United States Department of Labor
Employees' Compensation Appeals Board

A.M., Appellant	)	
and	)	**Docket No. 24-0413**
	)	**Issued: July 31, 2024**
U.S. POSTAL SERVICE, AURORA POST OFFICE, Aurora, IL, 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
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

JURISDICTION

On March 11, 2024 appellant filed a timely appeal from November 8, 2023 and March 7, 2024 merit decisions and a January 3, 2024 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.

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish a recurrence of the need for medical treatment commencing September 12, 2019, causally related to the accepted employment injury; (2) whether appellant has met his burden of proof to expand the acceptance of his claim to include cervical and left shoulder conditions as causally related to the accepted employment injury; (3) whether appellant has met his burden of proof to establish disability from work commencing February 16, 2018, causally related to the accepted

[1] 5 U.S.C. § 8101 *et seq*.

employment injury; and (4) whether OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

FACTUAL HISTORY

On December 7, 2017 appellant, then a 42-year-old city carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained pinched nerve damage of the spinal cord and muscle spasms due to factors of his federal employment. He related that he had performed repetitive employment duties, including delivering and carrying 30 to 50 pounds of mail with his left arm and over his shoulders over a period of one to two weeks on or around November 25, 2017.[2] Appellant noted that he first became aware of his condition and realized its relationship to his federal employment on November 25, 2017. He stopped work on November 25, 2017.

OWCP subsequently received medical evidence from Dr. Mohammed M. Saeed, an attending Board-certified internist. In a November 27, 2017 report, Dr. Saeed recounted appellant's history of injury, discussed his examination findings, and diagnosed injury to the cervical nerve root, lateral epicondylitis of the left elbow, and cervicalgia. He related that appellant should avoid lifting/pulling/pushing any weight with the left arm for two days.

In a February 14, 2018 report, Dr. Saeed opined that appellant sustained a cervical nerve injury, lateral epicondylitis of left elbow, and cervicalgia due to carrying 25 to 50 pounds with his left hand daily while working as a mail carrier. He noted that appellant was working approximately six to seven hours per day with left hand carrying restrictions.

On March 29, 2018 OWCP accepted appellant's claim for lateral epicondylitis, left elbow. Additionally, it noted that the medical evidence of record was insufficient to establish the additional diagnoses set forth in Dr. Saeed's November 27, 2017 report.

OWCP received a June 18, 2019 report from Dr. A. Jaber, a chiropractor, who evaluated appellant for pain in the neck, left elbow, left arm, and lower back following the accepted employment injury. Dr. Jaber provided chiropractic treatment three to four times per week for the accepted left elbow epicondylitis and additional diagnoses of cervical and lumbar sprain.[3]

On October 13 and 14, 2022 appellant filed claims for compensation (Form CA-7) for disability from work during the period February 16, 2018 through October 7, 2022.

[2] OWCP assigned the present claim OWCP File No. xxxxxx196. Appellant also has an occupational disease claim filed on December 30, 2022, under OWCP File No. xxxxxx214, alleging left shoulder rotator cuff and tendinosis, left lateral epicondylitis, cervical disc disease, and cervical spinal canal stenosis. OWCP denied that claim by decision dated March 30, 2023.

[3] A Notification of Personnel Action Form (Standard Form (SF) 50), dated September 20, 2019, indicated that appellant was separated from employment, effective September 12, 2019, due to his failure to maintain regular work.

In a development letter dated October 18, 2022, OWCP informed appellant of the deficiencies of his claims for wage-loss compensation. It advised him of the type of medical evidence needed and afforded him 30 days to respond.

An October 4, 2022 x-ray report from Dr. Vladislav I. Gorengaut, a Board-certified diagnostic radiologist, found no fractures of the left elbow, left shoulder, and cervical spine. Additionally, he found slight progression of degenerative changes in the cervical spine at C5-C7 and slight progression of mild osteoarthritis at C1-C2.

In a November 16, 2022 report, Dr. Saeed diagnosed unspecified injury of muscle(s) and tendon(s) of the rotator cuff of left shoulder, sequela; and radiculopathy, cervical region.

A report and request for physical/occupational therapy authorization dated November 23, 2022 from appellant's physical therapist was received by OWCP.

