

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

M.P., Appellant)	
)	
and)	Docket No. 13-2048
)	Issued: March 25, 2014
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Carol Stream, IL, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On September 5, 2013 appellant timely appealed a May 1, 2013 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Board assigned the appeal Docket No. 13-2048.

Appellant, a 57-year-old automation clerk, filed a claim (Form CA-1) for uterine prolapse and abnormal vaginal bleeding which allegedly arose in the performance of duty on September 17, 2011. She also claimed to have sustained injuries to her feet, knees, hands, elbows and shoulders. Appellant attributed her various injuries to standing, lifting and sweeping mail from an automation machine and placing the mail into trays. Once the trays were full, she would place them on a multi-tiered rack. After further development of the record, OWCP denied appellant's traumatic injury claim by decision dated April 19, 2012. Appellant failed to establish a causal relationship between her claimed condition(s) and her accepted employment exposure.

¹ The Board has jurisdiction to consider and decide appeals from final decisions of OWCP in any case arising under the Federal Employees' Compensation Act. 20 C.F.R. § 501.2(c)(2012). Any person adversely affected by a final OWCP decision may file for review of such decision. *Id.* at § 501.3(a). The Board's review is limited to appeals filed within 180 days from the date OWCP issued its decision. *Id.* at § 501.3(e).

In a decision dated August 20, 2012, the Branch of Hearings and Review affirmed OWCP's April 19, 2012 decision.

On April 17, 2013 appellant requested reconsideration and submitted additional evidence. OWCP received the request on April 23, 2013. In its May 1, 2013 decision, OWCP considered appellant's request untimely, noting that more than a year had lapsed since the April 19, 2012 decision. It reviewed appellant's request under 20 C.F.R. § 10.607(b) and found that she failed to establish clear evidence of error. Consequently, OWCP did not revisit the merits of her September 17, 2011 traumatic injury claim.

The Board notes that the hearing representative's August 20, 2012 decision is the most recent merit decision. Therefore, appellant's April 2013 request for reconsideration was timely and OWCP should have considered it pursuant to 20 C.F.R. § 10.606.² OWCP erred in requiring that appellant demonstrate clear evidence of error. Accordingly, the May 1, 2013 decision shall be set aside, and the case remanded for proper consideration under 20 C.F.R. §§ 10.606 and 10.608.

IT IS HEREBY ORDERED THAT the May 1, 2013 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action.

² An 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. 20 C.F.R. § 10.606(b)(2). When an application for reconsideration does not meet at least one of the above-noted requirements, OWCP will deny the request for reconsideration without reopening the case for a review of the merits. *Id.* at § 10.608(b).

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Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
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Patricia Howard Fitzgerald, Judge
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