United States Department of Labor
Employees' Compensation Appeals Board

B.A., Appellant	)	
	)	**Docket No. 26-0534**
and	)	**Issued: August 25, 2026**
	)	
U.S. POSTAL SERVICE, MOBILE ANNEX, Mobile, AL, 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 May 15, 2026, appellant filed a timely appeal from a November 20, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from the last merit decision dated August 26, 2024, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.

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.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On June 25, 2010, appellant, then a 51-year-old small parcel bundle sorter/clerk, filed an occupational disease claim (Form CA-2) alleging that she sustained right hamstring tendinitis due to her repetitive work duties, including sorting (keying) mail, lifting sacks and boxes weighing approximately 10 to 50 pounds, and pushing heavy equipment. OWCP initially accepted the claim for right hamstring tendinitis. On July 17, 2024, OWCP expanded the acceptance of the claim to include strain of muscle, fascia and tendon of the posterior muscle group at thigh level, right thigh, initial encounter.

In medical reports dated April 16 and June 19, 2024, Dr. Robert Agee, a Board-certified family practitioner, related appellant's physical examination findings and recommended an increase in her physical therapy treatment for her accepted condition of strain of muscle, fascia and tendon of the posterior muscle group at thigh level, right thigh, from once a month to once a week. In undated prescription notes, he ordered physical therapy to treat appellant's accepted right thigh condition once a week for 12 weeks each during the periods April 18 through July 11, 2024, and July 18 through October 10, 2024.

In a letter dated July 24, 2024, OWCP informed Dr. Agee that it had received his request for physical therapy. It noted that appellant had received physical therapy for an extended period of time with no increased function or decrease in the level of disability. OWCP informed Dr. Agee that further physical therapy was not authorized until additional medical evidence was submitted describing the specific modalities that were being prescribed and a statement of her progress, which could be attributed to the therapy already provided.

In a July 24, 2024 report, Dr. Agee continued to recommend physical therapy as appellant continued to experience intermittent symptoms related to her accepted strain of muscle, fascia and tendon of the posterior muscle group at thigh level, right thigh, initial encounter. He explained that, when appellant's symptoms did manifest, they were sharp and throbbing, contributing to a stiffening and redness in the right lower extremity. Occasional episodes of numbness and tingling were also reported which could be indicative of nerve root compression or irritation in the affected area.

In a report dated August 3, 2024, Dr. Bishop Lanier Carmichael, an osteopathic physician Board-certified in family and sports medicine, noted appellant's history of injury and that appellant had waxing and waning symptoms since that time with episodes of physical therapy that had provided improvement. He explained that appellant likely had scar tissue formation and now had irritation of the sciatic nerve. Dr. Carmichael further related that appellant did not have a surgical issue, but that she would need continued physical therapy, specifically eccentric strengthening of the hamstring and Nordics. He related that he would write appellant a new prescription for physical therapy, and would reassess her response to her new physical therapy in a few weeks.

By decision dated August 26, 2024, OWCP denied authorization for physical therapy, finding that the medical evidence of record did not contain a rationalized medical opinion to support that the requested treatment was medically necessary to address the effects of her accepted employment-related condition.

OWCP subsequently received visit notes dated August 22, 2024 through September 26, 2024 from a physical therapist.

OWCP also received a September 5, 2024 report, wherein Dr. Agee continued to recommend physical therapy to treat appellant's accepted condition of strain of muscle, fascia and tendon of the posterior muscle group at thigh level, right thigh. He noted the accepted condition led to her symptoms of muscle tightness, limited range of motion, and weakness in the affected thigh. Dr. Agee further noted that aggravating factors included activities that involved prolonged standing, walking, or any strenuous use of the right leg, which exacerbated appellant's symptoms. He discussed his examination findings. Dr. Agee related that continued physical therapy was essential to manage appellant's symptoms, improve thigh muscle function, and prevent further deterioration. He maintained that without ongoing therapy, her condition may worsen, leading to increased functional limitations and a potential decline in her overall quality of life. Dr. Agee noted that the functional therapy goals included improving thigh mobility, strengthening the affected muscles, and enhancing appellant's ability to perform daily activities.

Additionally, OWCP received duplicate copies of Dr. Agee's June 19 and July 24, 2024 reports, and an undated prescription for physical therapy for the period July 18 through October 10, 2024.

A September 20, 2024 right femur magnetic resonance imaging (MRI) scan read by Dr. Rosemary J. Klecker, a Board-certified diagnostic radiologist, related that the examination was requested due to a chronic hamstring strain refractory resulting from physical therapy. Dr. Klecker related an impression of tendinopathy of the right hamstring tendons in the absence of focal tear and no evidence of impingement on the right sciatic nerve; nonacute partial tearing of the proximal adductor magnus tendon from the attachment on the right ischial tuberosity; nonspecific edema signal within the distal adductor magnus muscle and the absence of fatty infiltration; findings that were nonspecific and may be seen in the setting of delayed onset muscle soreness along other etiologies; right ischiofemoral impingement with associated quadratus femoris muscle edema; mild-to-moderate fatty infiltration; mild atrophy; and degenerative changes of the right knee with joint effusion.

