

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

---

<p><b>B.T., Appellant</b></p> <p>and</p> <p><b>U.S. POSTAL SERVICE, COTTONWOOD POST OFFICE, Salt Lake City, UT, Employer</b></p>	) ) ) ) ) ) )	<b>Docket No. 25-0514</b> <b>Issued: June 17, 2025</b>
--	---------------------------------	---

---

*Appearances:*

*David J. Holdsworth, Esq.*, for the appellant<sup>1</sup>  
*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 April 21, 2025 appellant, through counsel, filed a timely appeal from a November 21, 2024 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).<sup>2</sup> As more than 180 days has elapsed from OWCP's last merit decision, dated October 26, 2023, to the filing

---

<sup>1</sup> 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.

<sup>2</sup> Appellant, through counsel, submitted a timely request for oral argument before the Board. 20 C.F.R. § 501.5(b). In support of appellant's oral argument request, he asserted that oral argument should be granted because the November 11, 2024 request for reconsideration was timely filed. Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). The Board, in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied and this decision is based on the case record as submitted to the Board.

of this appeal, pursuant to the Federal Employees' Compensation Act<sup>3</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.

### **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 June 19, 2021 appellant, then a 37-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on June 18, 2021 he suffered injuries to his neck and jaw when he was assaulted by a coworker while in the performance of duty. He did not stop work. Appellant was seen by a physician assistant on the date of injury and released to full duty.

Appellant filed claims for compensation (Form CA-7) for disability from work during the period June 19 through July 27, 2021.

In an August 12, 2021 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of additional factual and medical evidence needed and provided a questionnaire for completion. OWCP afforded appellant 30 days to submit the necessary evidence and indicated that no action could be taken on his CA-7 claim until his case was adjudicated.

On December 20, 2022 OWCP accepted the claim for post-traumatic stress disorder (PTSD). This was based on the December 13, 2022 report of Dr. Daniel Inouye, a Board-certified psychiatrist and second opinion examiner, who opined that appellant's PTSD was the result of the June 18, 2021 employment incident. While Dr. Inouye further indicated that the PTSD had not resolved, he opined the PTSD was mild and should not prevent appellant from working.

On August 3, 2023 appellant filed additional CA-7 forms claiming wage-loss compensation for intermittent disability from work during the period October 9, 2021 through June 11, 2022.

By decision dated October 26, 2023, OWCP denied appellant's claim for wage-loss compensation for disability from work during the period June 19, 2021 through June 11, 2022. It found the medical evidence did not establish that he was disabled from work as a result of the accepted June 18, 2021 employment injury.

On November 11, 2024 appellant, through counsel, requested reconsideration and alleged, in pertinent part, that despite OWCP's December 20, 2022 acceptance of the claim, appellant had not been paid for any time lost from work thereby establishing clear evidence of error.

In his May 12, 2022 report, Dr. Llewellyn opined that appellant has PTSD directly related to the accepted employment incident. He further opined that appellant continued to suffer from the symptoms and signs of PTSD, which were causing substantial functional impairment.

---

<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

Dr. Llewellyn recommended that appellant be allowed time away from work to address certain issues of concern.

By decision dated November 21, 2024, OWCP denied appellant's reconsideration request, finding that it was untimely filed and failed to demonstrate clear evidence of error.

### **LEGAL PRECEDENT**

To be entitled to a merit review of an OWCP decision denying or terminating a benefit, a request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.<sup>4</sup> Timeliness is determined by the document receipt date of the request for reconsideration as is indicated by the "received date" in the Integrated Federal Employees' Compensation System (iFECS).<sup>5</sup> Imposition of this one-year filing limitation does not constitute an abuse of discretion.<sup>6</sup>

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.<sup>7</sup> OWCP's 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.<sup>8</sup>

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.<sup>9</sup> The evidence must be positive, precise, and explicit and 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.<sup>10</sup>

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard. 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

---

<sup>4</sup> 20 C.F.R. § 10.607(a).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsideration*, Chapter 2.1602.4b (September 2020).

<sup>6</sup> *G.L.*, Docket No. 18-0852 (issued January 14, 2020).

<sup>7</sup> See 20 C.F.R. § 10.607(b); *T.N.*, Docket No. 22-0560 (issued April 24, 2025); *R.C.*, Docket No. 21-0617 (issued August 25, 2023); *M.H.*, Docket No. 18-0623 (issued October 4, 2018); *Charles J. Prudencio*, 41 ECAB 499 (1990).

