

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

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| L.G., Appellant |) |) |
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| and |) | Docket No. 25-0718 |
| U.S. POSTAL SERVICE, POST OFFICE, San Diego, CA, Employer |) | Issued: November 17, 2025 |
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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 July 22, 2025 appellant filed a timely appeal from an April 28, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from the last merit decision, dated December 23, 2024, 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 to review the merits of this case.

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).

FACTUAL HISTORY

On January 19, 2023 appellant, then a 54-year-old customer service clerk, filed an occupational disease claim (Form CA-2) alleging that she developed abdominal pain, left lower back pain, and bilateral hand and wrist pain as a result of pushing and pulling very heavy all-

¹ 5 U.S.C. § 8101 *et seq.*

purpose containers (APCs), over-the-road containers (OTRs), wired cages, and pallets. She noted that she first became aware of her condition on September 26, 2022, and realized its relation to her federal employment on January 7, 2023. On the reverse side of the form, the employing establishment controverted the claim noting that appellant did not report the injury to management on September 26, 2022 as alleged, but instead reported the injury on January 9, 2023, after working during the holiday season with an increase in mail and package volume. Appellant stopped work on December 23, 2022.

In an accompanying narrative statement, appellant described her employment duties which required pushing and pulling very heavy APC's, OTR's, wire cages, and pallet tubs throughout the day weighing anywhere from 230 pounds empty to 6,600 pounds full. She reported that on the morning of September 26, 2022, she felt pain in her lower abdomen and left lower back while pushing APC's, which worsened when working the following day on September 27, 2022. Appellant reported notifying her supervisor at that time but continued working through the pain for weeks. She also alleged experiencing pain and numbness in her hands and wrists due to factors of her federal employment.

In a letter dated January 20, 2023, the employing establishment controverted the claim, contending that appellant did not report the injury to her supervisor on September 26, 2022 as alleged.

In a January 25, 2023 development letter, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence required and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the requested evidence.

Appellant subsequently submitted additional evidence in support of her claim. In a January 20, 2023 duty status report (Form CA-17), Dr. Aimee French, a Board-certified internist, noted a September 26, 2022 date of injury and restricted appellant from returning to work.

In a January 27, 2023 note, Dr. French opined that appellant was temporarily totally disabled from work for the period January 20 through February 14, 2023 pending her next appointment to reevaluate her work status.

A February 2, 2023 electromyography (EMG) study of the bilateral upper extremities revealed an impression of compressive neuropathy of the left median motor and sensory consistent with carpal tunnel syndrome, moderate in nature; compressive neuropathy of the right median sensory consistent with carpal tunnel syndrome, mild in nature; no evidence of peripheral neuropathy; no evidence of brachial plexopathy; and no evidence of cervical radiculopathy.

A February 10, 2023 computerized tomography (CT) scan of the abdomen and pelvis revealed an impression of diverticulosis without diverticulitis and no CT evidence for acute abdominal or pelvic abnormality.

In a February 15, 2023 report, Dr. French recounted appellant's history of injury and medical treatment and discussed examination findings. She described appellant's employment duties and the September 26, 2022 injury involving both hands, abdomen, and lower back from pushing heavy containers. Dr. French diagnosed lumbar sprain/strain secondary to abnormal gait related to abdominal pain and heavy lifting; bilateral carpal tunnel syndrome, exacerbated by

workload; and abdominal pain secondary to diverticulitis, nonwork-related with no evidence of hernia on CT scan. She noted that while appellant believed her abdominal pain and lower back pain were related to the heavy pushing and lifting at work on September 26, 2022 due to a possible umbilical hernia, she opined that the abdominal condition was not work-related as her CT scan showed diverticulosis. Dr. French further opined that the lumbar strain was exacerbated by her employment duties due to an increased workload on her body in the setting of chronic abdominal inflammation and offloading with increased weightbearing load as her body moved, twisted, and bended causing the muscle fibers to abnormally stretch and tear. She also opined that appellant's bilateral carpal tunnel syndrome was exacerbated by her employment duties, noting that the condition was likely initially caused from her prior employment as a receptionist even though appellant asserted that she had no symptoms when working as a receptionist. Dr. French described the mechanism of injury pertaining to carpal tunnel syndrome through the median nerve. She reported that appellant was no longer temporarily totally disabled and could return to work with restrictions and weight limitations of 20 pounds.