On October 28, 2025, appellant requested reconsideration of the August 26, 2024 decision. She contended that OWCP's claims examiner was not a physical therapist, and, thus, was not qualified to find that she had no increased or decreased level of disability due to her accepted right hamstring condition in the November 2024 decision. Appellant further contended that physical therapy was necessary as she continued to suffer from worsening right hamstring pain since her employment injury.

By decision dated November 20, 2025, OWCP denied appellant's October 28, 2025 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.[2] 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.[3] Timeliness is determined by the document receipt date *i.e.,* the "received date" in OWCP's Integrated Federal Employees' Compensation System (iFECS).[4] Imposition of this one-year filing limitation does not constitute an abuse of discretion.[5]

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.[6] 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.[7] In this regard, OWCP will limit its focus to a review of how the newly submitted evidence bears on the prior evidence of record.[8]

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.[9] 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

[2] 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).

[3] 20 C.F.R. § 10.607(a).

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

[5] *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).

[6] *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).

[7] *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 4 at Chapter 2.1602.5 (September 2020).

[8] *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).

[9] *J.M.*, Docket No. 22-0630 (issued February 10, 2023); *S.C.,* Docket No. 18-0126 (issued May 14, 2016); *supra* note 4 at Chapter 2.1602.5a (September 2020).

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.[10]

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.[11] 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.[12] The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.[13]

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 issued by OWCP was August 26, 2024. As appellant's request for reconsideration was not received by OWCP until October 28, 2025, more than one year after the August 26, 2024 decision, pursuant to 20 C.F.R. § 10.607(a), the request for reconsideration was untimely filed. Consequently, she must demonstrate clear evidence of error by OWCP in its August 26, 2024 merit decision.[14]

On reconsideration, appellant asserted that OWCP's claims examiner was not a physical therapist, and, thus, was not qualified to find that she had no increased or decreased level of disability due to her accepted right hamstring condition in the November 2024 decision. She further asserted that physical therapy was necessary because she continued to suffer from worsening right hamstring pain since her employment injury. The Board finds, however, that appellant's assertions do not raise a substantial question as to the correctness of OWCP's August 26, 2024 decision.[15]

With her request for reconsideration, appellant submitted a September 5, 2024 report, wherein Dr. Agee explained that continued physical therapy was essential to managing appellant's

[10] *L.J.*, Docket No. 23-0282 (issued May 26, 2023); *C.M.,* Docket No. 19-1211 (issued August 5, 2020); *J.M., supra* note 9; *Robert G. Burns*, *supra* note 8.

[11] *See G.G., supra* note 5; *see also* 20 C.F.R. § 10.607(b); *supra* note 4 at Chapter 2.1602.5 (September 2020).

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

[13] *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).

[14] 20 C.F.R. § 10.607(b); *D.Z.,* Docket No. 25-0422 (issued June 26, 2025); *M.M.,* Docket No. 21-1203 (issued December 22, 2022); *R.B.,* Docket No. 21-0598 (issued May 19, 2022); *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).

[15] *See L.S.,* Docket No. 26-0270 (issued July 6, 2026); *S.C.,* Docket No. 19-1424 (issued September 15, 2020).

symptoms related to the accepted strain of muscle, fascia and tendon of the posterior muscle group at thigh level, right thigh, improving thigh muscle function, and preventing further deterioration. Additionally, OWCP received duplicate copies of Dr. Agee's June 19 and July 24, 2024 reports; an undated prescription for physical therapy for the period July 18 through October 10, 2024; and a September 20, 2024 MRI scan. However, as explained above, clear evidence of error is intended to represent a difficult standard.[16] 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 demonstrate clear evidence of error. It is not enough to show that evidence could be construed so as to produce a contrary conclusion. Therefore, this evidence does not raise a substantial question concerning the correctness of OWCP's merit decision.[17]

Accordingly, OWCP properly denied appellant's reconsideration request, finding that it was untimely filed and failed to demonstrate clear evidence of error.[18]

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.

[16] *See supra* note 11; *see also B.B.,* Docket No. 26-0117 (issued March 25, 2026); *G.H.,* Docket No. 24-0838 (issued February 26, 2026); *V.B.,* Docket No. 23-0581 (issued January 20, 2026); *J.N.*, Docket No. 22-0899 (issued December 19, 2022).

[17] *See B.B., id.*; *G.H.*; *V.B., id.*; *J.N., id.*; *S.F.*, Docket No. 09-0270 (issued August 26, 2009).

[18] *See L.F.,* Docket No. 25-0566 (issued August 14, 2025); *J.M.,* Docket No. 22-0630 (issued February 10, 2023); *L.N.,* Docket No. 20-0742 (issued October 26, 2020); *B.C.*, Docket No. 16-1404 (issued April 14, 2017).

ORDER

IT IS HEREBY ORDERED THAT the November 20, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 25, 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