

denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

FACTUAL HISTORY

On February 14, 2023 appellant, then a 47-year-old airfield clearing equipment operator, filed a traumatic injury claim (Form CA-1) alleging that on February 9, 2023 he injured his right calf when clearing snow from a staircase while in the performance of duty. OWCP accepted the claim for right gastrocnemius tear.

In a memorandum of telephone call (Form CA-110) dated February 22, 2023, the employing establishment indicated that appellant had attempted to find an orthopedic surgeon in his geographic area³ to treat his accepted February 9, 2023 employment injury, but the providers he contacted either did not accept FECA insurance or were not taking new patients.

In a Form CA-110 dated February 23, 2023, OWCP noted that appellant lived in a remote part of Alaska. It advised the employing establishment that if "he has to travel an extensive distance we can work out the reimbursement later." OWCP noted that the employing establishment would issue an authorization for examination and/or treatment (Form CA-16).

On February 27, 2023, the employing establishment authorized appellant to seek medical treatment for a torn calf muscle with Dr. Neal Everson, an orthopedist in Fairbanks, Alaska.

On February 27, 2023, appellant underwent a venous duplex ultrasound of the right lower extremity and was evaluated by Dr. Everson for an acute right gastrocnemius tear. Both appointments took place in Fairbanks, Alaska.

On March 27, 2023, appellant underwent a magnetic resonance imaging scan of the right lower leg and a follow-up appointment with Dr. Everson in Fairbanks, Alaska. He also attended additional follow-up appointments with Dr. Everson on April 24 and May 22, 2023 in Fairbanks, Alaska.

On February 16, 2024, OWCP advised appellant that it had received medical travel refund requests (Form OWCP-957) for reimbursement of travel expenses incurred on February 28, March 26, April 23, and May 21, 2023. It noted, however, that there was no corresponding medical documentation to support that he received treatment for his February 9, 2023 employment injury on the dates claimed. OWCP advised appellant of the type of medical evidence needed and afforded him 30 days to submit the necessary evidence.

By letter dated March 26, 2024, OWCP advised appellant that the evidence remained insufficient to establish that he received medical treatment for his accepted February 9, 2023 employment injury on the dates claimed.

By decision dated April 5, 2024, OWCP denied appellant's travel reimbursement claims for February 28, March 26, April 23, and May 21, 2023, finding that the medical evidence of

³ The Board notes that appellant resides in Eagle River, Alaska.

record was insufficient to establish that he received medical treatment for his February 9, 2023 employment injury on the dates claimed.

Appellant thereafter submitted a January 10, 2024 letter, wherein OWCP indicated that it was unable to process appellant's travel reimbursement claim due to missing or invalid dates of travel. He also submitted a Form OWCP-957 dated January 24, 2024, wherein he claimed that on May 21 and 22, 2023 he traveled 343 miles each way and incurred \$172.00 in expenses for meals, \$160.92 for lodging, and \$820.00 for a driver during his travel.

On May 27, 2025, appellant requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

By decision dated June 12, 2025, OWCP denied appellant's request for a review of the written record, finding that it was untimely filed. It exercised its discretion and determined that the issue in the case could equally well be addressed through a request for reconsideration before OWCP, along with the submission of new evidence.

On June 26, 2025, appellant requested reconsideration. In support thereof, he submitted a narrative statement, wherein he explained that at the time of his February 9, 2023 employment injury he was unable to find a medical provider that accepted FECA insurance that was accepting new patients in his town or the surrounding cities. As a result, appellant traveled 342 miles to the next major city, Fairbanks, Alaska, to receive medical care for his injury. He noted that his wife missed work to drive him to the appointments in Fairbanks, Alaska because his right calf injury prevented him from operating a motor vehicle. Appellant also noted that he incurred meal and lodging expenses because he was unable to travel 5 hours and 43 minutes each way from Eagle River to Fairbanks, Alaska and back in a single day.

By decision dated July 29, 2025, 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 -- ISSUE 1

Section 8124(b)(1) of FECA provides that "a claimant for compensation not satisfied with a decision of the Secretary is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his [or her] claim before a representative of the Secretary."⁴ Sections 10.617 and 10.618 of the federal regulations implementing this section of FECA provide that a claimant shall be afforded a choice of an oral hearing or a review of the written record by a representative of the Secretary.⁵ A claimant is entitled to a hearing or review of the written record as a matter of right only if the request is filed within the requisite 30 days as determined by postmark, or other carrier's date marking, or the date received in the Employees' Compensation Operations & Management Portal (ECOMP), and before the claimant has requested reconsideration.⁶ Although there is no right to a review of the written record or an oral hearing, if

⁴ *Supra* note 1 at § 8124(b)(1).

⁵ 20 C.F.R. §§ 10.616, 10.617.

⁶ *Id.* at § 10.616(a); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.4a (February 2024).

not requested within the 30-day time period, OWCP may within its discretionary powers grant or deny appellant's request and must exercise its discretion.⁷

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124.

OWCP's regulations provide that the request for a hearing or review of the written record must be made within 30 days of the date of the decision for which a review is sought. Because appellant's request for review of the written record on May 27, 2025, post-dated OWCP's April 5, 2024 decision by more than 30 days, it was untimely. Appellant was, therefore, not entitled to a review of the written record as a matter of right.⁸

OWCP, however, has the discretionary authority to grant the request and it must exercise such discretion.⁹ The Board finds that, in the June 12, 2025 decision, OWCP properly exercised its discretion by determining that the issue in the case could equally well be addressed through a request for reconsideration, along with the submission of additional evidence.

