

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

L.D., Appellant

and

**U.S. POSTAL SERVICE, ROBERT E. PRICE
POST OFFICE, Dallas, TX, Employer**

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**Docket No. 23-1108
Issued: March 5, 2024**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

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

JURISDICTION

On August 21, 2023 appellant filed a timely appeal from a March 3, 2023 merit decision and a July 7, 2023 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2c and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish a recurrence of disability commencing September 26, 2009 causally related to his accepted

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the July 7, 2023 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

June 17, 2004 employment injury; and (2) whether OWCP properly denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On June 24, 2004 appellant, then a 39-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 17, 2004 he sustained post-traumatic stress disorder (PTSD) when he was mistakenly arrested by the police while in the performance of duty. He noted that he was physically handcuffed by a large police officer. Appellant stopped work on June 18, 2004. By decision dated September 23, 2005, OWCP accepted his claim for anxiety and PTSD.³

On April 13, 2019 appellant filed a notice of recurrence (Form CA-2a) for disability from work beginning September 26, 2009 causally related to his June 17, 2004 employment injury. In a subsequently filed Form CA-2a dated April 1, 2021, he explained that the symptoms of his PTSD and anxiety never went away. Appellant reported that he tried to cope with his symptoms, but lived in fear and experienced anger over being wrongfully arrested, difficulty sleeping due to nightmares, panic attacks, and feelings of hopelessness. He alleged that the symptoms progressively worsened to the point that even seeing other postal employees would trigger symptoms of severe anxiety and panic.

In a report dated January 3, 2021, Dr. R. Anthony Moore, a Board-certified psychiatrist, indicated that appellant had been employed at the employing establishment since 1993 as a city carrier and later as a union representative. He described that on June 17, 2004 police officers went to the employing establishment to arrest C.T., appellant's coworker, but due to a series of misunderstandings, in part, by appellant's manager, B.M., the police wrongfully arrested appellant. Dr. Moore reported that appellant became enraged and agitated when he had handcuffs placed on him. He recounted that, since that incident, appellant has had active flashbacks of being wrongfully treated and fears of loss of his personhood and dangers ensuing from this arrest. Dr. Moore also indicated that, because appellant was a union representative, management had been angry and aggressive towards him and had previously called postal police on appellant to arrest him for seemingly minor infractions. He explained that all these incidents led to appellant having frequent dreams and memories of these incidents, experiencing difficulty sleeping, and feeling angry, sad, hopeless, suspicious, anxious, and overwhelmed. Dr. Moore further noted that appellant served for three years in the military.

Dr. Moore conducted a mental status examination and diagnosed PTSD due to hostile work environment at the employing establishment on June 17, 2004 major depressive disorder due to hostile work environment on June 17, 2004 generalized anxiety disorder due to hostile work environment on June 17, 2004 and sexual dysfunction due to injuries of June 17, 2004. He opined that appellant's PTSD was caused by the mistreatment by management and others at the employing establishment and the hostile incidents of having the police mistakenly arrest him.

Appellant submitted social work notes and medical treatment notes dated March 10, 2015 through May 9, 2017 regarding the medical treatment that he received for his mental health. In a

³ Appellant was separated from federal employment, effective June 12, 2012.

March 10, 2015 progress note, Dr. William A. Hendrickse, a Board-certified psychiatrist, indicated that appellant was referred to the clinic for treatment of depression and anxiety. He noted that appellant had no prior history of mental health treatment until an incident with the employing establishment in 2005. Appellant indicated that he had been in and out of court regarding the case since 2009. Dr. Hendrickse indicated that appellant had been struggling with a depressed mood since 2009 due to the stress of litigation, loss of income, and worry about the future of his job. He noted that appellant's depressive symptoms significantly worsened in January 2015 when he lost his home. Dr. Hendrickse diagnosed single episode of major depressive disorder, unspecified trauma, and stress-related disorder.

In a March 25, 2016 outpatient note, Dr. Sarah Reiner, a clinical psychologist, related that appellant reported that his most significant stressor was that he was working on a case with the employing establishment due to a negative interaction with a fellow employee several years ago. Appellant noted that he had filed an Equal Employment Opportunity Commission (EEOC) complaint against the employing establishment. Dr. Reiner recounted his complaints of difficulty eating and sleeping. She provided a treatment plan and diagnosed single episode of major depressive disorder and alcohol use disorder.

