

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

V.R., Appellant)	
)	
and)	Docket No. 23-1045
)	Issued: December 21, 2023
U.S. POSTAL SERVICE, MEMPHIS POST)	
OFFICE, Memphis, TN, Employer)	
)	

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On August 2, 2023 appellant filed a timely appeal from a July 19, 2023 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-1045.

On January 26, 2022 appellant, then a 63-year-old distribution clerk, filed an occupational disease claim (Form CA-2) alleging that she developed right-sided carpal tunnel syndrome (CTS) and cubital tunnel syndrome due to factors of her federal employment, including casing mail, bundling letters, and reaching above shoulder height. She noted that she first became aware of her condition and realized its relationship to her federal employment on September 12, 2021. Appellant did not stop work.

In support of her claim, appellant submitted a December 13, 2021 duty status report (Form CA-17) by Dr. Rommel G. Childress, a Board-certified orthopedic surgeon, who diagnosed a neck sprain and strain and released her to return to work with restrictions.

By decision dated March 3, 2022, OWCP found that the evidence of record failed to establish that appellant had experienced an injury in the performance of duty, as alleged. It, therefore, concluded that the requirements had not been met to establish an injury as defined by FECA.

OWCP thereafter received a report of electromyography and nerve conduction study (EMG/NCV) of the upper extremities dated October 6, 2021, which revealed right-sided CTS and cubital tunnel syndrome.

OWCP also received a November 9, 2022 statement by appellant, who indicated that she had experienced pain in her right hand, wrist, and elbow since September 2021, which she attributed to repetitive activities associated with repairing damaged mail and manual mail sorting. Attached to her statement was a September 1, 2022 narrative report by Dr. Childress, who noted a history of right upper extremity pain, which he indicated that appellant attributed to casing mail on August 23, 2022.

On June 15, 2023 appellant requested reconsideration of OWCP's March 3, 2022 decision.

By decision dated July 19, 2023, OWCP denied appellant's reconsideration request, 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.¹ 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.² 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.³ As well, OWCP's 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.⁴

In support of her request for reconsideration, appellant submitted an October 11, 2021 report of EMG/NCV study, a September 1, 2022 narrative report by Dr. Childress, and a November 9, 2022 statement. In denying her reconsideration request, OWCP failed to analyze whether this evidence was sufficient to demonstrate clear evidence of error. The July 19, 2023 decision simply noted: "You did not present clear evidence of error. Therefore, your request for reconsideration is denied because it was not received within the one-year limit." OWCP did not address the evidence submitted in support of appellant's reconsideration request.⁵

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, *i.e.*, whether she had

¹ *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.

² 5 U.S.C. § 8124(a).

³ 20 C.F.R. § 10.126.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

⁵ *Order Remanding Case, P.W.*, Docket No. 21-1101 (issued March 30, 2023); *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).

demonstrated clear evidence that OWCP's last merit decision was incorrect.⁶ The Board will, therefore, set aside OWCP's July 19, 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 July 19, 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 21, 2023
Washington, DC

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

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

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

⁶ OWCP's regulations and procedures provide that OWCP will reopen a claimant's case for merit review, notwithstanding the one-year filing limitation set forth in 20 C.F.R. § 10.607(a), if the claimants' request demonstrates clear evidence of error on the part of OWCP. *Supra* note 4 at Chapter 2.1602.5(a) (September 2020).

⁷ *See Order Remanding Case, D.R.*, Docket No. 21-1229 (issued July 6, 2022); *T.P.*, *supra* note 1; *see also id.* at § 10.607.