On February 21, 2023 appellant responded to OWCP's development questionnaire and further described the circumstances surrounding her injury. She also submitted additional evidence in support of her claim.

In a January 25, 2023 note, Dr. French diagnosed sprain of ligaments of lumbar spine, initial encounter; unspecified abdominal pain; sprain of other part of right wrist and hand, initial encounter; and sprain of other part of left wrist and hand, initial encounter.

In CA-17 forms dated February 15 and April 11, 2023, Dr. French provided appellant light-duty work restrictions.

On May 22, 2023 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Michael Einbund, a Board-certified orthopedic surgeon, for a second opinion examination.

OWCP received a report of work status (Form CA-3), which noted that appellant stopped work on September 26, 2022, and returned to full-time regular-duty work on September 27, 2022.

In a June 20, 2023 Form CA-17, Dr. French provided appellant light-duty work restrictions.

In his June 22, 2023 report, Dr. Einbund reviewed the SOAF, medical treatment records, and performed a physical examination. He diagnosed bilateral carpal tunnel syndrome and lumbar strain which had resolved, and opined the conditions were not related to appellant's factors of her federal employment. Dr. Einbund explained that appellant's lumbar strain was not related to her employment factors as she was off work starting December 23, 2022 and did not return to work until January 9, 2023. He further opined that appellant's bilateral carpal tunnel syndrome was preexisting and long-standing in nature which would not develop from a short period of work exposure from June through September 2022. Dr. Einbund provided work restrictions for the non-industrial condition of bilateral carpal tunnel syndrome and recommended limiting repetitive fine manipulation in excess of six hours per day.

By decision dated July 26, 2023, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between her diagnosed conditions and the accepted factors of her federal employment.

Appellant continued to submit additional evidence in support of her claim.

In a March 6, 2024 report, Dr. French discussed findings on examination and diagnosed back sprain/strain and bilateral carpal tunnel syndrome. She disagreed with Dr. Einbund's assessment that appellant's conditions were not work related which he opined began while she was on leave beginning December 23, 2022. Dr. French explained that appellant's conditions initially developed on September 26, 2022 and after several months of unrelenting pain, she returned to work following her annual leave and reported her injury to her supervisor. She further reiterated that appellant did not have any back symptoms prior to that date and experienced 50 percent improvement in her symptoms since initiating therapy and work restrictions. Dr. French opined that appellant's low back pain and sprain/strain were directly related to heavy lifting at work which was exacerbated by her intra-abdominal disease. She further opined that while appellant likely had preexisting carpal tunnel disease, her current work environment exacerbated her condition through repetitive motions which increased swelling and caused pain to develop as her employment activities increased. Dr. French explained that appellant's duties for the employing establishment were more than that of a receptionist. Appellant worked in an environment which required increased use of her hands, causing her to offload more weight on her hands while trying to guard her back. This shifted her weightbearing load onto different joints and extremities to offload aggravation of other locations, particularly her back. Therefore appellant's upper arms and hands would have taken the brunt of pushing, pulling, and lifting. Furthermore, Dr. French opined that the events that occurred in September 2022 would have aggravated her bilateral carpal tunnel syndrome as she was previously asymptomatic and further aggravated her condition through pushing and pulling heavy containers, loading and unloading containers, scanning and sorting parcels, and flexing, extending, and utilizing her hands thousands of times per day.

On April 3, 2024 appellant requested reconsideration.

By decision dated April 9, 2024, OWCP denied modification of the July 26, 2023 decision.

On May 9, 2024 appellant filed a traumatic injury claim (Form CA-1) alleging that on September 26, 2022 she sustained low back pain, abdominal pain, and hand weakness and pain while in the performance of duty. She stopped work on April 9, 2024.

Appellant continued to submit additional evidence in support of her claim.

