



repetitive motion. On the reverse side of the claim form the employing establishment noted that appellant was currently on maternity leave since April 29, 2019.

In a development letter dated June 12, 2019, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond. No response was received.

By decision dated July 16, 2019, OWCP accepted the identified employment factors. However, it denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish a valid medical diagnosis from a qualified physician in connection with the accepted employment factors. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On August 20, 2019 appellant requested reconsideration. She submitted an August 20, 2019 statement describing a popping sensation in her left wrist on April 15, 2019 with worsening pain through June 2, 2019, at which time she sought treatment at a hospital emergency department. Appellant noted that she had been diagnosed with left de Quervain's tenosynovitis and received an injection. She submitted August 5 and 8, 2019 reports by Sonia Kregel, a physician assistant.

By decision dated October 23, 2019, OWCP denied modification of the July 16, 2019 decision.

On December 4, 2019 appellant requested reconsideration. She contended that she had met her burden of proof to establish her claim as she injured her left wrist on April 15, 2019 when throwing parcels while in the performance of duty, timely filed her claim, and a physician assistant diagnosed tendinitis, a disease caused by repetitive motion.

Appellant also submitted a November 12, 2019 form report by Dr. Nikhil Pandhi, an orthopedic surgeon, diagnosing left de Quervain's tendinosis. Dr. Pandhi prescribed physical therapy.

By decision dated December 13, 2019, OWCP denied modification of the October 23, 2019 decision.

On December 16, 2019 OWCP received a copy of appellant's December 4, 2019 request for reconsideration and Dr. Pandhi's November 12, 2019 report. In a December 18, 2019 letter, it notified appellant that it appeared that the second December 4, 2019 request for reconsideration was a duplicate, but that it had been referred for review.

By decision dated April 3, 2020, OWCP modified its October 23, 2019 decision to find that appellant had established a medical diagnosis. The claim remained denied, however, as causal relationship had not been established.

On August 6, 2020 appellant requested reconsideration. She explained that, while scanning parcels on April 15, 2019, her left wrist bent backward as she gripped an oversize parcel, causing her thumb to bend awkwardly and her wrist to pop. Appellant reiterated that she had established all elements of her claim. She submitted a duplicate copy of Dr. Pandhi's November 12, 2019 report.

By decision dated November 12, 2020, OWCP denied reconsideration of the merits of her claim under 5 U.S.C. § 8128(a).

### **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.<sup>2</sup>

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 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.<sup>3</sup>

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.<sup>4</sup> If it chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>5</sup> 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.<sup>6</sup>

### **ANALYSIS**

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

In support of her August 6, 2020 request for reconsideration, appellant did not show that OWCP erroneously applied or interpreted a specific point of law and did not advance a new and relevant legal argument not previously considered. She merely reiterated the previously submitted arguments. OWCP had considered and rejected these arguments when it issued its prior decision.

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<sup>2</sup> 5 U.S.C. § 8128(a); *see J.C.*, Docket No. 20-0614 (issued February 10, 2021); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

<sup>3</sup> 20 C.F.R. § 10.606(b)(3); *see L.D., id.*; *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

<sup>4</sup> *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 the merit decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (February 2020). 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.

<sup>5</sup> *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

<sup>6</sup> *Id.* at § 10.608(b); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

The Board has held that the resubmission of a previously considered argument does not require reopening of the claim for merit review.<sup>7</sup>

Accordingly, the Board finds that appellant is not entitled to a review of the merits based on either the first or second requirement under 20 C.F.R. § 10.606(b)(3).

On reconsideration appellant submitted a duplicate copy of Dr. Pandhi's November 12, 2019 report. The Board has held that the submission of evidence that repeats or duplicates evidence already in the case record does not constitute a basis for reopening a case.<sup>8</sup> Therefore, appellant also failed to meet the third requirement under 20 C.F.R. § 10.606(b)(3), *i.e.*, the submission of relevant and pertinent new evidence not previously considered by OWCP.

The Board accordingly finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied the request for reconsideration without reopening the case for review on the merits.

### CONCLUSION

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

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<sup>7</sup> A.A., Docket No. 20-1564 (issued August 30, 2021); *see I.M.*, Docket No. 20-0980 (issued February 2, 2021); *N.L.*, Docket No. 18-1575 (issued April 3, 2019); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

<sup>8</sup> *A.W.*, Docket No. 21-0298 (issued August 26, 2021); *N.L., id.*; *Eugene F. Butler, id.*

**ORDER**

**IT IS HEREBY ORDERED THAT THAT** the November 12, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 25, 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