The Board has held that the only limitation on OWCP's authority is reasonableness. An abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from established facts.¹⁰ The Board finds that the evidence of record establishes that OWCP acted reasonably in its denial of appellant's request for a review of the written record.

Accordingly, the Board finds that OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b).

LEGAL PRECEDENT -- ISSUE 2

Pursuant to section 8128(a) of FECA, OWCP has the discretion to reopen a case for further merit review.¹¹ 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.¹² Timeliness is determined by the document receipt date i.e.,

⁷ *W.H.*, Docket No. 20-0562 (issued August 6, 2020); *P.C.*, Docket No. 19-1003 (issued December 4, 2019); *M.G.*, Docket No. 17-1831 (issued February 6, 2018); *Eddie Franklin*, 51 ECAB 223 (1999); *Delmont L. Thompson*, 51 ECAB 155 (1999).

⁸ *See K.B.*, Docket No. 21-1038 (issued February 28, 2022); *M.F.*, Docket No. 21-0878 (issued January 6, 2022); *see also P.C.*, Docket No. 19-1003 (issued December 4, 2019); *Daniel J. Perea*, 42 ECAB 214, 221 (1990) (Thomas, Alternate Member, dissenting).

⁹ *Id.*

¹⁰ *Id.*

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

¹² 20 C.F.R. § 10.607(a).

the “received date” in OWCP’s Integrated Federal Employees’ Compensation System (iFECS).¹³ Imposition of this one-year filing limitation does not constitute an abuse of discretion.¹⁴

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.¹⁵ Its 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.¹⁶ In this regard, OWCP will limit its focus to a review of how the newly submitted evidence bears on the prior evidence of record.¹⁷

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.¹⁸ 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.¹⁹

OWCP’s procedures note that the term clear evidence of error is intended to represent a difficult standard.²⁰ The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.²¹

ANALYSIS -- ISSUE 2

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.

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020).

¹⁴ *W.B.*, Docket No. 23-0473 (issued August 29, 2023); *G.G.*, Docket No. 18-1072 (issued January 7, 2019); *Leon D. Faidley, Jr.*, 41 ECAB 104 (1989).

¹⁵ *See* 20 C.F.R. § 10.607(b); *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).

¹⁶ *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 13 at Chapter 2.1602.5 (September 2020).

¹⁷ *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).

¹⁸ *J.M.*, Docket No. 22-0630 (issued February 10, 2023); *S.C.*, Docket No. 18-0126 (issued May 14, 2016); *supra* note 13 at Chapter 2.1602.5a (September 2020).

¹⁹ *L.J.*, Docket No. 23-0282 (issued May 26, 2023); *C.M.*, Docket No. 19-1211 (issued August 5, 2020); *J.M.*, *id.*; *Robert G. Burns*, *supra* note 17.

²⁰ *See G.G.*, *supra* note 14; *see also* 20 C.F.R. § 10.607(b); *supra* note 13 at Chapter 2.1602.5 (September 2020).

²¹ *J.S.*, Docket No. 16-1240 (issued December 1, 2016); *id.* at Chapter 2.1602.5a (September 2020).

The last merit decision was issued by OWCP on April 5, 2024. As appellant's request for reconsideration was not received by OWCP until June 26, 2025, more than one year after the April 5, 2024 decision, pursuant to 20 C.F.R. § 10.607(a), the request for reconsideration was untimely filed. Consequently, he must demonstrate clear evidence of error by OWCP in denying the claim.²²

With his untimely request for reconsideration, appellant submitted a narrative statement, wherein he explained that he was unable to find a medical provider in his town or the surrounding cities. As a result, appellant traveled 342 miles to the next major city, Fairbanks, Alaska, to receive medical care for his injury. Appellant also noted that he incurred meal and lodging expenses because he was unable to travel 5 hours and 43 minutes each way from Eagle River to Fairbanks, Alaska in a single day. Appellant also submitted a January 10, 2024 letter, wherein OWCP indicated that it was unable to process appellant's travel reimbursement claim due to missing or invalid dates of travel. Additionally, appellant submitted a Form OWCP-957 dated January 24, 2024, noting his claimed expenses for meals, lodging, and a driver. The Board notes that clear evidence of error is intended to represent a difficult standard.²³ To demonstrate clear evidence of error, a claimant must submit evidence that is relevant to the issue which was decided by OWCP. The evidence must be positive, precise, and explicit, and manifest on its face that OWCP committed an error.²⁴ The argument and evidence submitted by appellant in support of his untimely request for reconsideration do not raise a substantial question as to the correctness of the denial of his travel reimbursement claim.²⁵ Thus, the evidence is insufficient to demonstrate clear evidence of error.

CONCLUSION

The Board finds that OWCP properly denied appellant's request for a review of the written record as untimely filed, pursuant to 5 U.S.C. § 8124(b). The Board further finds that OWCP properly denied appellant's request for reconsideration as it was untimely filed and failed to demonstrate clear evidence of error.

²² 20 C.F.R. § 10.607(b); *D.Z.*, Docket No. 25-0422 (issued June 26, 2025); *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).

²³ *Id.* at § 10.607(a).

²⁴ *Id.* at § 10.607(b); *see R.T.*, Docket No. 19-0604 (issued September 13, 2019); *see Debra McDavid*, 57 ECAB 149 (2005).

²⁵ *Supra* note 23.

ORDER

IT IS HEREBY ORDERED THAT the June 12 and July 29, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 15, 2026
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