On October 31, 2024 appellant requested reconsideration. In a statement received on that date, she described the circumstances surrounding her September 26, 2022 injury and course of medical treatment. Appellant continued to submit additional evidence in support of her claim.

In a letter dated December 10, 2024, OWCP informed appellant that although she initially submitted a Form CA-2, it had also received a Form CA-1 and requested that she notify OWCP in writing if she wished to convert her claim from an occupational disease to a traumatic injury.

On December 13, 2024 appellant notified OWCP that she wished to convert her occupational disease claim to a traumatic injury claim with a September 26, 2022 date of injury.

In a letter dated December 19, 2024, OWCP notified appellant that it had converted her occupational disease claim to a claim for a traumatic injury as the evidence received indicated an incident or event within a single workday or shift.²

By decision dated December 23, 2024, OWCP denied modification of the April 9, 2024 decision.

On April 14, 2025 appellant requested reconsideration. In support of her claim, she submitted a March 5, 2025 report from Dr. French titled letter of rebuttal addendum.

In a March 5, 2025 report, Dr. French discussed appellant's history of injury and findings on examination. She diagnosed back sprain/strain and bilateral carpal tunnel syndrome which she opined were exacerbated by the September 26, 2022 employment incident. Dr. French noted her disagreement with Dr. Einbund's assessment that appellant's conditions were not work related. She explained that appellant's back conditions initially developed on September 26, 2022 as she did not have any symptoms prior to that date and her low back pain and sprain/strain were directly related to heavy lifting at work which was exacerbated by her intra-abdominal disease. Dr. French further opined that, while appellant likely had preexisting carpal tunnel syndrome, her current work environment exacerbated her condition through repetitive motions which increased swelling and pain as her employment activities increased, noting that appellant's carpal tunnel syndrome had been asymptomatic until the September 26, 2022 employment incident. She explained the mechanism of injury, noting that appellant's repetitive employment duties and the September 26, 2022 employment incident increased the use of her hands. This caused her to offload more weight on her hands while trying to guard her back, shifting her weight-bearing load onto different joints and extremities to offload aggravation of other locations, particularly her back. Therefore, her upper arms and hands took the brunt of pushing, pulling, and lifting, aggravating her bilateral carpal tunnel syndrome.

By decision dated April 28, 2025, 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

² 20 C.F.R. § 10.5(ee).

³ 5 U.S.C. § 8128(a); *see R.C.*, Docket No. 22-0612 (issued October 24, 2022); *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).

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).⁸

On April 14, 2025 appellant filed a request for reconsideration of a December 23, 2024 decision denying her traumatic injury claim. The Board finds, however, that she neither established that OWCP erroneously applied or interpreted a specific point of law, nor did she advance a relevant legal argument not previously considered by OWCP. Accordingly, the Board finds that appellant is not entitled to a review of the merits based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).⁹

The underlying issue in this case is whether appellant established a medical condition causally related to the accepted September 26, 2022 employment incident. This is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹⁰ On reconsideration, appellant submitted a March 5, 2025 report from Dr. French. However, this report is substantially similar to prior reports received from Dr. French. The Board has held that the submission of evidence or argument that repeats or duplicates evidence or argument previously of record does not constitute a basis for reopening a case.¹¹ Because appellant did not provide any

⁴ 20 C.F.R. § 10.606(b)(3); *see R.C., id.; L.D., id.*

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 *T.R., Docket No. 23-0287 (issued June 23, 2023).*

⁹ *See L.W., Docket No. 21-0607 (issued October 18, 2022).*

¹⁰ *R.M., Docket No. 21-0963 (issued April 19, 2023).*

¹¹ *J.B., Docket No. 22-1166 (issued April 3, 2023); S.H., Docket No. 22-1179 (issued January 17, 2023); S.E., Docket No. 17-0222 (issued December 21, 2018); T.H. Docket Nos. 17-1578 and 17-1651 (issued April 26, 2018); Eugene F. Butler, 36 ECAB 393, 398 (1984).*

relevant and pertinent new evidence, she is not entitled to a review of the merits based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).

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 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 April 28, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 17, 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