

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

K.H., Appellant)	
)	
and)	Docket No. 26-0191
)	Issued: April 3, 2026
DEPARTMENT OF JUSTICE, FEDERAL)	
BUREAU OF PRISONS, COLEMAN FEDERAL)	
CORRECTIONAL COMPLEX, Coleman, FL,)	
Employer)	

Appearances:
Wayne Johnson, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

On December 22, 2025 appellant, through counsel, filed a timely appeal from a June 25, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 26-0191.²

On November 28, 2018 appellant, then a 49-year-old correctional officer, filed a traumatic injury claim (Form CA-1) alleging that on November 27, 2018 he sustained injuries to his left knee and foot when he slipped on a ladder while in the performance of duty. He stopped work on the date of injury. OWCP accepted the claim for derangement of posterior horn of medial meniscus and sprain of anterior cruciate ligament of the left knee. It paid appellant wage-loss compensation

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² The Board notes that, following the June 25, 2025 decision, OWCP received additional evidence. 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.*

on the supplemental rolls effective January 11, 2019, and on the periodic rolls effective February 3, 2019.

On December 16, 2019 OWCP referred appellant, the medical record, and a statement of accepted facts (SOAF) to Dr. Brian C. Leung, a Board-certified orthopedic surgeon, for a second opinion evaluation. In a report dated January 17, 2020, Dr. Leung opined that the accepted work-related conditions had resolved.

In a notice dated February 24, 2020, OWCP advised appellant that it proposed to terminate his wage-loss compensation and medical benefits based on Dr. Leung's opinion.

By decision dated April 6, 2020, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. It found that Dr. Leung's opinion constituted the weight of the medical opinion evidence and established that appellant no longer had disability or residuals causally related to the accepted November 27, 2018 employment injury.

On April 21, 2020 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on July 8, 2020.

By decision dated August 31, 2020, OWCP's hearing representative affirmed the April 6, 2020 termination decision.

Appellant, through counsel, requested reconsideration and submitted evidence.

By decisions dated September 21, 2021, February 25, 2022, May 23, 2023, and May 31, 2024, OWCP denied modification.

On June 2, 2025 appellant, through counsel, requested reconsideration of OWCP's May 31, 2024 merit decision and submitted legal argument.

By decision dated June 25, 2025, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error. It noted that his June 2, 2025 reconsideration request was not received within one year of the May 31, 2024 decision for which reconsideration was sought.

The Board has duly considered this matter and finds that this case is not in posture for decision.³

Section 10.607(a) of OWCP's implementing regulations provides that a request for reconsideration must be received by OWCP within one year of the date of the decision for which review is sought.⁴ When determining the one-year period for requesting reconsideration, the last day of the period should be included unless it is a Saturday, Sunday or a legal holiday.⁵ One year

³ *Order Remanding Case, R.K.*, Docket No. 20-1664 (issued September 1, 2022); *Order Remanding Case, R.M.*, Docket No. 20-0728 (issued October 21, 2020); *T.L.*, Docket No. 19-1110 (issued August 11, 2020).

⁴ 20 C.F.R. § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020).

⁵ Federal (FECA) Procedure Manual, *id.*

following OWCP's May 31, 2024 merit decision was Saturday, May 31, 2025. As the last day of the one-year filing period fell on a weekend, appellant had until the close of business on Monday, June 2, 2025 to timely request reconsideration. Because OWCP received appellant's request on June 2, 2025, the Board finds that it was timely filed. The clear evidence of error standard utilized by OWCP in its June 25, 2025 decision is appropriate only for untimely reconsideration requests.⁶ Therefore, the Board shall set aside OWCP's June 25, 2025 decision and remand the case for application of the appropriate standard of review for timely requests for reconsideration as set forth at 20 C.F.R. § 10.606(b)(3).⁷ Accordingly,

IT IS HEREBY ORDERED THAT the June 25, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: April 3, 2026
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

⁶ See 20 C.F.R. § 10.607(b).

⁷ *Order Remanding Case, P.J.*, Docket No. 19-0962 (issued December 30, 2019).