

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

V.T., Appellant

and

**U.S. POSTAL SERVICE, LAKEVIEW POST
OFFICE, Chicago, IL, Employer**

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Docket No. 22-0475

Issued: June 3, 2022

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On February 10, 2022 appellant timely filed an appeal from a November 3, 2021 nonmerit decision of the OWCP of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned Docket No. 22-0475.

On February 23, 2016 appellant, then a 48-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she had sustained left hip osteoarthritis, which was aggravated by factors of her federal employment, including walking, climbing stairs, bending, stooping and twisting for the last 22 years. By decision dated October 24, 2018, OWCP accepted the claim for permanent aggravation of left hip arthritis.

On March 28, 2019 appellant filed a claim for compensation (Form CA-7) for total disability from July 9, 2016 through December 28, 2018.

By decision dated October 21, 2020, OWCP found that appellant was entitled to wage-loss compensation for the period April 18, 2017 through December 28, 2018; however, compensation

¹ Appellant indicated on her AB-1 Form that she was appealing from a February 10, 2022 decision, which is a Board decision under Docket No. 21-1157. As appellant filed her request within 30 days of the issuance of the Board's decision, the Board will treat it as a timely petition for reconsideration. *See* 20 C.F.R. § 501.7(a). The only final adverse OWCP decision within the Board's jurisdiction is the November 3, 2021 nonmerit decision. *See* 20 C.F.R. §§ 501.2(c) and 501.3.

remained denied for the period July 9, 2016 through April 17, 2017. It found that the medical evidence of record supported a finding that appellant's April 18, 2017 left hip total arthroplasty was medically necessary for her accepted condition of permanent aggravation of left hip arthritis.

On October 21, 2021 appellant filed a request for reconsideration of the October 21, 2020 decision. In a letter accompanying her reconsideration request, she explained that her treating physician, Dr. Mara Terras, a Board-certified internist, placed her off work from July 9, 2016 through April 17, 2017 pending her total hip replacement. Appellant explained that during this time period she experienced severe pain, difficulty walking, and difficulty with numerous activities of daily living. However, OWCP initially denied her claim and she could not schedule her left hip total replacement.

By decision dated November 3, 2021, OWCP denied appellant's request for reconsideration, finding that appellant neither raised substantive legal questions, nor provided new and relevant evidence.

The Board, having duly considered the matter, concludes that this case is not in posture for decision.

Section 8124(a) of FECA (5 U.S.C. § 8124(a)) provides that OWCP shall determine and make findings of fact and make an award for or against payment of compensation. Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons. As well, OWCP's procedures provide that the reasoning behind OWCP's decision should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.²

In the November 3, 2021 decision, OWCP summarily denied appellant's request for reconsideration and did not reference or discuss the specific argument appellant raised on reconsideration. In its 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 argument submitted on reconsideration was insufficient to meet any of the requirements of 20 C.F.R. § 10.606(b)(3), warranting further merit review. This case must, therefore, be remanded to OWCP for an appropriate decision on appellant's reconsideration request that describes the evidence submitted on reconsideration and provides detailed reasons for accepting or rejecting the reconsideration request,³ pursuant to the standards set forth in 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126. Accordingly,

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

³ See *R.T.*, Docket No. 19-0604 (issued September 13, 2019); *T.M.*, Docket No. 17-1609 (issued December 4, 2017); *J.J.*, Docket No. 11-1958 (issued June 27, 2012).

IT IS HEREBY ORDERED THAT the decision dated November 3, 2021 is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: June 3, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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