On April 21, 2021 appellant responded to OWCP's April 5, 2021 development letter. He indicated that he developed PTSD and anxiety as a result of being wrongfully arrested at work on June 17, 2004. Appellant noted that this wrongful arrest caused him extreme stress and anxiety and resulted in his accepted psychological conditions. He explained that, after returning to work, he continued to experience symptoms of PTSD and anxiety, including flashbacks, living in fear, avoidance, hypervigilance, anger, difficulty sleeping due to nightmares, panic attacks, fear of police and guns, difficulty trusting anyone, feelings of hopelessness, and constant anxiety. Appellant reported that he stopped seeking medical treatment for his psychological conditions around the end of 2006, but his symptoms continued and never went away. He indicated that, by September 2009, his mental health had deteriorated so significantly that he could no longer work for the employing establishment.

By decision dated June 24, 2021, OWCP denied appellant's recurrence of disability claim, finding that he had not submitted medical evidence establishing disability from work, commencing September 26, 2009, due to a material change in his accepted June 17, 2004 employment injury.

On November 19, 2021 appellant, through his then-counsel, requested reconsideration.

In an August 31, 2021 addendum to his January 3, 2021 report, Dr. Moore described that on June 17, 2004 appellant was wrongly arrested after his manager incorrectly identified him. He noted that appellant was slammed to the ground, handcuffed, and treated as if he had done something wrong. Dr. Moore reported that, due to that incident, appellant was diagnosed with anxiety and PTSD. He indicated that these sorts of conditions may never disappear and that the symptoms of PTSD and anxiety, including feelings of persecution and paranoia, inability to sleep, nightmares, extreme stress, and avoidance of triggers, become amplified and worsen over time without treatment. Dr. Moore noted that appellant's PTSD diagnosis stemming from the June 17, 2004 employment injury was preceded by a PTSD diagnosis in his past military service, but clarified that these two were not causally related. He explained that prior trauma merely

increased the risk of PTSD response, but that the prior trauma was not causally related to his present condition. Dr. Moore reported that the second traumatic event at appellant's place of employment caused the work-related PTSD.

Dr. Moore indicated that appellant stopped receiving psychotherapeutic treatment for his accepted conditions of PTSD and anxiety around 2006. He noted that appellant's conditions began to spontaneously and naturally deteriorate between his last medical visit in 2006 and the time he stopped working on September 26, 2009. Dr. Moore explained that appellant's feelings of being harassed at work and his perception that management was being aggressive was "consistent with a spontaneous worsening of [appellant's] accepted conditions of PTSD and anxiety." He reported that appellant's feelings of paranoia and persecution amplified, his ability to positively interact with others was diminished, and that appellant became defensive and occasionally combative towards others. Dr. Moore indicated that in March 2016 appellant began receiving treatment for his ongoing PTSD symptoms, including low appetite, difficulty sleeping, insomnia, increased alcohol use, fear of guns and police officers, nightmares, and flashbacks to the wrongful arrest on June 17, 2004. He noted that this ongoing symptomatology mirrored appellant's original symptomatology at the time of the June 17, 2004 original injury and was consistent with a diagnosis of chronic PTSD and anxiety disorder. Dr. Moore opined that appellant's conditions of PTSD and anxiety worsened over time, as opposed to worsening due to other intervening factors. He reported that appellant's current symptoms of PTSD and anxiety disorder could not be reasonably attributed to any other cause except his wrongful arrest by the police officers at work on June 17, 2004. Dr. Moore concluded that appellant's accepted PTSD and anxiety disorder had naturally worsened from the time of appellant's injury, creating interpersonal difficulties with his supervisors, and continued to worsen such that, in 2009, appellant could no longer work at the employing establishment and also had difficulty holding other jobs.

By decision dated February 17, 2022, OWCP denied modification of the June 24, 2021 decision.

On April 25, 2022 appellant, through his then-counsel, requested reconsideration.

OWCP received a police report dated June 17, 2004, and interview reports dated August 9 and September 7, 2004.

By decision dated July 11, 2022, OWCP denied modification of the February 17, 2022 decision.

