, 2021); *see also G.S.,* Docket No. 18-0388 (issued July 19, 2018).

[20] *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).

[21] *See S.I., id.*; *C.G.*, Docket No. 25-0053 (issued December 12, 2024); *C.H.*, Docket No. 20-0540 (issued December 1, 2020).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment. The Board further finds that OWCP properly denied appellant's request for an oral hearing, pursuant to 5 U.S.C. § 8124(b).

ORDER

IT IS HEREBY ORDERED THAT the January 26 and April 10, 2026 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 9, 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