United States Department of Labor
Employees' Compensation Appeals Board

R.D., Appellant	)	
and	)	**Docket No. 26-0624**
	)	**Issued: September 30, 2026**
U.S. POSTAL SERVICE, AMBLER POST OFFICE, Ambler, PA, 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 June 25, 2026 appellant filed a timely appeal from a January 6, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

[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). Appellant provided no specific argument to support his request. The Board, in exercising its discretion, denies appellant's request for oral argument because the 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.

[2] 5 U.S.C. § 8101 *et seq*.

ISSUE

The issue is whether OWCP properly suspended appellant's entitlement to wage-loss compensation and medical benefits, effective May 16, 2025, pursuant to 5 U.S.C. § 8123(d), due to his failure to attend an April 23, 2025 scheduled medical examination.

FACTUAL HISTORY

This case has previously been before the Board on a different issue.[3] The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On September 28, 2015, appellant, then a 50-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date he injured his elbow, hip, and left small finger when he slipped on acorns while in the performance of duty. He stopped work on September 28, 2015. OWCP accepted the claim for left wrist sprain. It subsequently expanded the acceptance of the claim to include aggravation of preexisting degenerative tear of the left wrist fibrocartilage complex.

On March 21, 2025, OWCP's scheduling service notified appellant that it had scheduled an April 23, 2025 second opinion examination at 10:00 a.m. Eastern Standard Time (EST) for him with Dr. Michael Birns, a Board-certified orthopedic surgeon. It explained that his entitlement to wage-loss compensation and medical benefits would be suspended for failure to report to, or for obstruction of, the examination, pursuant to 5 U.S.C. § 8123(d). The letter also contained the location of appellant's appointment.

Dr. Birn's office notified OWCP that appellant failed to attend the April 23, 2025 scheduled examination. In a notice of proposed suspension dated April 28, 2025, OWCP afforded appellant 14 days to present, in writing, good cause for his failure to attend the medical examination scheduled for April 23, 2025 with Dr. Birn. It advised that if good cause was not established, his compensation benefits would be suspended, pursuant to 5 U.S.C. § 8123(d), until he attended and fully cooperated with the examination. OWCP instructed appellant to contact it immediately if he intended to report to a rescheduled examination with Dr. Birn. It afforded him 14 days to respond. No additional evidence or argument was received by OWCP.

By decision dated May 16, 2025, OWCP finalized its proposed suspension of appellant's wage-loss compensation and medical benefits, effective that date, pursuant to 5 U.S.C. § 8123(d), due to his failure, without good cause, to attend the April 23, 2025 medical examination.

On June 18, 2025, Dr. Dennis McHugh, an osteopath and Board-certified orthopedic surgeon, related that appellant underwent right total knee replacement surgery on April 1, 2025. He noted that appellant had a scheduled April 15, 2025 medical appointment, but that "he was unable to drive to the appointment due to stitches on his knee."

[3] Docket No. 20-1551 (issued November 8, 2021).

On June 17, 2025, appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. He provided a statement that he was unable to attend the "June 15, 2025" appointment due to his April 1, 2025 knee surgery. Appellant alleged that he notified OWCP's scheduling service and was informed that the appointment would be rescheduled. He requested that his benefits be reinstated until "I can have a second evaluation done."

By decision dated July 1, 2025, OWCP denied appellant's request for an oral hearing, pursuant to 5 U.S.C. § 8124(b). It found that the June 26, 2025 request was not made within 30 days of the May 16, 2025 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.

On September 11, 2025, appellant submitted a statement in support of his claim. He asserted that he sent medical notes that he could not attend the appointment because of surgery which was not fairly assessed by OWCP as an explanation for his failure to attend the scheduled medical examination.

On December 11, 2025, appellant requested reconsideration of the May 16, 2025 decision.

By decision dated January 6, 2026, OWCP denied modification.