Appellant subsequently submitted a report dated June 8, 2022 wherein Dr. John Dykema, Board-certified in psychiatry and neurology, noted that appellant had been under his care since July 2021. Dr. Dykema indicated that he had reviewed appellant's history regarding his diagnosis of PTSD and opined that his current diagnosis was more than likely a result of his military service during Desert Storm. He explained that appellant's history was consistent with PTSD with index trauma during army service. Dr. Dykema reported that appellant had symptoms of intrusive memories, nightmares, distressing thoughts, chronically negative emotional state, struggling to connect with others, reduced activity, difficulty expressing

emotion, hypervigilance, irritability, and distorted beliefs about the world, and that these symptoms had been present in varying degrees since military service.

On October 11, 2022 appellant requested reconsideration.

Appellant submitted a Merit System Protection Board (MSPB) settlement agreement dated December 18, 2009 in which the employing establishment agreed to provide back-pay to him for the period September 26 through October 10, 2009. He also submitted several documents regarding his military career.

By decision dated October 24, 2022, OWCP denied modification of the July 11, 2022 decision.

Appellant subsequently submitted a statement alleging that he went through mental issues for years because of the employing establishment police. He indicated that his fight came with a “ball point, not gun point.” Appellant submitted various pleadings before the U.S. Court of Appeals for the Federal Circuit, including a petition for review of a MSPB case under Docket No. 2012-3069, an order under Docket No. 2015-3087 granting his motion for leave to proceed *in forma pauperis*, and a petition for a rehearing under Docket No. 2015-3087.

On November 18, 2022 appellant requested reconsideration. In an attached statement, he detailed his points of disagreement with OWCP’s October 24, 2022 decision. Appellant noted that the two dates he was handcuffed were September 26, 2009 and January 10, 2010, and that his pay stopped on January 11, 2010. He explained that he was led out of the building in handcuffs and told not to return to the employing establishment. Appellant reported that during the time that he was away from the employing establishment, he filed claims with the MSPB and EEOC about what happened on September 26, 2009. He alleged that he still relives his experience with management over and over. Appellant contended that his treating physicians, including Dr. Moore, arrived at the same results.

In a report dated November 14, 2022, Dr. Dykema noted that appellant had monthly visits in his office since July 2021 and detailed his history regarding PTSD. He opined that appellant’s current diagnosis was more than likely a result of his military career during Desert Storm with exacerbation/recurrence related to traumatic events in civilian life. Dr. Dykema related that appellant experienced what he described as an “ambush” in June 2004 during which he was held at gunpoint while working at the employing establishment. Appellant also reported other instances of use/threat of force in his capacity as a union steward, most notably in 2009. Dr. Dykema explained that these incidents had increased symptoms and contributed to chronicity of disease and impairment.

By decision dated November 23, 2022, OWCP denied modification of the October 24, 2022 decision.

On December 19, 2022 appellant requested reconsideration.

In a statement dated December 8, 2022, appellant explained that he never had any intentions to file a Form CA-2a about his “outside occurrences.” He described that on September 26, 2009 police walked him out and that on January 11, 2010 the police walked him

inside the employing establishment office, made him a copy of his settlement agreement, and asked him to leave the premises. Appellant explained that he knew then that he could no longer work for the employing establishment and that his condition started to worsen. He indicated that all of his problems came from the employing establishment police.

Appellant submitted several documents related to his EEOC claim, including a notice of right to file dated December 14, 2015, agreement to extend 30-day EEOC counseling process dated November 9, 2015, and complaint of discrimination against C.H., a management official. He also provided a completed questionnaire dated November 27, 2018 wherein he described that he experienced PTSD symptoms daily when seeing the police, reliving the same situation, nightly sweats, and not being allowed to work. Appellant alleged that the employing establishment did not want him to work because they did not want a mailman with PTSD. He described his hobbies as chess and helping veterans. Appellant indicated that his condition was worsening.

By decision dated March 3, 2023, OWCP denied modification of the November 23, 2022 decision.

On April 12, 2023 appellant requested reconsideration. He alleged that OWCP was following the bullying tactics of the employing establishment by denying all his wage-loss compensation claims (Form CA-7) dated from September 26, 2009 through March 23, 2023. Appellant also asserted that he was misled into filing a Form CA-2a. He noted that three of his psychiatrists all had the same opinion about his condition.

Appellant submitted a police report dated June 17, 2004, a sketch of the conference room and supervisor B.M.'s room, emails between himself and his then-counsel about his claim, and a MSPB settlement agreement dated December 18, 2009.

