

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

P.B., Appellant)	
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)	
and)	Docket No. 25-0635
)	Issued: August 5, 2025
U.S. POSTAL SERVICE, COLUMBUS POST OFFICE, Columbus, GA, Employer)	
)	
)	

Appearances:

*Dexter Lee Lester, for the appellant¹
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 18, 2025 appellant, through her representative, filed a timely appeal from a May 23, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from OWCP's last merit decision dated May 8, 2024, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction to review the merits of this case.

ISSUE

The issue is whether OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on an appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On February 8, 2024 appellant, then a 51-year-old city carrier assistant, filed an occupational disease claim (Form CA-2) alleging that she developed hip bursitis and sacroiliitis due to factors of her federal employment, which included repetitive walking, standing, twisting, pivoting, lifting, reaching, stooping, and bending. She indicated that she first became aware of her conditions on November 1, 2023, and realized their relationship to factors of her federal employment on November 18, 2023. Appellant did not stop working.

In support of her claim, appellant submitted a November 15, 2023 report from Dr. William E. Roundtree, a Board-certified family practitioner, who diagnosed work-related hip bursitis and sacroiliitis and noted that she would require physical therapy. OWCP also received an undated physical therapy note.

In a February 28, 2024 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the requested evidence.

OWCP subsequently received an August 28, 2023 medical report from Tricesha A. Brummitt, a nurse practitioner who assessed pain in the right foot and ankle and sprain of calcaneofibular ligament of the right ankle.

In a November 15, 2023 partially completed report, Dr. Roundtree noted that appellant performed a lot of walking at work and occasional lifting. He opined, "I think her problem is primarily work related." In a January 22, 2024 report, Dr. Roundtree provided assessments of low back pain, lumbar radiculopathy, and sacroiliitis.

In a follow-up letter dated April 1, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish her claim. It noted that she had 60 days from the February 28, 2024 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No additional evidence was received.

By decision dated May 8, 2024, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted factors of her federal employment.

OWCP continued to receive evidence. In a February 10, 2025 duty status report (Form CA-17), from a provider with an illegible signature, reported a date of injury of November 1, 2023 and described the work incident of appellant exiting her work vehicle and falling due to her pants leg being caught on the seat. Diagnoses of patellar tendinitis, right knee; right shoulder impingement; lumbar spondylosis; sacroiliitis disorder of ligament, unspecified ankle and work restrictions were provided. In an April 14, 2025 report, Dr. Thein Quach, a Board-certified anesthesiologist, provided trigger point injections for diagnosis of ligament disorder, unspecified ankle.

On May 8, 2025 appellant requested reconsideration of OWCP's May 8, 2024 decision. In a May 8, 2025 letter, she indicated that she was providing relevant and pertinent new evidence and

in response to OWCP's development questionnaire she related that she had electronically submitted medical evidence.

In progress reports dated January 22, 2024, and February 19 and May 1, 2025, Dr. Roundtree provided assessments of low back pain, lumbar radiculopathy, sacroiliitis, cervical spondylosis and chronic pain syndrome.

Reports from Ms. Brummitt dated July 31, August 28, and December 10, 2024 included appellant's progress.

By decision dated May 23, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT

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 or her own motion or on application.³

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.⁴

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.⁵ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.⁶ 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.⁷

The Board has held that the submission of evidence or argument which repeats or duplicates evidence or argument already in the case record⁸ and the submission of evidence or

³ 5 U.S.C. § 8128(a); *see A.B.*, Docket No. 23-0919 (issued March 26, 2024); *R.C.*, Docket No. 22-0612 (issued October 24, 2022); *M.S.*, Docket No. 19-1001 (issued December 9, 2019); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *W.C.*, 59 ECAB 372 (2008).

⁴ 20 C.F.R. § 10.606(b)(3); *see R.C.*, *id.*; *L.D.*, *id.*

⁵ *Id.* at § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, 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.

⁶ *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

⁷ *Id.* at § 10.608(b); *A.B.*, *supra* note 3; *M.S.*, Docket No. 19-0291 (issued June 21, 2019); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

⁸ *N.L.*, Docket No. 18-1575 (issued April 3, 2019); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

argument which does not address the particular issue involved does not constitute a basis for reopening a case.⁹

ANALYSIS

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

Appellant's request for reconsideration neither alleged nor demonstrated that OWCP erroneously applied or interpreted a specific point of law. Additionally, it did not advance a relevant legal argument not previously considered by OWCP. Consequently, appellant is not entitled to further review of the merits of her claim based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).

Furthermore, appellant has not provided relevant and pertinent new evidence in support of her request for reconsideration. On reconsideration, she submitted medical reports dated January 22, February 19, May 1, 2024 from Dr. Roundtree and an April 12, 2025 report from Dr. Quach which failed to address the causal relationship between the accepted employment factors and her diagnosed medical condition. The Board has held that the submission of evidence or argument which does not address the particular issue involved does not constitute a basis for reopening a case.¹⁰

Appellant also provided treatment notes dated July 31 and August 28, 2024 from Ms. Brummitt, a nurse practitioner. However, this evidence is irrelevant to the underlying issue, as certain healthcare providers such as nurses, physician assistants, and physical and occupational therapists are not considered "physician[s]" as defined under FECA.¹¹ Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.¹²

The February 10, 2025 Form CA-17 contains an illegible signature from a provider. The Board has held that unsigned reports and reports that bear illegible signatures cannot be considered probative medical evidence because they do not provide an indication that the person completing

⁹ *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *Edward Matthew Diekemper*; 31 ECAB 224, 225 (1979).

¹⁰ 20 C.F.R. § 10.608(b); *see T.V.*, Docket No. 19-1504 (issued January 23, 2020); *E.R.*, *supra* note 7; *Edward Matthew Diekemper, id.*

¹¹ Section 8101(2) provides that under FECA the term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by the applicable state law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 - - Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, physical and occupational therapists are not competent to render a medical opinion under FECA); *see also P.S.*, Docket No. 17-0598 (issued June 23, 2017) (registered nurses and nurse practitioners are not considered physicians as defined under FECA).

¹² *Id.*

the report qualifies as a physician under FECA.¹³ As such, this report does not constitute a basis to reopen the case for a merit review.

Appellant did not provide any relevant and pertinent new evidence regarding the issue of whether her diagnosed medical conditions were due to the claimed occupational work factors. Therefore, she was not entitled to a review of the merits based on the third above -noted requirement under 20 C.F.R. § 10.606(b)(3).

The Board, accordingly, finds that as appellant has not met any of the requirements under 20 C.F.R. § 10.606(b)(3), pursuant to 20 C.F.R. § 10.608 OWCP properly denied merit review.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the May 23, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 5, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

¹³ See *B.S.*, Docket No. 22-0918 (issued August 29, 2022); *S.D.*, Docket No. 21-0292 (issued June 29, 2021); *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Merton J. Sills*, 39 ECAB 572, 575 (1988).