

acceptance of the claim to include the additional conditions of bilateral sprain of the hip and thigh and aggravation of the lumbar degenerative disc disease. OWCP also accepted a recurrence of total disability on July 23, 2003. It subsequently paid wage-loss compensation on the supplemental rolls beginning July 23, 2003 and on the periodic rolls beginning October 5, 2003.

By decision dated December 20, 2005, OWCP terminated appellant's wage-loss compensation and medical benefits, effective December 25, 2005. Appellant appealed to the Board. By decision dated January 16, 2007, the Board affirmed the December 20, 2005 decision, finding that OWCP properly terminated appellant's wage-loss compensation and medical benefits, effective December 25, 2005; that she had no continuing work-related disability or medical residuals; and that she had not met her burden of proof to establish a consequential emotional condition.

By decisions dated April 6, September 15, and December 18, 2006 and May 9, 2007, OWCP found appellant had forfeited her compensation from July 13, 2004 to August 27, 2005 as she had performed work delivering telephone books for Directory Distributing Association (DDA) and knowingly failed to report earnings, resulting in an overpayment of compensation in the amount \$18,031.15 for the period July 13, 2004 through August 27, 2005. In its May 19, 2008 decision, the Board affirmed OWCP's September 15 and December 18, 2006 decisions, finding that appellant failed to report her work with DDA in May and August 2005, her use of another social security number, and her delivery of telephone books, such that she knowingly understated her earnings and self-employment and forfeited her compensation for the period July 13, 2004 through August 27, 2005, resulting in an overpayment of compensation in the amount of \$18,031.15. It further determined that she was at fault in the creation of the overpayment and that the overpayment was not subject to waiver.

On July 23, 2007 the District Court of Dallas County, Texas convicted appellant of theft through the receipt of \$6,284.54 of excess mileage reimbursement from OWCP based on an investigation from the Department of Labor, Office of Inspector General. It sentenced appellant to 200 days in jail, 3 months of probation, fined her \$1,500.00, and ordered her to pay \$6,000.00 in restitution for fraud. Both the jail sentence and the fine were suspended.

Appellant submitted an arbitration decision dated September 22, 2007, which found that the employing establishment had improperly terminated her employment based solely on hearsay testimony and documentation from a postal inspector. The basis for the termination were her work for DDS, falsification of travel vouchers, and fraudulent time-clock activity at the employing establishment. The arbitrator also noted that appellant's criminal conviction was not part of the record before her. She reinstated appellant's employment and retirement benefits.

Appellant filed a claim for a schedule award (Form CA-7) on April 14, 2015.

By decision dated August 3, 2015, OWCP denied appellant's schedule award claim, finding that the medical evidence did not establish a ratable impairment. After extensive development, by decision dated March 23, 2018, OWCP denied modification of its prior decisions.

On January 26, 2022 appellant requested reconsideration of the December 20, 2005 termination decision and the finding of an overpayment of compensation. She also requested a

resolution and financial agreement for an alleged false indictment, arrest, negligence, and personal injury caused by the joint investigation with OWCP and the Department of Labor Office of Investigator General. Appellant further requested an updated determination of maximum medical improvement and a schedule award.

Appellant provided an October 30, 2019 decision in which a Magistrate Judge for the U.S. District Court, dismissed appellant's civil complaint against OWCP and the Postal Service Inspection Service without prejudice. In support of her schedule award claim, she provided a July 12, 2000 report from Dr. Richard N. Brown, a Board-certified physiatrist, an August 5, 2005 report from Dr. Ronnie D. Shade, a Board-certified orthopedic surgeon, and an August 27, 2016 magnetic resonance imaging scan report from Dr. Jeffrey Haithcock, a Board-certified neuroradiologist.

By decision dated January 27, 2022, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

The Board finds that this case is not in posture for decision.

OWCP summarily denied appellant's request for reconsideration without complying with the review requirements of FECA and its implementing regulations.³ Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.⁴ 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.⁵ As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence, which would overcome it.⁶

In denying appellant's reconsideration request, OWCP failed to analyze whether it was sufficient to demonstrate clear evidence of error. The January 27, 2022 decision simply noted: "We did consider your request under 20 C.F.R. § 10.607(b) to determine whether you presented clear evidence that [OWCP's] last merit decision was incorrect." OWCP did not address appellant's contentions raised on reconsideration. Furthermore, it provided no discussion relative to the evidence submitted.⁷

The Board finds that OWCP failed to properly explain the findings with respect to the issue presented so that appellant could understand the basis for the decisions, *i.e.*, whether she had

³ 20 C.F.R. § 10.607.

⁴ 5 U.S.C. § 8124(a).

⁵ 20 C.F.R. § 10.126.

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

⁷ *E.H.*, Docket No. 21-1295 (issued April 25, 2022); *see also Order Remanding Case, C.G.*, Docket No. 20-0051 (issued June 29, 2020); *R.T.*, Docket No. 19-0604 (issued September 13, 2019); *R.C.*, Docket No. 16-0563 (issued May 4, 2016).

demonstrated clear evidence that OWCP's prior merit decisions were incorrect.⁸ The Board will, therefore, set aside OWCP's January 27, 2022 decision and remand the case for findings of fact and a statement of reasons, to be followed by an appropriate decision on appellant's reconsideration request. Accordingly,

IT IS HEREBY ORDERED THAT the January 27, 2022 decision of the Office of Workers' Compensation Programs is set aside. The case is remanded for further proceedings consistent with this order of the Board.

Issued: October 17, 2022
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

⁸ *Supra* note 6.