United States Department of Labor
Employees' Compensation Appeals Board

N.P., Appellant	)	
and	)	**Docket No. 26-0703**
	)	**Issued: October 27, 2026**
DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT AGENCY, Phoenix, AZ, 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 July 22, 2026 appellant filed a timely appeal from an April 20, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days elapsed from the last merit decision, dated August 25, 2025, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.

ISSUE

The issue is whether OWCP properly determined that appellant abandoned his request for an oral hearing.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On June 12, 2025 appellant, then a 40-year-old criminal investigator, filed a notice of traumatic injury (Form CA-1), alleging that on March 19, 2025 he sustained injuries to his head, neck, and back during a motor vehicle collision while in the performance of duty. He did not stop work.

OWCP received factual and medical evidence in support of the claim.

In a June 23, 2025 development letter, OWCP notified appellant of the deficiencies of his claim. It advised him of the type of medical evidence needed and afforded him 60 days to submit the necessary evidence. OWCP subsequently received additional evidence.

By decision dated August 25, 2025, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish a diagnosis in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

By appeal request form received by OWCP on September 22, 2025, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By notice dated March 2, 2026, OWCP's hearing representative informed appellant that an oral hearing was scheduled for April 9, 2026, at 1:00 p.m. Eastern Standard Time (EST). The notice provided call-in instructions, the toll-free number to call, and the appropriate passcode to access the hearing. The hearing representative mailed the notice to appellant's last known address of record. Appellant did not appear for the scheduled hearing.

By decision dated April 20, 2026, OWCP found that appellant had abandoned his request for an oral hearing as he had received written notification of the hearing 30 days in advance but failed to appear. It further found that there was no indication in the case record that he had contacted the Branch of Hearings and Review either prior to or after the scheduled hearing to explain his failure to appear.

LEGAL PRECEDENT

A claimant who has received a final adverse decision by OWCP may obtain a hearing by writing to the address specified in the decision within 30 days of the date of the decision for which a hearing is sought.[2] Unless otherwise directed in writing by the claimant, OWCP's hearing representative will mail a notice of the time and place of the hearing to the claimant and any

[2] 20 C.F.R. § 10.616(a).

representative at least 30 days before the scheduled date.[3] OWCP has the burden of proving that it properly mailed to a claimant and a representative of record a notice of a scheduled hearing.[4]

A claimant who fails to appear at a scheduled hearing may request in writing, within 10 days after the date set for the hearing, that another hearing be scheduled. Where good cause for failure to appear is shown, another hearing will be scheduled and conducted by teleconference.[5]

The failure of the claimant to request another hearing within 10 days, or the failure of the claimant to appear at a second scheduled hearing without good cause shown, shall constitute abandonment of the request for a hearing.[6]

ANALYSIS

The Board finds that OWCP properly determined that appellant abandoned his request for an oral hearing.

The record establishes that on March 2, 2025, in response to appellant's request for an oral hearing, a representative of OWCP's Branch of Hearings and Review properly mailed a notice of the scheduled oral hearing to be held on April 9, 2026, at 1:00 p.m., EST. The hearing representative mailed the notice to appellant at his last known address of record and provided instructions for access to the hearing.[7] Appellant, however, failed to appear for the scheduled hearing and did not request a postponement or provide an explanation to OWCP for his failure to attend the hearing within 10 days of the scheduled hearing.

The Board, thus, finds that OWCP properly determined that appellant abandoned his request for an oral hearing.

CONCLUSION

The Board finds that OWCP properly determined that appellant abandoned his request for an oral hearing.

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[3] *Id*. at § 10.617(b).

[4] *A.R.*, Docket No. 19-1691 (issued February 24, 2020); *M.R.*, Docket No. 18-1643 (issued March 1, 2019); *Michelle R. Littlejohn,* 42 ECAB 463(1991).

[5] *Supra* note 2 at § 10.622(f).

[6] *Id*.; Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.6g (version 1.0, issued March 16, 2026); *see also A.J.,* Docket No. 18-0830 (issued January 10, 2019); *L.B.,* Docket No. 18-0533 (issued August 27, 2018).

[7] Absent evidence to the contrary, a letter properly addressed and mailed in the ordinary course of business is presumed to have been received. This is called the mailbox rule. *R.O.,* Docket No. 26-0348 (issued June 9, 2026). *See C.Y.*, Docket No. 18-0263 (issued September 14, 2018).

ORDER

IT IS HEREBY ORDERED THAT the April 20, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 27, 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