OWCP also received medical reports previously submitted including an August 5, 2005 attending physician report (Form CA-20) and a narrative report of the same date by Dr. Byron E. Strain, a Board-certified psychiatrist, as well as Dr. Moore's January 3, 2021 report.

By decision dated July 7, 2023, OWCP denied appellant's request for reconsideration of the merits of the claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁵ The term disability is defined as the incapacity, because of an employment injury, to earn the wages the

⁴ *Supra* note 1.

⁵ *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *D.S.*, Docket No. 20-0638 (issued November 17, 2020); *S.W.*, Docket No. 18-1529 (issued April 19, 2019); *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989); *see also Nathaniel Milton*, 37 ECAB 712 (1986).

employee was receiving at the time of the injury.⁶ For each period of disability claimed, the employee has the burden of proof to establish that he or she was disabled from work as a result of the accepted employment injury.⁷ Whether a particular injury causes an employee to become disabled from work, and the duration of that disability, are medical issues that must be proven by a preponderance of the reliable, probative, and substantial medical evidence.⁸

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition that had resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment. This term also means an inability to work because a light-duty assignment made specifically to accommodate an employee's physical limitations, and which is necessary because of a work-related injury or illness is withdrawn or altered so that the assignment exceeds the employee's physical limitations.⁹

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. The change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.¹⁰

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the accepted injury. This burden of proof requires that, a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that for each period of disability claimed, the disabling condition is causally related to the employment injury and supports that conclusion with medical reasoning.¹¹ Where no such rationale is present, the medical evidence is of diminished probative value.¹²

⁶ 20 C.F.R. § 10.5(f); *S.T.*, Docket No. 18-412 (issued October 22, 2018); *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

⁷ *K.C.*, Docket No. 17-1612 (issued October 16, 2018); *William A. Archer*, 55 ECAB 674 (2004).

⁸ *S.G.*, Docket No. 18-1076 (issued April 11, 2019); *Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

⁹ 20 C.F.R. § 10.5(x); *T.H.*, Docket No. 21-0751 (issued September 29, 2021); *D.T.*, Docket No. 19-1064 (issued February 20, 2020); *J.D.*, Docket No. 18-1533 (issued February 27, 2019).

¹⁰ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2 (June 2013); *R.E.*, Docket No. 20-0421 (issued May 17, 2021); *F.C.*, Docket No. 18-0334 (issued December 4, 2018).

¹¹ *H.T.*, Docket No. 17-0209 (issued February 8, 2019); *Ronald A. Eldridge*, 53 ECAB 218 (2001).

¹² *E.M.*, Docket No. 19-0251 (issued May 16, 2019); *Mary A. Ceglia*, Docket No. 04-0113 (issued July 22, 2004).

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish a recurrence of disability commencing September 26, 2009, causally related to his accepted June 17, 2004 employment injury.

In support of his claim appellant submitted reports by Dr. Moore. In a January 3, 2021 report and an August 31, 2021 addendum to that report, Dr. Moore described that on June 17, 2004 appellant was mistakenly arrested at work and became enraged and agitated when he had handcuffs placed on him. He also noted that appellant had served in the military and had worked as a union representative. Dr. Moore explained that all of these incidents led to appellant having frequent dreams and memories of these incidents, feeling angry, sad, hopeless, and suspicious, difficulty sleeping, anxious, and overwhelmed. He conducted a mental status examination and diagnosed PTSD, major depressive disorder, generalized anxiety disorder, and sexual dysfunction due to hostile work environment on June 17, 2004. Dr. Moore explained that these types of conditions may never disappear and that the symptoms of PTSD and anxiety become amplified without treatment. He reported that appellant's conditions began to deteriorate between his last medical visit in 2006 and when he stopped work on September 26, 2009. Dr. Moore clarified that appellant's conditions of PTSD and anxiety worsened over time without other intervening factors. He concluded that appellant's accepted PTSD and anxiety disorder had naturally worsened from the time of appellant's injury, creating interpersonal difficulties with his supervisors, and continued to worsen such that, in 2009, appellant could no longer work at the employing establishment.