<sup>8</sup> *L.C.*, Docket No. 18-1407 (issued February 14, 2019); *M.L.*, Docket No. 09-0956 (issued April 15, 2010). See also 20 C.F.R. § 10.607(b); *supra* note 5 at Chapter 2.1602.5 (September 2020).

<sup>9</sup> *J.M.*, Docket No. 22-0630 (issued February 10, 2023); *S.C.*, Docket No. 18-0126 (issued May 14, 2016).

<sup>10</sup> *S.D.*, Docket No. 23-0626 (issued August 24, 2023); *J.M.*, Docket No. 19-1842 (issued April 23, 2020); *Robert G. Burns*, 57 ECAB 657 (2006).

have created a conflict in medical opinion requiring further development, is not clear evidence of error.<sup>11</sup> The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.<sup>12</sup>

## ANALYSIS

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

OWCP's regulations<sup>13</sup> and procedures<sup>14</sup> establish a one-year time limit for requesting reconsideration, which begins on the date of the last merit decision issued in the case. A right to reconsideration within one year also accompanies any subsequent merit decision on the issues.<sup>15</sup> The most recent merit decision was OWCP's October 26, 2023 decision. As appellant's November 11, 2024 request for reconsideration was received more than one year after the October 26, 2023 merit decision, the Board finds that it was untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in its October 26, 2023 merit decision.<sup>16</sup>

In his November 11, 2024 untimely reconsideration request, counsel generally contended, that clear evidence of error was established with regard to appellant's wage-loss claims as OWCP had accepted appellant's claim but did not pay him compensation benefits. To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.<sup>17</sup> Counsel's argument is irrelevant to the underlying issue of whether appellant met his burden of proof to establish disability from work for the period June 19, 2021 through June 11, 2022 causally related to his accepted June 18, 2021 employment injury, the basis upon which the claim had been denied, which is medical in nature. Appellant also submitted a May 12, 2022 report, wherein Dr. Llewellyn opined that appellant has PTSD directly related to the accepted employment incident, which was causing substantial functional impairment. The Board notes that it is not enough merely to show that the evidence could be construed to produce a contrary conclusion.<sup>18</sup> Even a detailed, well-rationalized medical report which, if submitted before the denial was issued, would have created a conflict in medical evidence requiring further

---

<sup>11</sup> *J.S.*, Docket No. 16-1240 (issued December 1, 2016); *supra* note 5 at Chapter 2.1602.5a (September 2020).

<sup>12</sup> *T.N.*, *supra* note 7; *L.J.*, Docket No. 23-0282 (issued May 26, 2023); *D.S.*, Docket No. 17-0407 (issued May 24, 2017).

<sup>13</sup> 20 C.F.R. § 10.607(a); *see L.T.*, Docket No. 21-0844 (issued April 21, 2023); *J.W.*, Docket No. 18-0703 (issued November 14, 2018); *Alberta Dukes*, 56 ECAB 247 (2005).

<sup>14</sup> *Supra* note 5 at Chapter 2.1602.4 (February 2016); *Veletta C. Coleman*, 48 ECAB 367, 370 (1997).

<sup>15</sup> 20 C.F.R. § 10.607(b); *see Debra McDavid*, 57 ECAB 149 (2005).

<sup>16</sup> *Id.* at § 10.607(b); *see T.N.*, *supra* note 7; *M.W.*, Docket No. 17-0892 (issued May 21, 2018).

<sup>17</sup> *See J.F.*, Docket No. 24-0883 (issued December 2, 2024); *I.L.*, Docket No. 21-1146 (issued January 31, 2022); *A.A.*, Docket No. 19-1219 (issued December 10, 2019); *Dean D. Beets*, 43 ECAB 1153 (1992).

<sup>18</sup> *See J.F.*, *id.*; *W.R.*, Docket No. 24-0244 (issued May 22, 2024); *A.N.*, Docket No. 24-0503 (issued July 15, 2024); *C.M.*, Docket No. 23-0958 (issued May 10, 2024); *U.C.*, Docket No. 19-1753 (issued June 10, 2020).

development is insufficient to establish clear evidence of error.<sup>19</sup> The Board thus finds that appellant has not raised a substantial question as to the correctness of OWCP's October 25, 2023 decision.

Accordingly, the Board finds that OWCP properly denied appellant's November 11, 2024 request for reconsideration as it was untimely filed and failed to demonstrate clear evidence of error.

### **CONCLUSION**

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

### **ORDER**

**IT IS HEREBY ORDERED THAT** the November 21, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 17, 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

---

<sup>19</sup> See *J.F.*, *supra* note 17; *M.W.*, Docket No. 24-0340 (issued May 13, 2024); *K.W.*, Docket No. 19-1808 (issued April 2, 2020).