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M.D., Appellant)	
)	
and)	Docket No. 25-0435
)	Issued: May 23, 2025
U.S. POSTAL SERVICE, ALBANY POST)	
OFFICE, Albany, NY, Employer)	
)	

Case Submitted on the Record

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

On March 24, 2025 appellant filed a timely appeal from a December 18, 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 November 21, 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

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.*

ISSUE

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

FACTUAL HISTORY

On September 8, 2023 appellant, then a 51-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on July 10, 2023 he injured his back, neck, and shoulders when the car he was a passenger in was struck from behind by a tractor trailer while in the performance of duty. He was transported by ambulance to a local medical facility that day. Appellant returned to work the next day, July 11, 2023.

The employing establishment issued an undated authorization for examination and/or treatment (Form CA-16) for the claimed July 10, 2023 injury.

In a development letter dated September 21, 2023, OWCP informed appellant of the deficiencies of his claim and the type of additional factual and medical information needed. It afforded him 60 days to submit the necessary evidence. In a separate development letter of even date, OWCP requested that the employing establishment provide additional information regarding the circumstances of the July 10, 2023 injury. It afforded the employing establishment 30 days for the submission of the requested information.

On September 26, 2023 the employing establishment confirmed that appellant was in the performance of duty on July 10, 2023. No evidence was received from appellant.

In a follow-up letter dated October 25, 2023, OWCP advised appellant that it had conducted an interim review and determined that the evidence remained insufficient to establish his claim. It noted that he had 60 days from the date of the September 21, 2023 letter to submit the requested 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 November 21, 2023, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish that a medical condition was

diagnosed in connection with the accepted employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On November 22, 2024 OWCP received a November 4, 2024 debt statement regarding monies appellant owed for care at the medical facility emergency department.

On December 4, 2024 appellant requested reconsideration.

By decision dated December 18, 2024, OWCP denied appellant's request for reconsideration of the merits of his claim, 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.³ To be entitled to a merit review of an OWCP decision, a request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.⁴ 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).⁵ The Board has found that the imposition of this one-year filing limitation does not constitute an abuse of discretion.⁶

OWCP may not deny a request for reconsideration solely because it was untimely filed. When a request for reconsideration is untimely filed, it must nevertheless undertake a limited review to determine whether the request demonstrates clear evidence of error.⁷ OWCP's regulations and procedures provide that OWCP will reopen a claimant's case for merit review, notwithstanding the one-year filing limitation set forth in 20 C.F.R. § 10.607(a), if the claimant's request for reconsideration demonstrates clear evidence of error on the part of OWCP.⁸

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue decided by OWCP.⁹ The evidence must be positive, precise, and explicit, and it must

³ 5 U.S.C. § 8128(a); *G.E.*, Docket No. 25-0189 (issued March 5, 2025); *L.W.*, Docket No. 18-1475 (issued February 7, 2019); *Y.S.*, Docket No. 08-0440 (issued March 16, 2009).

⁴ 20 C.F.R. § 10.607(a).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4b (September 2020).

⁶ *G.E.*, *supra* note 3; *G.G.*, Docket No. 18-1074 (issued January 7, 2019); *E.R.*, Docket No. 09-0599 (issued June 3, 2009); *Leon D. Faidley, Jr.*, 41 ECAB 104 (1989).

⁷ 20 C.F.R. § 10.607(b); *T.C.*, Docket No. 19-1709 (issued June 5, 2020); *Charles J. Prudencio*, 41 ECAB 499, 501-02 (1990).

⁸ *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 5 at Chapter 2.1602.5a (September 2020).

