

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

A.B., Appellant

and

**U.S. POSTAL SERVICE, BEDFORD PARK
POST OFFICE, Bedford Park, IL, Employer**

Docket No. 25-0465

Issued: June 20, 2025

Appearances:
Appellant, pro se
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
JANICE B. ASKIN, Judge

JURISDICTION

On April 7, 2025 appellant filed a timely appeal from an October 7, 2024 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from OWCP's last merit decision, dated October 4, 2023, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.²

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 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the October 7, 2024 decision, OWCP received additional evidence. 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.*

FACTUAL HISTORY

On November 19, 2022 appellant, then a 56-year-old supervisor customer services, filed an occupational disease claim (Form CA-2) alleging that she developed a stress-related condition due to factors of her federal employment, including working long hours, six to seven days per week, in a toxic and understaffed work environment. She noted that she first became aware of her condition and realized its relationship to her federal employment on January 14, 2022. Appellant stopped work on January 14, 2022.

In a development letter dated November 22, 2022, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary to establish her claim and provided a questionnaire for her completion. In a separate letter of even date, OWCP requested that the employing establishment provide additional evidence, including comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations. It afforded both parties 30 days to respond.

In a December 8, 2022 response to OWCP's development letter, I.H., an employing establishment postmaster, noted that while they were sometimes short a supervisor, assistance was provided. He also related that there had been an Equal Employment Opportunity (EEO) complaint filed regarding two postmasters who were sent to her station to assist appellant and work for her as supervisors. A copy of appellant's job description was also provided. No response was received from appellant.

By decision dated January 5, 2023, OWCP denied appellant's emotional/stress-related condition claim, finding that the evidence of record was insufficient to establish that the injury and/or events occurred, as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On January 19, 2023 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Appellant submitted medical records from Brittany Helmich, a licensed clinical professional counselor, and Dr. Jieun Heo, a Board-certified family practitioner, dated January 14, 2022 through August 4, 2023, providing diagnoses of adjustment disorder with mixed anxiety and depressed mood. OWCP subsequently converted her request to a review of the written record following her failure to attend the oral hearing.

By decision dated October 4, 2023, OWCP's hearing representative affirmed the January 5, 2023 decision.

On October 3, 2024 appellant requested reconsideration, asserting that she had additional evidence from her treating physician, which had not previously been considered. However, no evidence was received with appellant's reconsideration request.

By decision dated October 7, 2024, 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

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).

With her request for reconsideration, appellant asserted that she had additional evidence to support her emotional/stress-related condition claim. However, her reconsideration request does not advance a new legal argument not previously considered, nor does it show that OWCP erroneously applied or interpreted a specific point of law. Thus, appellant is not entitled to a review of the merits of her claim based on the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).⁸

³ 5 U.S.C. § 8128(a); *see 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 S.B.*, Docket No. 24-0703 (issued December 13, 2024); *L.D.*, *id.*; *see also K.L.*, Docket No. 17-1479 (issued December 20, 2017); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

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); *M.S.*, Docket No. 19-0291 (issued June 21, 2019); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

⁸ *See S.B.*, *supra* note 4; *G.Q.*, Docket No. 18-1697 (issued March 21, 2019); *Alan G. Williams*, 52 ECAB 180 (2000).

No additional evidence was received by OWCP on reconsideration. Therefore, appellant is not entitled to further review of the merits of her claim based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).

The Board, accordingly, finds that appellant did not meet 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 October 7, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 20, 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