On September 1, 2023 OWCP administratively combined OWCP File Nos. xxxxxxx214 and xxxxxx196 with the latter serving as the master file and developed the issue of whether appellant sustained a recurrence of the need for medical treatment as of September 12, 2019.

In a development letter dated September 6, 2023, OWCP advised appellant of the type of medical evidence needed to establish his recurrence claim, and provided a questionnaire for his completion. It afforded him 30 days to submit the necessary evidence.

On September 30, 2023 appellant completed OWCP's development questionnaire and alleged that his nerve, left elbow, arm and shoulder, and neck conditions were related to his city carrier work duties. He further alleged that the pain associated with these conditions persisted after he separated from the employing establishment in September 2019. Appellant noted that he was involved in a motor vehicle accident after November 14, 2017 for which he received medical treatment. He also worked at an online retailer from March 2021 through June 2022 and his duties included delivery of merchandise, packages, and goods to residential homes and businesses. Appellant was currently employed at a ride share company.

OWCP, by decision dated November 1, 2023, denied appellant's recurrence claim, finding that the medical evidence of record was insufficient to establish that he required additional medical treatment due to a worsening of his accepted work-related condition without intervening cause. It further denied the expansion of his claim to include a cervical and/or left shoulder condition, finding that the medical evidence of record was insufficient to establish that the claimed conditions were related to his federal employment factors.

On November 3, 2023 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

Appellant submitted additional reports from Dr. Saeed. In a September 26, 2023 report, Dr. Saeed diagnosed left shoulder and lumbar injuries due to appellant's August 19, 2023 automobile accident.

In an October 19, 2023 report, Dr. Saeed reiterated his prior diagnosis of cervicalgia and left shoulder and elbow pain, and low back pain, unspecified.

Appellant also submitted a November 1, 2023 report from Dr. Gregory Iavarone, a chiropractor, who noted that he treated appellant for pain in the neck, left shoulder and elbow, and lower back during the period November 16, 2020 through August 23, 2021.

Additionally, appellant submitted a December 2, 2022 report from a physical therapist.

By *de novo* decision dated November 1, 2023, OWCP denied appellant's claim for recurrence of the need for medical treatment of his accepted left elbow lateral epicondylitis.

By decision dated November 8, 2023, OWCP denied appellant's claim for wage-loss compensation for disability from work commencing February 16, 2018. It found that the medical evidence of record was insufficient to establish disability from work during the claimed period due to the accepted employment injury.

On December 19, 2023 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review with regard to the November 8, 2023 disability decision.

By decision dated January 3, 2024, OWCP's Branch of Hearings and Review denied appellant's request for a review of the written record as untimely because it was not filed within 30 days of OWCP's November 8, 2023 disability decision. It further exercised its discretion and determined that the issue in the case could equally well be addressed by a request for reconsideration before OWCP along with the submission of new evidence supporting his claims for disability.

By decision dated March 7, 2024, OWCP's hearing representative affirmed the November 1, 2023 decision denying appellant's claims for recurrence of the need for medical treatment and expansion of acceptance of the claim.

LEGAL PRECEDENT -- ISSUE 1

The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances, and supplies prescribed or recommended by a qualified physician that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability, or aid in lessening the amount of any monthly compensation.[4]

A recurrence of a medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.[5] An employee has the burden of proof to establish that he or she

[4] 5 U.S.C. § 8103(a).

[5] 20 C.F.R. § 10.5(y).

sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury without intervening cause.[6]

If a claim for recurrence of medical condition is made more than 90 days after release from medical care, a claimant is responsible for submitting a medical report supporting a causal relationship between the employee's current condition and the original injury in order to meet his or her burden.[7] To meet this burden, the employee must submit medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, supports that the condition is causally related and supports his or her conclusion with sound medical rationale.[8] Where no such rationale is present, medical evidence is of diminished probative value.[9]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish a recurrence of the need for medical treatment commencing September 12, 2019, causally related to the accepted employment injury.

