

² The Board notes that appellant submitted additional evidence on appeal. 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.*

OWCP properly denied appellant's October 9, 2024 request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On May 13, 2024 appellant, then a 55-year-old human resources clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained bilateral carpal tunnel syndrome and bilateral degenerative joint disease of the knees causally related to factors of her federal employment, including repetitive motion of her hands and standing most of the day. She noted that she first became aware of her conditions on June 25, 2014 and their relationship to her federal employment on July 2, 2014. Appellant stopped work on July 27, 2022.³

In a development letter dated May 23, 2024, OWCP informed appellant of the deficiencies of her occupational disease claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. OWCP afforded appellant 60 days to submit the necessary evidence.

In notes dated September 25 and November 4, 2015, Dr. Thomas Lyons, a Board-certified orthopedic surgeon, stated that appellant missed work on September 25 and 26, 2015 due to left knee pain, and was off work on November 4, 2015 due to bilateral knee pain.

In a follow-up letter dated June 17, 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 May 23, 2024 development 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.

In a statement dated July 23, 2024, appellant replied to OWCP's development questionnaire. She explained that she had previously filed a claim for her knees and hands with a date of injury of January 27, 2012 and noted that she had not claimed a cervical spine condition. Appellant listed activities outside of her federal employment and noted that her last orthopedic treatment occurred on May 31, 2024. She attached a copy of her January 27, 2012 traumatic injury claim.

In a form report dated June 25, 2014, Dr. Lyons diagnosed bilateral degenerative joint disease of the knees. He noted that the approximate commencement date of the condition was June 25, 2014 and stated that he had treated appellant from July 2, 2014 through November 4, 2015.

³ In OWCP File No. xxxxxx133 appellant filed an occupational disease claim (Form CA-2) on August 8, 2017 alleging that she developed bilateral carpal tunnel syndrome due to factors of her federal employment. This claim was denied by decision dated September 15, 2017. In OWCP File No. xxxxxx615 appellant filed a traumatic injury claim (Form CA-1) on January 27, 2012 alleging that she injured her left knee when she fell out of a chair. This claim was closed by short form closure and remains in a closed/retired case posture.

Appellant submitted an undated duty status report (Form CA-17) with an illegible signature in which noted a diagnosis of right knee strain and indicated an injury that occurred due to a slip from a broken chair on January 27, 2012.

In a work activity status report dated January 30, 2012, Dr. Ronald French, a Board-certified orthopedic surgeon, diagnosed knee/leg sprain.

By decision dated August 13, 2024, OWCP denied appellant's occupational disease claim, finding that she had not submitted sufficient medical evidence to establish causal relationship between the accepted employment factors and her diagnosed conditions. It reissued the August 13, 2024 decision as a "corrected copy" on August 21, 2024.

On October 9, 2024 appellant requested reconsideration. No additional evidence or argument was received.

By decision dated October 15, 2024, OWCP denied appellant's request for reconsideration 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 the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) rationalized medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.⁶

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁷ The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by

⁴ *Supra* note 1.

⁵ *K.M.*, Docket No. 24-0752 (issued October 16, 2024); *C.K.*, Docket No. 19-1549 (issued June 30, 2020); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *M.Y.*, Docket No. 24-0865 (issued October 18, 2024); *L.D.*, Docket No. 19-1301 (issued January 29, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *E.K.*, Docket No. 25-0077 (issued January 21, 2025); *I.J.*, Docket No. 19-1343 (issued February 26, 2020); *T.H.*, 59 ECAB 388 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors.⁸

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment.

Appellant submitted a January 27, 2012 work activity status report from Dr. French diagnosing knee/leg sprain and a June 25, 2014 form report from Dr. Lyons diagnosing bilateral degenerative joint disease of the knees. This report and form did not contain an opinion regarding the cause of the diagnosed medical conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.⁹ As such, this evidence is insufficient to establish appellant's claim.

Appellant also submitted notes dated September 25 and November 5, 2015 from Dr. Lyons stating that she was off work on September 25 and 26 and November 4, 2015 due to knee pain. The Board has held that a medical report lacking an opinion on causal relationship is of no probative value.¹⁰ This evidence, therefore, is insufficient to establish the claim.

Appellant submitted an undated Form CA-17 with an illegible signature. The Board has held that reports that are unsigned or bear an illegible signature lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.¹¹

As the medical evidence of record is insufficient to establish causal relationship between appellant's diagnosed medical conditions and the accepted factors of her federal employment, the Board finds that she has not met her burden of proof.

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.

⁸ *D.W.*, Docket No. 24-0492 (issued January 14, 2025); *D.J.*, Docket No. 19-1301 (issued January 29, 2020); *A.T.*, Docket No. 18-0221 (issued June 7, 2018).

⁹ *G.M.*, Docket No. 24-0388 (issued May 28, 2024); *C.R.*, Docket No. 23-0330 (issued July 28, 2023); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁰ *M.K.*, Docket No. 22-1303 (issued May 12, 2023); *L.T.*, Docket No. 20-0582 (issued November 15, 2021).

¹¹ *R.W.*, Docket No. 25-0096 (issued January 31, 2025); *D.F.*, Docket No. 22-0904 (issued October 31, 2022); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

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 or her own motion or on application.¹²

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or 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.¹³

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.¹⁴ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.¹⁵ 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.¹⁶

ANALYSIS -- ISSUE 2

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).

In a request for reconsideration dated August 30, 2024, appellant did not argue that OWCP erroneously applied or interpreted a specific point of law or advance a relevant legal argument not previously considered by OWCP. Thus, she was not entitled to a review of the merits of her claim based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).¹⁷

¹² 5 U.S.C. § 8128(a); *see S.B.*, Docket No. 24-0703 (issued December 13, 2024); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *W.C.*, 59 ECAB 372 (2008).

¹³ 20 C.F.R. § 10.606(b)(3); *see S.B.*, *L.D.*, *id.*; *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

¹⁴ *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. 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.

¹⁵ *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

¹⁶ *Id.* at § 10.608(b); *B.S.*, Docket No. 20-0927 (issued January 29, 2021); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

¹⁷ *See J.P.*, Docket No. 25-0028 (issued December 6, 2024); *C.S.*, 19-0851 (issued November 18, 2019); *J.B.*, Docket No. 17-0628 (issued June 28, 2017).

Appellant also did not submit any medical evidence on reconsideration. Because she did not provide relevant and pertinent new medical evidence, she was not entitled to a review of the merits based on the third requirement under 20 C.F.R. § 10.606(b)(3).¹⁸

The Board, therefore, 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.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a medical condition causally related to the accepted factors of her federal employment. The Board further finds that OWCP properly denied her request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

ORDER

IT IS HEREBY ORDERED THAT the August 21 and October 15, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: February 24, 2025
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹⁸ See 20 C.F.R. § 10.606(b)(3)(iii); see also *J.P.*, *id.*