

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

P.T., Appellant))
)
and)	Docket No. 25-0829
		Issued: December 22, 2025
DEPARTMENT OF JUSTICE, BUREAU OF PRISONS, FEDERAL CORRECTIONAL INSTITUTION-HAZELTON, Bruceton Mills, WV, Employer))
)
)

Appearances:

Joseph Brodak, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 11, 2025, appellant, through counsel, filed a timely appeal from a March 17, 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 July 7, 2020, to the filing of

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 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.

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 over the merits of this case.³

ISSUE

The issue is whether OWCP properly denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

FACTUAL HISTORY

On July 28, 2015, appellant, then a 43-year-old registered nurse, filed a traumatic injury claim (Form CA-1) alleging that on May 23, 2015 she sustained an injury when she helped a patient from the floor to a wheelchair and the patient pulled both of them back toward the floor, while in the performance of duty. She stopped work on June 20, 2015, and returned to full-time, modified-duty work with restrictions on April 1, 2016. OWCP initially accepted the claim for paresthesia of the right and left legs. It subsequently expanded the acceptance of the claim to include syringomyelia (post-traumatic syrinx); syringobulbia; and bilateral disturbance of skin sensation. OWCP paid appellant wage-loss compensation on the supplemental rolls from September 21, 2015 through March 31, 2016. Appellant stopped work on February 17, 2017.

On May 19 and July 10, 2017, appellant filed several claims for compensation (Form CA-7) for disability from work during the period March 8 through July 8, 2017.

Appellant submitted medical evidence in support of her claim.

By decision dated January 8, 2018, OWCP denied appellant's recurrence claim, finding that the medical evidence of record was insufficient to establish disability from work due to a material change/worsening of her accepted work-related conditions.

On February 6, 2018, appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. In support thereof, she submitted medical evidence.

By decision dated June 19, 2018, OWCP's hearing representative affirmed the January 8, 2018 decision, finding that the medical evidence of record was insufficient to establish a recurrence of disability during the period March 8 through July 8, 2017, causally related to her accepted employment injury.

Thereafter, OWCP continued to receive medical evidence.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the issuance of the March 17, 2015 decision, and on appeal, appellant submitted additional evidence. 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.*

On January 8, 2019, appellant requested reconsideration of the June 19, 2018 decision. OWCP subsequently received medical evidence.

By decision dated April 8, 2019, OWCP denied modification of the June 19, 2018 decision.

OWCP thereafter received additional medical evidence.

On April 8, 2020, appellant requested reconsideration of the April 8, 2019 decision. In support thereof, she submitted medical evidence.

By decision dated July 7, 2020, OWCP denied modification of the April 8, 2019 decision.

OWCP subsequently received additional medical evidence.

On July 30, 2021, appellant requested reconsideration of the July 7, 2020 decision and submitted medical evidence in support of her request.

By decision dated August 4, 2021, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

Thereafter, OWCP received medical evidence from Dr. Charles P. Gennaula, an attending Board-certified neurologist. In a May 25, 2021 medical report, Dr. Gennaula assessed syringomyelia and syringobulbia. He recommended a magnetic resonance imaging (MRI) scan of appellant's thoracic and lumbar region to determine whether there was an exacerbation of her prior significant history of syrinx and possible diagnosis of multiple sclerosis (MS).

In a June 10, 2021 report, Dr. Gennaula noted the June 2, 2021 thoracic and lumbar spine MRI scan results and reiterated his prior assessments of syringomyelia and syringobulbia.

Additionally, OWCP received medical evidence from Dr. Barbara E. Wilhem, an attending family practitioner. In an October 14, 2022 progress note, Dr. Wilhem assessed syringomyelia, post-traumatic syrinx, and paraesthesia of the right and left lower extremities. She also assessed neurogenic bladder. In a report of even date, Dr. Wilhem advised that there was no question that appellant's exacerbation, continued symptoms, and inability to work resulted from her accepted condition of traumatic syringomyelia. She explained that MRI scan results showed a worsening of her condition, and scar tissue that could cause another exacerbation at any time. Dr. Wilhem noted appellant's symptoms, which included numbness from her waist down, charley horses in her legs, leg spasms, heat and cold intolerances, bladder control issues, loss of perineal sensation such that she could not experience intimate pleasures, significant pain in her legs, and a constant burning sensation.

In a progress note dated January 9, 2023, Dr. Bethan Honce, a Board-certified physiatrist, provided assessments of transverse myelopathy and lumbar degenerative disc disease.

In progress notes dated June 6 and December 9, 2024, Dr. Wilhem reiterated her prior assessments of syringomyelia, post-traumatic syrinx, paresthesia of lower extremity, and

assessment of neurogenic bladder. She also assessed transverse myelitis, Chiari 1 malformation, and migraine with aura.

On March 12, 2025, appellant again requested reconsideration of the July 7, 2020 decision. In support thereof, she submitted a June 6, 2024 letter by Dr. Wilhem who restated her prior assessments of the accepted conditions of syringomyelia, post-traumatic syrinx, and paresthesias of the left and right lower extremities, additional assessments of neurogenic bladder, transverse myelitis, and Chiari 1 malformation. She again concluded that appellant's exacerbation, continued symptoms, and inability to work resulted from her accepted condition of traumatic syringomyelia based on MRI scan test results.

