

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

R.B., Appellant	)	
	)	
and	)	Docket No. 26-0205
	)	Issued: April 8, 2026
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Oklahoma City, OK, Employer	)	
	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On December 29, 2025, appellant filed a timely appeal from a November 4, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> As more than 180 days has elapsed from the last merit decision, dated August 5, 2020, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.

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<sup>1</sup> The Board notes that, following the November 4, 2025 decision, appellant submitted additional evidence to OWCP and the Board. 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.*

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## 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.

## FACTUAL HISTORY

This case has previously been before the Board.<sup>3</sup> The facts and circumstances as set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are as follows.

On January 21, 2020, appellant, then a 58-year-old mail handler assistant, filed a traumatic injury claim (Form CA-1) alleging that, on that date, he sustained an abdominal hernia rupture when lifting packages, and pushing wires, over-the-road containers, and general purpose containers while in the performance of duty.

In a return-to-work note dated January 21, 2020, Dr. Ryan Biggers, a physician specializing in family medicine, noted appellant's diagnosis of umbilical hernia of the abdomen wall. He opined that it was due to heavy lifting and restricted appellant from lifting over 15 pounds.

On February 18, 2020, Dr. Biggers reported appellant's diagnoses as right groin pain, right sacroiliac joint pain, and umbilical hernia, noting an onset date of these conditions as January 21, 2020. He opined that these diagnoses were exacerbated by bending, squatting, lifting, and stooping. Dr. Biggers noted his review of appellant's duties and responsibilities and opined that, based on the acuteness of symptoms, examination findings, pathophysiology of the disease(s), and a timeline of injury, "it was determined to be as likely as not related to the manual labor that was required of him to function at his job." He further opined that appellant's conditions were "of direct relation to his time of employment" with the employing establishment.

By decision dated March 14, 2020, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed conditions and the accepted January 21, 2020 employment incident.

OWCP continued to receive medical reports, wherein Dr. Biggers and Dr. Alexander Raines, a Board-certified general surgeon, diagnosed an umbilical hernia.

On May 13, 2020, appellant requested reconsideration.

By decision dated August 5, 2020, OWCP denied modification of its March 14, 2020 decision.

On December 1, 2020, appellant again requested reconsideration. No additional evidence or argument was received.

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<sup>3</sup> Docket No. 25-0146 (issued January 22, 2025); Docket No. 24-0350 (issued October 7, 2024).

By decision dated February 10, 2021, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

In a note dated November 15, 2022, Dr. Biggers recounted that he had seen appellant approximately two years prior for complaints of abdominal pain. He related that he had diagnosed an umbilical hernia at that time, "as likely as not related to heavy lifting while on the job with [the employing establishment]."

In a note dated March 3, 2023, Dr. Biggers opined that a review of appellant's medical records clearly demonstrated that his diagnosed abdominal injury was sustained while employed at the employing establishment.

On June 16, 2023, appellant again requested reconsideration of the August 5, 2020 decision.

By decision dated September 13, 2023, OWCP denied appellant's June 16, 2023 request for reconsideration of the merits of his claim, finding that it was untimely filed and failed to demonstrate clear evidence of error.

On October 30, 2023, appellant again requested reconsideration of the August 5, 2020 decision. He resubmitted reports from Dr. Biggers and Dr. Raines, which were previously of record.

By decision dated January 16, 2024, OWCP denied appellant's October 30, 2023 request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

On February 20, 2024, appellant filed a timely appeal to the Board from OWCP's September 13, 2023 and January 16, 2024 nonmerit decisions.

By decision dated October 7, 2024, the Board affirmed OWCP's September 13, 2023 decision, finding that appellant's October 30, 2023 reconsideration request was untimely filed. The Board also set aside OWCP's January 16, 2024 decision, finding that OWCP had incorrectly applied the standard for a timely reconsideration request. As such, the Board remanded the case to OWCP for application of the clear evidence of error standard, which is the correct standard for reviewing untimely reconsideration requests. Following any further development deemed necessary, the Board directed OWCP to issue an appropriate decision.<sup>4</sup>

By decision dated November 1, 2024, OWCP again denied appellant's October 30, 2023 request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

Appellant appealed to the Board. He provided additional information on appeal including a partially completed and undated form report, wherein Dr. Biggers diagnosed umbilical hernia and right hip osteoarthritis and pain. Dr. Biggers provided work restrictions on lifting, squatting, climbing, walking, and standing.

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<sup>4</sup> Docket No. 24-0350 (issued October 7, 2024).

By decision dated January 22, 2025,<sup>5</sup> the Board found that OWCP properly denied appellant's October 30, 2023 request for reconsideration of the merits of his claim, as it was untimely filed and failed to demonstrate clear evidence of error.