LEGAL PRECEDENT

Section 8123(d) of FECA authorizes OWCP to require an employee, who claims disability as a result of federal employment, to undergo a physical examination as it deems necessary.[4] The determination of the need for an examination, the type of examination, the choice of locale, and the choice of medical examiners are matters within the province and discretion of OWCP.[5] OWCP's regulations provide that a claimant must submit to an examination by a qualified physician as often and at such times and places as OWCP considers reasonably necessary.[6] Section 8123(d) of FECA and OWCP regulations provide that, if an employee refuses to submit to or obstructs a directed medical examination, his or her right to compensation is suspended until the refusal or obstruction ceases.[7] OWCP's procedures provide that, before OWCP may invoke these provisions, the employee is to be provided a period of 14 days within which to present in writing his or her reasons for the refusal or obstruction.[8] If good cause for the refusal or obstruction is not

[4] 5 U.S.C. § 8123(d).

[5] *See P.L.,* Docket No. 26-0048 (issued May 20, 2026); *T.A*., Docket No. 21-0528 (issued December 14, 2021); *L.B*., Docket No. 17-1891 (issued December 11, 2018); *J.T*., 59 ECAB 293 (2008).

[6] 20 C.F.R. § 10.320.

[7] *See* 5 U.S.C. § 8123; *id*. at § 10.323; *A.P*., Docket No. 19-0328 (issued August 6, 2019); *D.K*., Docket No. 18-0217 (issued June 27, 2018).

[8] Federal (FECA) Procedure Manual, Part 2 -- Claims*, Developing and Evaluating Medical Evidence*, Chapter 2.810.13d (February 2022).

established, entitlement to compensation is suspended in accordance with section 8123(d) of FECA until the date on which the claimant agrees to attend the examination.[9]

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation and medical benefits, pursuant to 5 U.S.C. § 8123(d), effective May 16, 2025, due to his failure to attend an April 23, 2025 scheduled medical examination.

In March 21, 2025 letter, OWCP's scheduling service notified appellant that he was being referred for a second opinion medical examination on April 23, 2025 with Dr. Birns. The letter informed him of his obligations to attend and cooperate with the examination and explained that his compensation benefits would be suspended, pursuant to 5 U.S.C. § 8123(d), for failure to report to or for obstruction of the examination. The letter also contained the date, time, and location of appellant's appointment.

Appellant did not appear for the April 23, 2025 appointment, nor did he attempt to reschedule the appointment prior to the designated time. In a notice of proposed suspension dated April 28, 2025, OWCP provided him 14 days to present, in writing, good cause for his failure to attend the scheduled medical appointment. No response was received. By decision dated May 16, 2025, OWCP suspended appellant's wage-loss compensation and medical benefits effective that date.

On June 6 and 26, and September 11, 2025, appellant provided oral and written statements that he was unable to attend the scheduled medical examination because of his April 1, 2025 total knee replacement. He provided a June 18, 2025 note from Dr. McHugh that he could not drive due to stitches in his knee from his April 1, 2025 surgery. The Board has previously found that in order to establish good cause for the failure to appear, a claimant must submit evidence showing that he or she was unable to get to the appointment using alternative transportation.[10] Furthermore, appellant's reasons for his failure to appear for the April 23, 2025 examination, were not presented, in writing, within 14 days of the April 28, 2025 notice of proposed suspension.[11]

For these reasons, the Board finds that appellant has not established good cause for failing to appear for the April 23, 2025 examination.[12] As appellant failed to attend the scheduled examination and failed to provide good cause for failing to appear within 14 days of OWCP's April 28, 2025 notice of proposed suspension, the Board finds that OWCP properly suspended appellant's wage-loss compensation and medical benefits, effective May 16, 2025, pursuant to 5 U.S.C. § 8123(d).

[9] *Id*. at Chapter 2.810.13e.

[10] *C.W.,* Docket No. 21-0943 (issued February 17, 2023).

[11] *R.L*., Docket No. 23-1008 (issued January 4, 2024).

[12] *P.L., supra* note 5; *G.T.,* Docket No. 23-0123 (issued November 22, 2023).

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation and medical benefits, effective May 16, 2025, pursuant to 5 U.S.C. § 8123(d), due to his failure to attend an April 23, 2025 scheduled medical examination.

ORDER

IT IS HEREBY ORDERED THAT the January 6, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 30, 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