

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

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**L.K., Appellant**

**and**

**U.S. POSTAL SERVICE, KILMER POST  
OFFICE, Edison, NJ, Employer**

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**Docket No. 25-0759  
Issued: September 22, 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  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On August 4, 2025 appellant filed a timely appeal from a March 21, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days elapsed from the last merit decision, dated October 17, 2023, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.<sup>2</sup>

**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.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the March 21, 2025 decision, appellant submitted additional evidence to OWCP. However, the Board's *Rules of Procedures* 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 February 16, 2023 appellant, then a 65-year-old general expeditor, filed a traumatic injury claim (Form CA-1) alleging that on February 14, 2023, he sustained a strain in the lower left side of his abdomen when lifting a trailer door open while in the performance of duty. He stopped work on the date of injury and returned to work on February 18, 2023.

On February 16 and 28, 2023 appellant was seen by Dr. Prakash Doshi, a Board-certified internist. Dr. Doshi held appellant off work from February 14 through 27, 2023. He diagnosed an acute bilateral hernia and provided work restrictions upon return to work on February 28, 2023.

Appellant submitted a May 15, 2023 attending physician's report (Form CA-20) from Dr. Doshi, which provided a diagnosis of bilateral severe inguinal hernia and reiterated lifting restrictions.

By decision dated May 31, 2023, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted February 14, 2023 employment incident.

In undated statements received on June 15 and July 6, 2023, appellant described the circumstances surrounding his claimed February 14, 2023 injury. He explained that he injured himself when trying to lift a trailer door which was difficult as the door was not greased properly, causing him to switch from his right hand to his left to pull the door and thereafter, felt a burning on the left side of his abdomen and stomach. Appellant related that he noticed a bump on his abdomen the following day and was subsequently evaluated by his physician on February 16, 2023 who diagnosed a hernia caused by lifting the trailer at work.

On June 30, 2023 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

By decision dated October 17, 2023, OWCP's hearing representative affirmed the May 31, 2023 decision, as modified, finding that the medical evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted February 14, 2023 employment incident.<sup>3</sup>

Following OWCP's decision, appellant submitted a July 9, 2024 Form CA-20 from Dr. Doshi. He reported that in February 2023, appellant was opening a trailer door at work and had to pull hard on the door because it was stuck which resulted in a bilateral inguinal hernia, left worse than right. Dr. Doshi opined that the condition was caused or aggravated by the employment activity, explaining that appellant lifted a trailer door and pulled his groin in the process. He noted that appellant was first treated on February 14, 2023 and first evaluated by him on February 16, 2023. Dr. Doshi indicated that appellant was totally disabled from work pending surgery and could not lift more than 5 to 10 pounds.

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<sup>3</sup> The hearing representative noted that the May 15, 2023 Form CA-20 which provided a diagnosis of bilateral inguinal hernia contained an illegible signature and thus, the author of the report could not be identified to establish that it was signed by a qualified physician to constitute probative medical evidence.

Appellant also submitted a health insurance explanation of benefits as well as various statements received on December 5, 2024 and February 3 through 21, 2025 asserting that his claim was due to a work-related injury.

On March 3, 2025 appellant requested reconsideration.

By decision dated March 21, 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.<sup>4</sup> 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.<sup>5</sup> 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).<sup>6</sup> Imposition of this one-year filing limitation does not constitute an abuse of discretion.<sup>7</sup>

OWCP may not deny a request for reconsideration solely because it was untimely filed. When a claimant's request for reconsideration is untimely filed, it must nevertheless undertake a limited review to determine whether it demonstrates clear evidence of error.<sup>8</sup> If a request for reconsideration demonstrates clear evidence of error, OWCP will reopen the case for merit review.<sup>9</sup>

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue, which was decided by OWCP.<sup>10</sup> The evidence must be positive, precise, and explicit and must manifest on its face that OWCP committed an error.<sup>11</sup> Evidence that does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to demonstrate clear evidence of error.<sup>12</sup> It is not enough merely to show that the evidence could be construed so

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<sup>4</sup> 5 U.S.C. § 8128(a); *see also A.B.*, Docket No. 19-1539 (issued January 27, 2020); *W.C.*, 59 ECAB 372 (2008).

