

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

I.D., Appellant)	
)	
)	
and)	Docket No. 25-0807
)	Issued: November 20, 2025
U.S. POSTAL SERVICE, WESTSIDE POST OFFICE, Oklahoma City, OK, Employer)	
)	
)	

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

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On August 25, 2025 appellant filed a timely appeal from a February 26, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from the last merit decision dated February 16, 2024, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act (FECA)¹ and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of the case.²

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.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the February 26, 2025 decision, OWCP received additional evidence. 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.*

FACTUAL HISTORY

On October 13, 2022 appellant, then a 72-year-old sales and service associate, filed a traumatic injury claim (Form CA-1) alleging that on September 26, 2022 she sustained a psychological injury while in the performance of duty.³ She noted that a coworker was coaching a third person to bully and verbally abuse her. Appellant stopped work on October 6, 2022.

In support of her claim, appellant submitted statements dated October 8 and 24, 2022, which indicated that on September 26, 2022 a customer addressed her with a racial slur, became aggressive, and started to video her. She related that another customer contacted the police. Appellant noted the customer who was aggressive, provided the information to the police, and was told that he was the son of her coworker, T.S., and had a warrant for his arrest. Several weeks later she recounted the incident with B.P., her supervisor, who smiled and suggested that she retire. Appellant indicated that this made her feel intimidated. She also noted that she believed T.S. coordinated the incident so that T.S. could take her sales and service associate position.

In medical reports dated October 7 through November 8, 2022, Dr. Stephen M. Wilson, an orthopedist, noted the details of the September 26, 2022 incident and diagnosed depression, anxiety, and panic disorder. In a duty status report (Form CA-17) dated October 7, 2022, he indicated that appellant was totally disabled from all work due to post-traumatic stress disorder (PTSD).

By decision dated November 23, 2022, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted September 26, 2022 employment incident. Consequently, it found that the requirements had not been met to establish an injury as defined by FECA.

OWCP continued to receive evidence, including medical reports and narrative reports by Dr. Wilson dated December 6, 2022, and January 3, 2023, who opined that the September 26, 2022 employment incident caused a distress response which led to appellant's PTSD, depression, and anxiety. He released her to return to full-duty work effective January 17, 2023.

Appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review, which OWCP denied as untimely filed by decision dated February 3, 2023.

OWCP continued to receive evidence, including progress reports by Dr. Wilson dated February 7 through September 29, 2023 which repeated his findings and diagnoses.

In a narrative medical report dated March 7, 2023, Judith K. Adams, Ph.D, a licensed clinical psychologist, administered a PTSD questionnaire and performed a psychological interview. She diagnosed acute PTSD, which she opined was caused by the September 26, 2022 employment incident. Dr. Adams explained that appellant became anxious, agitated, confused,

³ OWCP assigned the present claim OWCP File No. xxxxxx601. On October 17, 2022, it received a duplicate copy of the Form CA-1, which had been amended with additional information from the employing establishment. OWCP created a duplicate claim and assigned it OWCP File No. xxxxxx669. On November 23, 2022, it administratively combined OWCP File Nos. xxxxxx669 and xxxxxx601, with the latter serving as the master file.

fearful, and distrustful when she discovered that the September 26, 2022 incident may have been intentional.

On November 23, 2023 appellant requested reconsideration of OWCP's November 23, 2022 decision.

OWCP received an additional report by Dr. Wilson dated December 1, 2023 and conducted additional development.

In a February 9, 2024 statement, appellant indicated that the "root cause" of her diagnosed conditions was "based on an absolute and utter fear...."

By decision dated February 16, 2024, OWCP denied modification of the November 23, 2022 decision.

OWCP continued to receive evidence, including progress reports and narrative reports by Dr. Wilson dated March 5 through December 11, 2024. In the March 5, 2024 narrative report, he indicated that appellant experienced intimidation and bullying in the workplace.

Appellant requested reconsideration of OWCP's February 16, 2024 decision. OWCP received the request for reconsideration in the Integrated Federal Employees' Compensation System (iFECS) on February 19, 2025.

By decision dated February 26, 2025, OWCP denied appellant's request for reconsideration, 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.⁴ This discretionary authority, however, is subject to certain restrictions. For instance, a request for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.⁵ Timeliness is determined by the document receipt date, *i.e.*, the "received date" in OWCP's iFECS.⁶ Imposition of this one-year filing limitation does not constitute an abuse of discretion.⁷

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.⁸ Its procedures provide that it will reopen a claimant's case for merit

⁴ *Supra* note 1 at § 8128(a); *L.W.*, Docket No. 18-1475 (issued February 7, 2019); *Y.S.*, Docket No. 08-0440 (issued March 16, 2009).

⁵ 20 C.F.R. § 10.607(a).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4b (September 2020).

⁷ *G.G.*, Docket No. 18-1072 (issued January 7, 2019); *E.R.*, Docket No. 09-0599 (issued June 3, 2009); *Leon D. Faidley, Jr.*, 41 ECAB 104 (1989).

⁸ See 20 C.F.R. § 10.607(b); *M.H.*, Docket No. 18-0623 (issued October 4, 2018); *Charles J. Prudencio*, 41 ECAB 499 (1990).

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.⁹

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.¹⁰ 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.

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.¹¹ 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 have created a conflict in medical opinion requiring further development, is not clear evidence of error.¹² The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.¹³

ANALYSIS

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

A request for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.¹⁴ As appellant's request for reconsideration was not received by OWCP until February 19, 2025, more than one year after the issuance of its February 16, 2024 merit decision, it was untimely filed. Consequently, she must demonstrate clear evidence of error by OWCP in denying the claim.¹⁵

In support of her untimely request for reconsideration, appellant submitted medical reports by Dr. Wilson dated March 5 through December 11, 2024. However, evidence such as a detailed, well-rationalized medical report which, if submitted before the denial was issued, would have

⁹ *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 6 at Chapter 2.1602.5 (September 2020).

¹⁰ *S.C.*, Docket No. 18-0126 (issued May 14, 2016); *supra* note 6 at Chapter 2.1602.5 (September 2020).

¹¹ *G.G.*, *supra* note 7; *see also* 20 C.F.R. § 10.607(b); *id.* at Chapter 2.1602.5a (September 2020).

¹² *J.S.*, Docket No. 16-1240 (issued December 1, 2016); *id.* at Chapter 2.1602.5(a) (September 2020).

¹³ *D.S.*, Docket No. 17-0407 (issued May 24, 2017).

¹⁴ 20 C.F.R. § 10.607(a).

¹⁵ *Id.* at. § 10.607(b); *see R.T.*, Docket No. 19-0604 (issued September 13, 2019); *see Debra McDavid*, 57 ECAB 149 (2005).

created a conflict in medical opinion requiring further development, is not clear evidence of error.¹⁶ The Board notes that clear evidence of error is intended to represent a difficult standard.¹⁷ The argument and evidence submitted by appellant in support of her untimely request for reconsideration does not raise a substantial question as to the correctness of the denial of her claim.¹⁸ Thus, the evidence is insufficient to demonstrate clear evidence of error.¹⁹

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

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 20, 2025
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

¹⁶ *Supra* note 12.

¹⁷ *Supra* note 11.

¹⁸ See *P.T.*, Docket No. 18-0494 (issued July 9, 2018).

¹⁹ *J.C.*, Docket No. 20-1250 (issued May 24, 2021); *W.D.*, Docket No. 19-0062 (issued April 15, 2019).