In reports dated November 27, 2017 and February 14, 2018, Dr. Saeed found that appellant not only had the accepted condition of left elbow lateral epicondylitis, but he also had a cervical nerve injury and cervicalgia due to the accepted employment injury. Also, in reports dated November 16, 2022, and September 26 and October 19, 2023, he diagnosed left shoulder and elbow and low back pain, unspecified; unspecified injury of muscle(s) and tendon(s) of the rotator cuff of left shoulder, sequela; and radiculopathy, cervical region. Dr. Saeed, however, did not offer an opinion on how appellant's accepted work-related condition had worsened to the point that he required additional medical treatment. The Board has held that a medical report which does not offer an opinion on the cause of an employee's condition is of no probative value.[10] Thus, this evidence is insufficient to establish appellant's recurrence claim.

[6] *See K.H.*, Docket No. 22-0579 (issued September 15, 2022); *B.B.*, Docket No. 21-1359 (issued May 11, 2022); *S.P.*, Docket No. 19-0573 (issued May 6, 2021); *M.P.*, Docket No. 19-0161 (issued August 16, 2019); *E.R.*, Docket No. 18-0202 (issued June 5, 2018); *Mary A. Ceglia*, Docket No. 04-113 (issued July 22, 2004).

[7] Federal (FECA) Procedural Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.4b (June 2013); *see also S.W.*, Docket No. 21-1094 (issued April 18, 2022); *J.M.*, Docket No. 09-2041 (issued May 6, 2010).

[8] *S.W.*, *id.*; *A.C.*, Docket No. 17-0521 (issued April 24, 2018); *O.H.*, Docket No. 15-0778 (issued June 25, 2015).

[9] *S.W.*, *id.*; *M.P.*, *supra* note 6; *Michael Stockert*, 39 ECAB 1186 (1988).

[10] *See K.F.*, Docket No. 23-0749 (issued October 6, 2023); *C.H.*, Docket No. 22-1186 (December 22, 2022); *D.Y.*, Docket No. 20-0112 (issued June 25, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

Appellant also submitted June 18, 2019 and November 1, 2023 reports by Dr. Jaber and a Dr. Iavarone, both chiropractors. However, these reports are of no probative value as these chiropractors did not diagnose spinal subluxation as demonstrated by x-ray to exist.[11]

OWCP also received an October 4, 2022 x-ray report. The Board, however, has held that reports of diagnostic tests, standing alone, lack probative value as they do not provide an opinion as to whether the accepted employment factors caused the diagnosed condition.[12] Thus, this evidence is insufficient to establish appellant's recurrence claim.

Additionally, appellant submitted a December 2, 2022 report from a physical therapist. The Board has held that certain healthcare providers such as physical therapists are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion. Therefore, this evidence is of no probative value and is insufficient to establish appellant's recurrence claim.[13]

As the medical evidence of record is insufficient to establish a recurrence of the need for medical treatment commencing September 12, 2019 causally related to appellant's accepted employment injury, the Board finds that he has not met his burden of proof.

LEGAL PRECEDENT -- ISSUE 2

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.[14]

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal

[11] Section 8101(2) of FECA provides that, "The term physician includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the secretary." 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA). Chiropractors are considered physicians under FECA only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulations by the secretary. *See S.P., supra* note 6; *A.C.*, Docket No. 19-1950 (issued May 27, 2020); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

[12] *W.T.*, Docket No. 23-0323 (issued August 15, 2023); *V.Y.*, Docket No. 18-0610 (issued March 6, 2020); *G.S.*, Docket No. 18-1696 (issued March 26, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

[13] 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, *supra* note 11 at Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk, supra* note 11; *see also I.P.*, Docket No. 24-0121 (issued March 11, 2024) (physical therapists are not considered physicians as defined under FECA); *L.S.*, Docket No. 19-1768 (issued March 24, 2020) (physical therapists are not considered physicians under FECA).

[14] *See A.M.*, Docket No. 22-0707 (issued October 16, 2023); *V.P.*, Docket No. 21-1111 (issued May 23, 2022); *S.B.*, Docket No. 19-0634 (issued September 19, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

relationship.[15] The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 identified by the claimant.[16] The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.[17]

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met his burden of proof to expand the acceptance of his claim to include cervical and left shoulder conditions as causally related to the accepted employment injury.

