

found that she would be paid compensation for the difference between her rate of pay in the light-duty position and her date-of-injury position.

Appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. The hearing was held on February 15, 2022. By decision dated March 30, 2022, the hearing representative affirmed OWCP's October 4, 2021 decision.

OWCP continued to receive medical evidence.

On March 31, 2023 OWCP scanned into iFECS appellant's request for reconsideration of its March 30, 2022 decision. With her request, appellant enclosed a 15-page memorandum arguing that OWCP had erred in its March 30, 2022 decision, as it contained flawed findings of fact and law. She stated that the decision erroneously concluded that work restrictions from a physician would not have prevented her from using two hands to wash; that the offer of limited duty was not in accordance with OWCP requirements; that OWCP had ignored the "personal comfort doctrine"; that the offer of limited duty was subject to conditions not fulfilled by the employing establishment; that OWCP had incorrectly overlooked the medical necessity of provision of travel arrangements due to her conditions; that OWCP had improperly found that there was no corroborating evidence supporting her claim that she was not provided with assistance; that the information provided to OWCP by the employing establishment were provided with no supporting evidence; and that the offer of limited duty was misleading for someone unfamiliar with the employing establishment's policies, protocols, and setting. Appellant submitted evidence on reconsideration including breakroom protocols; e-mail exchanges regarding her limited, light-duty assignment offer; an April 2019 memorandum regarding low-level standardization for noncritical reusable medical equipment; a March 29, 2021 memorandum regarding the donning and doffing of personal protective equipment for special isolation during the COVID-19 pandemic; an April 27, 2021 note detailing the employing establishment's COVID-19 emergency operations standard operating procedures; a notification of personnel action dated August 6, 2021; January 4, 2022 COVID-19 personal protective equipment recommendations; and a May 23, 2023 work capacity evaluation for musculoskeletal conditions (Form OWCP-5c).

By decision dated April 21, 2023, OWCP summarily 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.² 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.³ 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.⁴ As well, OWCP's

² *D.R.*, Docket No. 21-1229 (issued July 6, 2022); *M.D.*, Docket No. 20-0868 (issued April 28, 2021); *T.P.*, Docket No. 19-1533 (issued April 30, 2020); *see also* 20 C.F.R. § 10.607.

³ 5 U.S.C. § 8124(a).

⁴ 20 C.F.R. § 10.126.

procedures provide that the reasoning behind its 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.⁵

In support of her request for reconsideration, appellant submitted a 15-page memorandum arguing that OWCP had erred in its March 30, 2022 decision, as it contained flawed findings of fact and law. She also submitted evidence as outlined above. In denying appellant's reconsideration request, OWCP failed to analyze whether this argument and evidence submitted on reconsideration was sufficient to demonstrate clear evidence of error. It did not address the argument and evidence submitted in support of her reconsideration request.⁶

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 decision. The Board will, therefore, set aside OWCP's April 21, 2023 decision and remand the case for findings of fact and a statement of reasons, to be followed by an appropriate decision regarding her reconsideration request.⁷ Accordingly,

IT IS HEREBY ORDERED THAT the April 21, 2023 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: December 15, 2023
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

⁶ *M.D.*, Docket No. 20-0868 (issued April 28, 2021); *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).

⁷ *See Order Remanding Case, D.R.*, *supra* note 2; *T.P.*, Docket No. 19-1533 (issued April 30, 2020).