

² 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

On April 9, 2016 appellant, then a 36-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that, on that date, he sprained his right ankle when he dismounted his vehicle while in the performance of duty. OWCP assigned the claim OWCP File No. xxxxxx830 and accepted it for sprain of right ankle, valgus deformity of the right ankle, and impingement syndrome of left shoulder. It paid appellant wage-loss compensation for disability from work on the supplemental rolls effective May 31, 2016, and on the periodic rolls effective October 1, 2016.³

By decision dated September 13, 2018, OWCP terminated appellant's entitlement to wage-loss compensation and schedule award benefits, effective that date, as he had refused an offer of suitable employment under 5 U.S.C. § 8106(c)(2).⁴ The claim remained open for medical benefits.

OWCP subsequently received a September 6, 2018 report, wherein Dr. Jennifer Gurske-Deperio, a Board-certified orthopedic surgeon, provided assessments of right ankle and right foot joint pain; posterior tibial tendinitis, right leg; spontaneous rupture of flexor tendons, right ankle and foot; contracture, right foot; and contracture, right ankle. Dr. Gurske-Deperio noted the date of injury as April 9, 2016.

On November 14, 2018 appellant requested reconsideration of the September 13, 2018 termination decision. In support thereof, he submitted additional medical evidence.

By decision dated March 13, 2019, OWCP denied modification of its September 13, 2018 decision terminating appellant's entitlement to wage-loss compensation and schedule award benefits for refusing suitable employment, pursuant to 5 U.S.C. § 8106(c)(2).

OWCP subsequently continued to receive medical evidence.

On January 25, 2026 appellant, through counsel, requested reconsideration of the September 13, 2018 termination decision.

³ Appellant has a prior claim for a September 3, 2013 traumatic injury which OWCP assigned OWCP File No. xxxxxx358 and initially accepted for left ankle sprain. On September 15, 2025 OWCP administratively combined OWCP File Nos. xxxxxx830 and xxxxxx358, with the latter serving as the master file.

⁴ On June 6, 2018 the employing establishment offered appellant a modified carrier technician position, which appellant refused. On August 1, 2018 OWCP advised appellant that it considered the offered position suitable in accordance with the July 3, 2018 restrictions set forth by Dr. Kevin Scott, a Board-certified orthopedic surgeon serving as a second-opinion physician. Additionally, it advised appellant that he had 30 days to either accept the job offer or submit factual and/or medical evidence explaining his continued refusal. Moreover, OWCP advised him that, if he did not accept the position, his entitlement to wage-loss compensation and schedule award benefits would be terminated in accordance with 5 U.S.C. § 8106(c)(2). Appellant did not accept the position.

By decision dated February 5, 2026, 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

Pursuant to section 8128(a) of FECA, OWCP has the discretion to reopen a case for further merit review.⁵ 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.⁶ 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).⁷ Imposition of this one-year filing limitation does not constitute an abuse of discretion.⁸

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.⁹ If a request for reconsideration demonstrates clear evidence of error, OWCP will reopen the case for merit review.¹⁰

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.¹¹ The evidence must be positive, precise, and explicit and must manifest on its face that OWCP committed an error.¹² Evidence that does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to demonstrate clear evidence of error.¹³ 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

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

⁶ 20 C.F.R. § 10.607(a).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4b (September 2020).

⁸ *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).

⁹ *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).

¹⁰ *L.C.*, Docket No. 18-1407 (issued February 14, 2019); *M.L.*, Docket No. 09-0956 (issued April 15, 2010). *See also* 20 C.F.R. § 10.607(b).

¹¹ *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).

¹² *J.D.*, Docket No. 19-1836 (issued April 6, 2020); *Leone N. Travis*, 43 ECAB 227 (1999).

¹³ *S.W.*, Docket No. 18-0126 (issued May 14, 2019); *Robert G. Burns*, 57 ECAB 657 (2006).

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.¹⁴

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

ANALYSIS

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.

The last merit decision was issued in this case on March 13, 2019. As appellant's request for reconsideration was not received by OWCP until January 25, 2026, more than one year after the March 13, 2019 merit decision, pursuant to 20 C.F.R. § 10.607(a), the Board finds that the request for reconsideration was untimely filed.¹⁸ Consequently, appellant must demonstrate clear evidence of error by OWCP in denying the claim.¹⁹

On reconsideration, appellant, through counsel, submitted additional medical evidence. As noted, clear evidence of error is intended to represent a difficult standard.²⁰ It is not enough to show that evidence could be construed so as to produce a contrary conclusion. Instead, the evidence must raise a substantial question as to the correctness of OWCP's decision.²¹ The evidence submitted on reconsideration does not raise a substantial question as to the correctness of OWCP's March 13, 2019 decision. The Board thus finds that OWCP properly denied appellant's request for reconsideration of the merits of his claim as it was untimely filed and failed to demonstrate clear evidence of error.

¹⁴ *T.N.*, Docket No. 18-1613 (issued April 29, 2020).

¹⁵ *See supra* note 8 at Chapter 2.1602.5a (September 2020); *see also J.S.*, Docket No. 16-1240 (issued December 1, 2016).

¹⁶ *K.W.*, Docket No. 19-1808 (issued April 2, 2020).

¹⁷ *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).

¹⁸ *Supra* notes 8 and 9.

¹⁹ 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).

²⁰ *Supra* note 17.

²¹ *Supra* note 15.

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 5, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 24, 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