⁹ *K.S.*, Docket No. 25-0142 (issued January 27, 2025); *A.A.*, Docket No. 19-1219 (issued December 10, 2019); *J.F.*, Docket No. 18-1802 (issued May 20, 2019); *J.D.*, Docket No. 16-1767 (issued January 12, 2017); *Dean D. Beets*, 43 ECAB 1153 (1992).

manifest on its face that OWCP committed an error.¹⁰ It is not enough merely to show that the evidence could be construed so as to produce a contrary conclusion.¹¹ 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 evidence of error on the part of OWCP. The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP such that it abused its discretion in denying merit review in the face of such evidence.¹² The Board notes that clear evidence of error is intended to represent a difficult standard.¹³ Evidence that does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to demonstrate clear evidence of error.¹⁴

ANALYSIS

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

OWCP's regulations¹⁵ and procedures¹⁶ 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.¹⁷ The most recent merit decision was OWCP's November 21, 2023 decision. As appellant's December 4, 2024 request for reconsideration was received more than one year after the November 21, 2023 merit decision, the Board finds that it was untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in its November 21, 2023 merit decision.

On reconsideration, appellant did not submit additional argument or evidence in support of his claim.¹⁸ While he submitted a November 4, 2024 statement regarding a debt owed for care at a medical facility emergency department, this evidence is not relevant to the underlying issue of whether he has established a diagnosed medical condition in connection with the accepted July 10,

¹⁰ 20 C.F.R. § 10.607(b); *B.W.*, Docket No. 19-0626 (issued March 4, 2020); *Fidel E. Perez*, 48 ECAB 663, 665 (1997).

¹¹ *See G.B.*, Docket No. 19-1762 (issued March 10, 2020); *Leona N. Travis*, 43 ECAB 227, 240 (1991).

¹² *U.C.*, Docket No. 19-1753 (issued June 10, 2020); *Cresenciano Martinez*, 51 ECAB 322 (2000); *Thankamma Matthews*, 44 ECAB 765, 770 (1993).

¹³ *R.K.*, Docket No. 19-1474 (issued March 3, 2020).

¹⁴ *U.C.*, *supra* note 12.

¹⁵ 20 C.F.R. § 10.607(a); *see C.B.*, Docket No. 25-0297 (issued March 26, 2025); *F.N.*, Docket No. 18-1543 (issued March 6, 2019); *Alberta Dukes*, 56 ECAB 247 (2005).

¹⁶ *Supra* note 5 at Chapter 2.1602.4 (February 2016); *see J.H.*, Docket No. 25-0267 (issued March 7, 2025); *L.A.*, Docket No. 19-0471 (issued October 29, 2019); *Veletta C. Coleman*, 48 ECAB 367, 370 (1997).

¹⁷ 20 C.F.R. § 10.607(b); *J.H.*, *id.*; *see Debra McDavid*, 57 ECAB 149 (2005).

¹⁸ *J.H.*, *id.*; *R.M.*, Docket No. 18-1393 (issued February 12, 2019); *J.R.*, Docket No. 07-1112 (issued November 27, 2007).

2023 employment incident. The November 4, 2024 statement also does not, on its face or otherwise, demonstrate clear evidence of error in OWCP's November 21, 2023 decision. Appellant's belief and statements concerning bills owed does not establish error on the part of OWCP and fails to demonstrate clear evidence of error in OWCP's November 21, 2023 decision.¹⁹ As noted above, the term clear evidence of error is intended to represent a difficult standard and appellant has not shown on its face that OWCP made an error when it denied his traumatic injury claim.²⁰

Accordingly, the Board finds that OWCP properly denied appellant's request for reconsideration of the merits of his claim, finding that it was untimely filed and failed to demonstrate clear evidence of error.

CONCLUSION

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of his claim, as it was untimely filed and failed to demonstrate clear evidence of error.²¹

¹⁹ See *B.C.*, Docket No. 25-0214 (issued February 7, 2025); *R.M.*, Docket No. 18-1393 (issued February 12, 2019); *J.R.*, Docket No. 07-1112 (issued November 27, 2007).

²⁰ See *supra* note 4.

²¹ The Board notes that the employing establishment provided an undated Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the December 18, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 23, 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