In reports dated November 27, 2017 and February 14, 2018, Dr. Saeed opined that appellant had a cervical nerve injury and cervicalgia due to the accepted employment injury. However, he did not provide sufficient medical rationale to explain how the cervical conditions were causally related to the accepted employment injury. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition has an employment-related cause.[18] Therefore, this evidence is insufficient to establish appellant's expansion claim.

Dr. Saeed's remaining reports dated November 16, 2022 and September 26 and October 19, 2023 did not address the issue of whether appellant's additional conditions were causally related to the accepted employment injury. The Board has held that medical evidence that does not provide an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[19]

OWCP also received June 18, 2019 and November 1, 2023 reports from Dr. Jaber and Dr. Iavarone, both chiropractors. However, as previously noted, these reports are of no probative value as they did not diagnose spinal subluxation as demonstrated by x-ray to exist, and therefore they are not considered physicians under FECA.[20] Thus, this evidence is insufficient to establish expansion of the claim.

Appellant submitted an October 4, 2022 x-ray report of the left elbow, left shoulder, and cervical spine. However, the Board has held that diagnostic studies, standing alone, lack

[15] *K.B.*, Docket No. 22-0842 (issued April 25, 2023); *T.K.*, Docket No. 18-1239 (issued May 29, 2019).

[16] *R.P.*, Docket No. 18-1591 (issued May 8, 2019).

[17] *Id*.

[18] *J.T.*, Docket No. 23-1176 (issued March 19, 2024); *L.G.*, Docket No. 21-0770 (issued October 13, 2022); *T.T.*, Docket No. 18-1054 (issued April 8, 2020); *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

[19] *Supra* note 13.

[20] *See supra* note 14.

probative value on the issue of causal relationship.[21] Thus, this evidence is insufficient to establish appellant's expansion claim.

The remainder of the medical evidence consists of a December 2, 2022 report from a physical therapist. The Board has held that certain healthcare providers such as physical therapists are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion. Therefore, this evidence is insufficient to establish appellant's expansion claim.[22]

As the medical evidence of record is insufficient to establish causal relationship between the additional diagnosed conditions and the accepted employment injury, the Board finds that appellant has not met his burden of proof to establish expansion of his claim.

LEGAL PRECEDENT -- ISSUE 3

An employee seeking benefits under FECA[23] has the burden of proof to establish the essential elements of his or her claim,[24] including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[25] For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.[26] Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of probative and reliable medical opinion evidence.[27]

The medical evidence required to establish causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of appellant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the claimed disability and the accepted employment injury.[28]

[21] *See supra* note 15.

[22] *See supra* note 16.

[23] 5 U.S.C. § 8101 *et seq*.

[24] *See L.S.*, Docket No. 18-0264 (issued January 28, 2020); *B.O.*, Docket No. 19-0392 (issued July 12, 2019).

[25] *See S.F.*, Docket No. 20-0347 (issued March 31, 2023); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *F.H.*, Docket No. 18-0160 (issued August 23, 2019); *C.R.*, Docket No. 18-1805 (issued May 10, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[26] *T.W.*, Docket No. 19-1286 (issued January 13, 2020).

[27] *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291-92 (2001).

[28] *See B.P.*, Docket No. 23-0909 (issued December 27, 2023); *D.W.*, Docket No. 20-1363 (issued September 14, 2021); *Y.S.*, Docket No. 19-1572 (issued March 12, 2020).

The Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.[29]

ANALYSIS -- ISSUE 3

The Board finds that appellant has not met his burden of proof to establish disability from work for the period commencing February 16, 2018, causally related to the accepted employment injury.

In his February 14, 2018 report, Dr. Saeed opined that appellant's diagnosed conditions of cervical nerve injury and cervicalgia were causally related to the accepted factors of his federal employment. He noted that appellant was working with restrictions about six to seven hours per day. However, this report is of no probative value because Dr. Saeed did not provide an opinion that appellant was totally disabled from work during the claimed period causally related to the accepted employment injury.[30] Therefore, this evidence is insufficient to establish appellant's disability claim.

Dr. Saeed's remaining reports dated November 16, 2022 and September 26 and October 19, 2023 did not address the issue of disability from work during the claimed period causally related to the accepted employment injury. The Board has held that medical evidence that does not provide an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.[31] Therefore, this evidence is insufficient to establish appellant's disability claim.