<sup>5</sup> 20 C.F.R. § 10.607(a).

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

<sup>7</sup> *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).

<sup>8</sup> *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).

<sup>9</sup> *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).

<sup>10</sup> *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).

<sup>11</sup> *J.D.*, Docket No. 19-1836 (issued April 6, 2020); *Leone N. Travis*, 43 ECAB 227 (1999).

<sup>12</sup> *S.W.*, Docket No. 18-0126 (issued May 14, 2019); *Robert G. Burns*, 57 ECAB 657 (2006).

as to produce a contrary conclusion. This entails a limited review by OWCP of how the evidence submitted with the request for reconsideration bears on the evidence previously of record and whether the new evidence demonstrates clear error on the part of OWCP.<sup>13</sup>

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.<sup>14</sup> The claimant must present evidence, which on its face shows that OWCP made an error.<sup>15</sup> 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.<sup>16</sup> The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.<sup>17</sup>

### 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.

The last merit decision in this case was issued on October 17, 2023. As appellant's request for reconsideration was not received by OWCP until March 3, 2025, more than one year after the October 17, 2023 decision, pursuant to 20 C.F.R. § 10.607(a), the request for reconsideration was untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in denying the claim.<sup>18</sup>

In support of his most recent request for reconsideration, appellant submitted a July 9, 2024 Form CA-20 from Dr. Doshi diagnosing bilateral inguinal hernia causally related to the accepted February 2023 employment incident. However, as explained above, 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.<sup>19</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 development is insufficient to establish clear evidence of error.<sup>20</sup>

Appellant also submitted a health insurance explanation of benefits and various statements received on December 5, 2024 and February 3 through 21, 2025 asserting that his claim should

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<sup>13</sup> *T.N.*, Docket No. 18-1613 (issued April 29, 2020).

<sup>14</sup> *See supra* note 6 at Chapter 2.1602.5a (September 2020); *see also J.S.*, Docket No. 16-1240 (issued December 1, 2016).

<sup>15</sup> *K.W.*, Docket No. 19-1808 (issued April 2, 2020).

<sup>16</sup> *Id.*

<sup>17</sup> *D.S.*, Docket No. 17-0407 (issued May 24, 2017).

<sup>18</sup> 20 C.F.R. § 10.607(b); *S.C.*, Docket No. 20-1537 (issued April 14, 2021); *R.T.*, Docket No. 19-0604 (issued September 13, 2019); *see Debra McDavid*, 57 ECAB 149 (2005).

<sup>19</sup> *U.C.*, Docket No. 19-1753 (issued June 10, 2020).

<sup>20</sup> *See J.F.*, Docket No. 24-0883 (issued December 2, 2024); *M.W.*, Docket No. 24-0340 (issued May 13, 2024); *K.W.*, Docket No. 19-1808 (issued April 2, 2020).

not be denied as it was a work-related injury. This evidence, however, does not raise a substantial question as to the correctness of OWCP's October 17, 2023 decision. As explained above, evidence which does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to demonstrate clear evidence of error.<sup>21</sup>

The Board thus finds that appellant's request for reconsideration did not show on its face that OWCP committed an error in denying his traumatic injury claim.<sup>22</sup> Accordingly, 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.

### **CONCLUSION**

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.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 21, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 22, 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

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<sup>21</sup> *M.S.*, Docket No. 25-0417 (issued June 18, 2025); *B.T.*, Docket No. 25-0514 (issued June 17, 2025).

<sup>22</sup> *S.C.*, Docket No. 19-1424 (issued September 15, 2020).