Dr. Moore, however, did not provide medical rationale to support his conclusion that appellant's inability to work beginning on September 26, 2009 was related to the accepted June 17, 2004 employment injury. He failed to explain how appellant's June 17, 2004 employment injuries worsened to the extent that appellant was unable to work on or after September 26, 2009. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition or level of disability has an employment-related cause.¹³ As Dr. Moore's opinion is conclusory in nature, it is insufficient to meet appellant's burden of proof to establish a recurrence of disability.¹⁴

Appellant also submitted a March 10, 2015 progress note by Dr. Hendrickse, who indicated that appellant had struggled with a depressed mood since 2009 due to the stress of litigation, loss of income, and worry about the future of his job. Dr. Hendrickse diagnosed single episode of major depressive disorder, unspecified trauma, and stress-related disorder. He did not, however, address the relevant issue of whether appellant sustained a recurrence of disability beginning September 26, 2009 due to his June 17, 2004 employment injury. Likewise, Dr. Reiner also failed to address the issue of disability from work on or after

¹³ See *H.C.*, Docket No. 22-0844 (issued December 5, 2022); *J.S.*, Docket No. 18-0944 (issued November 20, 2018).

¹⁴ See *O.R.*, Docket No. 23-0156 (issued August 22, 2023); see also *M.S.*, Docket No. 19-0189 (issued May 14, 2019).

September 26, 2009. Medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.¹⁵ As these physicians failed to address the relevant issue of disability from work due to a worsening of the accepted June 17, 2004 employment injury, this evidence is insufficient to establish appellant's recurrence claim.¹⁶

In his June 8 and November 14, 2022 reports, Dr. Dykema opined that appellant's current diagnosis of PTSD was more than likely a result of his military service during Desert Storm. As he did not address the relevant issue of disability from work due to a worsening of the accepted June 17, 2004 employment injury, his report is of no probative value and is insufficient to establish appellant's claim.¹⁷

As the medical evidence of record is insufficient to establish a recurrence of disability beginning September 26, 2009, causally related to the accepted employment injury, the Board finds that appellant has not met his burden of proof to establish his recurrence claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

LEGAL PRECEDENT -- ISSUE 2

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.¹⁸

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.¹⁹

¹⁵ See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); see also *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

¹⁶ See *D.M.*, Docket No. 21-0930 (issued February 8, 2023); *A.G.*, Docket No. 21-0756 (issued October 18, 2021); *L.B.*, *id.*

¹⁷ See *supra* note 15.

¹⁸ 5 U.S.C. § 8128(a); see *A.N.*, Docket No. 20-1487 (issued March 19, 2021); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); see also *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

¹⁹ 20 C.F.R. § 10.606(b)(3); see *S.K.*, Docket No. 22-0248 (issued June 27, 2022); see also *L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.²⁰ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.²¹ 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.²²

ANALYSIS -- ISSUE 2

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

In connection with his April 12, 2023 reconsideration request, appellant has not alleged or demonstrated that OWCP erroneously applied or interpreted a specific point of law. Moreover, he did not advance a relevant legal argument not previously considered by OWCP. Appellant merely asserted that OWCP was following bullying tactics and reiterated that his psychiatrists had provided medical opinion in support of his claim. The Board has held that evidence or argument, which repeats or duplicates evidence or argument already in the record does not constitute a basis for reopening a claim.²³ Consequently, appellant is not entitled to a review of the merits of his claim based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).²⁴

Furthermore, appellant did not submit any pertinent new and relevant medical evidence to support his April 12, 2023 reconsideration request. Because he has not provided relevant and pertinent new evidence, he was not entitled to a review of the merits based on the third requirement under 20 C.F.R. § 10.606(b)(3).²⁵

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 merit review.

²⁰ *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 OWCP's decision for which review is sought. *Supra* note 10 at Chapter 2.1602.4 (September 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). *Id.* at Chapter 2.1602.4b.

²¹ *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

²² *Id.* at § 10.608(b); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

²³ *J.L.*, Docket No. 21-1373 (issued March 27, 2023); *S.F.*, Docket No. 18-0516 (issued February 12, 2020); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

²⁴ 20 C.F.R. at § 10.606(b)(3); *M.L.*, Docket No. 22-0120 (issued May 12, 2022); *G.K.*, Docket No. 20-1026 (issued December 11, 2020).

²⁵ *See D.H.*, Docket No. 22-0875 (issued December 5, 2022); *see also D.J.*, Docket No. 21-0371 (issued November 24, 2021).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a recurrence of disability commencing September 26, 2009, causally related to his accepted June 17, 2004 employment injury. The Board also finds that OWCP properly denied his request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the July 7 and March 3, 2023 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 5, 2024

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