By decision dated March 17, 2025, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

LEGAL PRECEDENT

Pursuant to section 8128(a) of FECA, OWCP has the discretion to reopen a case for further merit review.⁴ This discretionary authority, however, is subject to certain restrictions. For instance, a request for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.⁵ Timeliness is determined by the document receipt date, *i.e.*, the "received date" in OWCP's iFECS.⁶ Imposition of this one-year filing limitation does not constitute an abuse of discretion.⁷

When a request for reconsideration is untimely, OWCP undertakes a limited review to determine whether the request demonstrates clear evidence that OWCP's most recent merit decision was in error.⁸ Its procedures provide that it will reopen a claimant's case for merit review, notwithstanding the one-year filing limitation set forth in 20 C.F.R. § 10.607, if the claimant's request for reconsideration demonstrates "clear evidence of error" on the part of OWCP.⁹

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.¹⁰ The evidence must be positive, precise, and explicit and

⁴ *Supra* note 2 at § 8128(a); *L.W.*, Docket No. 18-1475 (issued February 7, 2019); *Y.S.*, Docket No. 08-0440 (issued March 16, 2009).

⁵ 20 C.F.R. § 10.607(a).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4b (September 2020).

⁷ *G.G.*, Docket No. 18-1072 (issued January 7, 2019); *E.R.*, Docket No. 09-0599 (issued June 3, 2009); *Leon D. Faidley, Jr.*, 41 ECAB 104 (1989).

⁸ See 20 C.F.R. § 10.607(b); *M.H.*, Docket No. 18-0623 (issued October 4, 2018); *Charles J. Prudencio*, 41 ECAB 499 (1990).

⁹ *L.C.*, Docket No. 18-1407 (issued February 14, 2019); *M.L.*, Docket No. 09-0956 (issued April 15, 2010). See also *id.* at § 10.607(b); *supra* note 6 at Chapter 2.1602.5 (September 2020).

¹⁰ *S.C.*, Docket No. 18-0126 (issued May 14, 2016); *supra* note 6 at Chapter 2.1602.5 (September 2020).

must manifest on its face that OWCP committed an error. Evidence which does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to demonstrate clear evidence of error. It is not enough merely to show that the evidence could be construed so as to produce a contrary conclusion. This entails a limited review by OWCP of how the evidence submitted with the reconsideration request bears on the evidence previously of record and whether the new evidence demonstrates clear error on the part of OWCP.

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.¹¹ The claimant must present evidence which on its face demonstrates that OWCP made an error (for example, proof that a schedule award was miscalculated). Evidence such as a detailed, well-rationalized medical report which, if submitted before the denial was issued, would have created a conflict in medical opinion requiring further development, is not clear evidence of error.¹² The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.¹³

ANALYSIS

The Board finds that OWCP properly denied appellant's request for reconsideration, as it was untimely filed and failed to demonstrate clear evidence of error.

The last merit decision was issued by OWCP on July 7, 2020. As appellant's request for reconsideration was not received by OWCP until March 12, 2025, more than one year after the July 7, 2020 merit decision, pursuant to 20 C.F.R. § 10.607(a), it was untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in denying the claim.¹⁴

In support of appellant's untimely request for reconsideration, OWCP received reports dated May 25 and 27, and June 2 and 10, 2021 from Dr. Gennaula, who assessed syringomyelia and syringobulbia. It also received reports dated October 14, 2022 and June 6, 2024, wherein Dr. Wilhelm opined that appellant's exacerbation, continued symptoms, and inability to work resulted from her accepted condition of traumatic syringomyelia based on MRI scan results. Appellant also submitted progress notes dated October 14, 2022 and June 6 and December 9, 2024, wherein Dr. Wilhem assessed neurogenic bladder, transverse myelitis, Chiari 1 malformation, and migraine with aura conditions, syringomyelia, post-traumatic syrinx, and paraesthesia of the right and left lower extremities. In a January 9, 2023 progress note, Dr. Honce assessed transverse myelopathy and lumbar degenerative disc disease. As noted above, clear evidence of error is intended to represent a difficult standard.¹⁵ The Board has long

¹¹ *G.G.*, *supra* note 7; *see also* 20 C.F.R. § 10.607(b); *id.* at Chapter 2.1602.5a (September 2020).

¹² *J.S.*, Docket No. 16-1240 (issued December 1, 2016); *id.* at Chapter 2.1602.5(a) (September 2020).

¹³ *D.S.*, Docket No. 17-0407 (issued May 24, 2017).

¹⁴ 20 C.F.R. § 10.607(b); *L.H.*, Docket No. 25-0664 (issued August 12, 2025); *D.Z.*, Docket No. 25-0422 (issued June 26, 2025); *S.C.*, Docket No. 20-1537 (issued April 14, 2021); *R.T.*, Docket No. 19-0604 (issued September 13, 2019); *see Debra McDavid*, 57 ECAB 149 (2005).

¹⁵ *Supra* note 11.

held that even evidence such as a detailed, well-rationalized medical report, which if submitted before the denial was issued would have created a conflict in medical opinion requiring further development, does not demonstrate clear evidence of error.¹⁶ It is merely not enough to establish that the evidence could be construed so as to produce a contrary conclusion.¹⁷

As appellant's March 12, 2025 request for reconsideration did not show on its face that OWCP's July 7, 2020 decision contained an error, the Board finds that it fails to demonstrate clear evidence of error.¹⁸

CONCLUSION

The Board finds that OWCP properly denied appellant's request for reconsideration, as it was untimely filed and failed to demonstrate clear evidence of error.

ORDER

IT IS HEREBY ORDERED THAT the March 17, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 22, 2025
Washington, DC

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

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

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

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *B.T.*, Docket No. 25-0514 (issued June 17, 2025).