

to factors of her federal employment which required lifting, twisting, bending, and grabbing items with her hands. She stated that she first became aware that her condition was related to her federal employment on April 1, 2020.

In a development letter dated June 29, 2020, OWCP informed appellant that additional factual and medical evidence was necessary to establish her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In a letter received on July 14, 2020, appellant's supervisor, C.F., attested to the fact that appellant's job required repetitive hand and wrist movements, including casing and gripping mail for one to eight hours a day.

By decision dated August 20, 2020, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that the events occurred as alleged. It also found that appellant had not submitted medical evidence, which contained a medical diagnosis causally related to the alleged events. It concluded, therefore, that the requirements had not been met to establish fact of injury as defined by FECA.

On November 17, 2020 appellant request reconsideration and submitted additional medical evidence.

In a medical report dated April 14, 2020, Dr. Stephanie Riemann, a Board-certified neurologist, related that about two months prior appellant began noticing numbness and tingling in her hands and sometimes a sharp pain that radiated up to her left elbow. She also noticed numbness and tingling occurred when she sorted mail. Dr. Riemann related her impression that appellant had bilateral cubital tunnel syndrome and that appellant had been scheduled for electromyogram and nerve conduction velocity (EMG/NCV) testing.

In a report dated April 22, 2020, Dr. Riemann diagnosed carpal tunnel syndrome. A diagnostic testing report from Dr. Riemann, also dated April 22, 2020, indicated that EMG/NCV studies performed that day revealed bilateral carpal tunnel syndrome.

By decision dated February 11, 2021, OWCP summarily denied appellant's request for reconsideration.

LEGAL PRECEDENT

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his own motion or on application.²

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted

² 5 U.S.C. § 8128(a); *see T.K.*, Docket No. 19-1700 (issued April 30, 2020); *see L.D.*, Docket No. 18-1468 (issued February 11, 2019); *W.C.*, 59 ECAB 372 (2008).

a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.³

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.⁴ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.⁵ If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.⁶

ANALYSIS

The Board finds that OWCP improperly denied appellant's request for reconsideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a).

In her timely request for reconsideration, appellant submitted medical reports dated April 14 and 22, 2020 from Dr. Riemann. In her reports, Dr. Riemann related that appellant experienced numbness and tingling in her hands while she sorted mail and she diagnosed bilateral carpal tunnel syndrome.

Section 8124(a) of FECA provides: OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.⁷ Section 10.126 of Title 20 of the Code of Federal Regulations provide: "The decision [of the Director of OWCP] shall contain findings of fact and a statement of reasons."⁸ Moreover, the Federal (FECA) Procedure Manual provides that the claims examiner's "evaluation of the evidence should be clear and detailed so that the reader understands the reason for the disallowance of the benefit and the evidence necessary to overcome the defect of the claim."⁹

³ 20 C.F.R. § 10.606(b)(3); *see C.C.*, Docket No. 19-1622 (issued May 28, 2020); *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

⁴ *Id.* at § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (February 2016). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS). Chapter 2.1602.4b.

⁵ *Id.* at § 10.608(a); *see also A.F.*, Docket No. 19-1832 (issued July 21, 2020); *M.S.*, 59 ECAB 231 (2007).

⁶ *Id.* at § 10.608(b); *J.B.*, Docket No. 20-0145 (issued September 8, 2020); *Y.K.*, Docket No. 18-1167 (issued April 2, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

⁷ 5 U.S.C. § 8124(a); *see J.J.*, Docket No. 19-0448 (issued December 30, 2019); *see Hubert Jones, Jr.*, 57 ECAB 467 (2006).

⁸ 20 C.F.R. § 10.126.

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5c(3) (February 2013).

OWCP did not reference nor discuss any of the new medical reports submitted in support of appellant's timely November 17, 2020 reconsideration request.¹⁰ In its February 11, 2021 decision, it did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the basis for the decision, *i.e.*, why the new medical evidence had not met any of the requirements of 20 C.F.R. § 10.606(b)(3), requiring OWCP to reopen the case for review of the merits of the claim.¹¹

Accordingly, the Board will set aside the February 11, 2021 decision and remand the case for OWCP to review the evidence submitted in support of appellant's reconsideration request and make findings of fact and provide reasons for its decision, pursuant to the standards set forth in section 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126. After this and other such further development as deemed necessary, it shall issue an appropriate decision.

CONCLUSION

The Board finds that OWCP improperly denied appellant's request for reconsideration of the merits of her claim pursuant to 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the February 11, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: November 10, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

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

¹⁰ The Board notes that OWCP referenced a letter from the appellant that is nonexistent in the record.

¹¹ *See J.M.*, Docket No. 18-0729 (issued October 17, 2019); *J.J.*, Docket No. 11-1958 (issued June 27, 2012).