OWCP also received June 18, 2019 and November 1, 2023 reports from Dr. Jaber and Dr. Iavarone, both chiropractors. However, as previously noted, these reports are of no probative value as they did not diagnose spinal subluxation as demonstrated by x-ray to exist, and therefore they are not considered physicians under FECA.[32] Therefore, this evidence is insufficient to establish appellant's disability claim.

Appellant also submitted an October 4, 2022 x-ray report of the left elbow, left shoulder, and cervical spine. However, the Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship.[33] Thus, this evidence is insufficient to establish appellant's disability claim.

[29] *See M.J.*, Docket No. 19-1287 (issued January 13, 2020); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, *supra* note 27.

[30] *See supra* note 13.

[31] *Id*.

[32] *See supra* note 14.

[33] *See supra* note 15.

The remainder of the medical evidence consists of a December 2, 2022 report from a physical therapist. The Board has held that certain healthcare providers such as physical therapists are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion. Therefore, this evidence is insufficient to establish appellant's expansion claim.[34]

As the medical evidence of record is insufficient to establish disability from work during the claimed period due to the accepted employment injury, the Board finds that appellant has not met his burden of proof.

LEGAL PRECEDENT -- ISSUE 4

Section 8124(b)(1) of FECA provides that a claimant for compensation not satisfied with a decision of the Secretary is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his or her claim before a representative of the Secretary.[35] Sections 10.617 and 10.618 of the federal regulations implementing this section of FECA provide that a claimant shall be afforded a choice of an oral hearing or a review of the written record by a representative of the Secretary.[36] A claimant is entitled to a hearing or review of the written record as a matter of right only if the request is filed within the requisite 30 days as determined by postmark or other carrier's date marking and before the claimant has requested reconsideration.[37] Although there is no right to a review of the written record or an oral hearing, 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.[38]

ANALYSIS -- ISSUE 4

The Board finds that OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

On December 19, 2023 appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review; however, this request was made more than 30 days after OWCP's November 8, 2023 decision. Section 8124(b)(1) is unequivocal on the time limitation for filing a request for a review of the written record.[39] As such, the Board

[34] *See supra* note 16.

[35] 5 U.S.C. § 8124(b)(1).

[36] 20 C.F.R. §§ 10.616, 10.617.

[37] *Id*. at § 10.616(a).

[38] *G.H.*, Docket No. 22-0122 (issued May 20, 2022); *J.T.*, Docket No. 18-0664 (issued August 12, 2019); *Eddie Franklin*, 51 ECAB 223 (1999); *Delmont L. Thompson*, 51 ECAB 155 (1999).

[39] *K.K.*, Docket No. 24-0205 (issued April 23, 2024); *K.N.*, Docket No. 22-0647 (issued August 29, 2022); *G.H.*, Docket No. 22-0122 (issued May 20, 2022).

finds that the request was untimely filed, and appellant was not entitled to a review of the written record as a matter of right.[40]

The Board further finds that OWCP, in its January 3, 2024 decision, properly exercised its discretionary authority, explaining that it had considered the matter and denied appellant's request for a review of the written record as his claim could be equally-well addressed through a reconsideration request, along with the submission of additional evidence.[41]

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 deductions from established facts.[42] In this case, the evidence of record does not indicate that OWCP abused its discretion in connection with its denial of appellant's request for a review of the written record. Accordingly, the Board finds that OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a recurrence of the need for medical treatment commencing September 12, 2019, causally related to the accepted employment injury. The Board further finds that appellant has not met his burden of proof to expand the acceptance of his claim to include cervical and left shoulder conditions as causally related to the accepted employment injury. The Board also finds that appellant has not met his burden of proof to establish disability from work for the period commencing February 16, 2018, causally related to the accepted employment injury. Lastly, the Board finds that OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

[40] *See K.K., id.*; *D.R.*, Docket No. 22-0361 (issued July 8, 2022); *D.S.*, Docket No. 21-1296 (issued March 23, 2022); *P.C.*, Docket No. 19-1003 (issued December 4, 2019).

[41] *Id.*

[42] *See K.K., id.*; *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, 221 (1990).

ORDER

IT IS HEREBY ORDERED THAT the November 8, 2023, and January 3 and March 7, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 31, 2024
Washington, DC

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board