On August 12, 2025, appellant requested reconsideration. He provided a July 8, 2025 report, wherein Dr. Biggers related that he first examined appellant on January 21, 2020 due to lower back and hip pain and abdominal discomfort. On physical examination, he found that the hip pain was localized to the sacroiliac joint. Dr. Biggers noted that the onset of appellant's hip pain and abdominal symptoms were acute, "and began after he commenced employment" with the employing establishment. He opined that given the timing of the symptom onset, the clinical findings, the known pathophysiology of his conditions, and the nature of his job duties, appellant's current symptoms were "as likely as not directly related" to his federal job duties.

Appellant also resubmitted Dr. Biggers' partially completed and undated form report.

By decision dated November 4, 2025, OWCP denied appellant's August 12, 2025 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**

Pursuant to section 8128(a) of FECA, OWCP has the discretion to reopen a case for further merit review.<sup>6</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>7</sup> Timeliness is determined by the document receipt date *i.e.*, the "received date" in OWCP's Integrated Federal Employees' Compensation System (iFECS).<sup>8</sup> Imposition of this one-year filing limitation does not constitute an abuse of discretion.<sup>9</sup>

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.<sup>10</sup> 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

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<sup>5</sup> Docket No. 25-0146 (issued January 22, 2025).

<sup>6</sup> 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).

<sup>7</sup> 20 C.F.R. § 10.607(a).

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020).

<sup>9</sup> *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).

<sup>10</sup> 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).

OWCP.<sup>11</sup> In this regard, OWCP will limit its focus to a review of how the newly submitted evidence bears on the prior evidence of record.<sup>12</sup>

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.<sup>13</sup> 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.<sup>14</sup>

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.<sup>15</sup> The claimant must present evidence which on its face demonstrates that OWCP made an error. 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.

A request for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.<sup>18</sup> As appellant's request for reconsideration was not received by OWCP until August 12, 2025, more than one year after the August 5, 2020 merit

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<sup>11</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); *supra* note 8 at Chapter 2.1602.5 (September 2020).

<sup>12</sup> *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).

<sup>13</sup> *J.M.*, Docket No. 22-0630 (issued February 10, 2023); *S.C.*, Docket No. 18-0126 (issued May 14, 2016); *supra* note 8 at Chapter 2.1602.5a (September 2020).

<sup>14</sup> *L.J.*, Docket No. 23-0282 (issued May 26, 2023); *C.M.*, Docket No. 19-1211 (issued August 5, 2020); *J.M.*, Docket No. 19-1842 (issued April 23, 2020); *Robert G. Burns*, *supra* note 12.

<sup>15</sup> See *G.G.*, *supra* note 9; see also 20 C.F.R. § 10.607(b); *supra* note 8 at Chapter 2.1602.5 (September 2020).

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

<sup>17</sup> *G.B.*, Docket No. 19-1762 (issued March 10, 2020); *D.S.*, Docket No. 17-0407 (issued May 24, 2017); *George C. Vernon*, 54 ECAB 319 (2003).

<sup>18</sup> 20 C.F.R. § 10.607(a).

decision, it was untimely filed. Consequently, he must demonstrate clear evidence of error by OWCP in denying the claim.<sup>19</sup>

In support of his untimely request for reconsideration, appellant submitted a July 8, 2025 report, wherein Dr. Biggers opined that, given the timing of the symptom onset, the clinical findings, the known pathophysiology of his conditions, and the nature of his job duties, appellant's current symptoms were "as likely as not directly related" to his federal job duties. Appellant also resubmitted Dr. Biggers' partially completed and undated form report. The Board notes that clear evidence of error is intended to represent a difficult standard.<sup>20</sup> The evidence must be positive, precise, and explicit, and manifest on its face that OWCP committed an error.<sup>21</sup> Even 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>22</sup> The evidence submitted by appellant in support of his untimely request for reconsideration does not raise a substantial question as to the correctness of the denial of his claim.<sup>23</sup> Thus, the Board finds that this evidence is insufficient 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.

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

<sup>20</sup> *Supra* note 18.

<sup>21</sup> *Supra* note 16. *See also B.T.*, Docket No. 25-0514 (issued July 17, 2025); *J.F.*, Docket No. 24-0883 (issued December 2, 2024); *I.L.*, Docket No. 21-1146 (issued January 31, 2022); *A.A.*, Docket No. 19-1219 (issued December 10, 2019); *Dean D. Beets*, 43 ECAB 1153 (1992).

<sup>22</sup> *Supra* note 17.

<sup>23</sup> *See I.D.*, Docket No. 25-0807 (issued November 20, 2025); *P.T.*, Docket No. 18-0494 (issued July 9, 2018).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 4, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 8, 2026  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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