

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

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A.S., Appellant	)	
	)	
and	)	<b>Docket No. 26-0038</b>
	)	<b>Issued: February 27, 2026</b>
U.S. POSTAL SERVICE, COPPELL POST	)	
OFFICE, Coppel, TX, Employer	)	

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*Appearances:* *Case Submitted on the Record*  
*Debra Hauser, Esq., for the appellant<sup>1</sup>*  
*Office of Solicitor, for the Director*

**DECISION AND ORDER**

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

**JURISDICTION**

On October 15, 2025, appellant, through counsel, filed a timely appeal from a May 28, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days elapsed from OWCP's last merit decision, dated May 28, 2024, 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.<sup>3</sup>

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<sup>1</sup> 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.

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

<sup>3</sup> The Board notes that, following the issuance of the May 28, 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.*

## **ISSUE**

The issue is whether OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

## **FACTUAL HISTORY**

On September 22, 2020, appellant, then a 63-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that she injured her left hand, wrist, thumb, and first two fingers due to factors of her federal employment including, repetitive pulling/pushing, flipping and tying sacks of mail, and lifting pallets weighing 16 pounds and sacks of mail weighing up to 30 pounds.<sup>4</sup> She noted that she twisted and tied approximately 250 sacks per day, placed them inside bulk mail containers then pushed to the dock for the drivers.

After initial denial of the claim, by decision dated June 7, 2022, OWCP found that the medical evidence submitted was sufficient to establish that appellant sustained strain of muscle, fascia, and tendon of triceps, left arm; lateral epicondylitis, left elbow; sprain of other part of left wrist and hand; and strain of other extensor muscle, fascia, and tendon at forearm level, left arm causally related to the accepted factors of her federal employment.

By separate decision dated June 7, 2022, OWCP formally accepted appellant's claim for strain of muscle, fascia, and tendon of triceps, left arm, initial encounter; lateral epicondylitis, left elbow; sprain of other part of left wrist and hand, initial encounter; and strain of other extensor muscle, fascia, and tendon at forearm level, left arm, initial encounter.

In an attending physician's report (Form CA-20) dated May 30, 2023, Dr. Dustin L. Ray, a Board-certified orthopedic surgeon, diagnosed strain of muscle, fascia, and tendon triceps, left arm; lateral epicondylitis, left elbow; sprain of left wrist and hand; and strain of other extensor muscle, fascia, and tendon at forearm, left arm. He advised that appellant was totally disabled from work as of May 30, 2023, the date of his medical evaluation.

In an initial evaluation dated May 30, 2023, Dr. Russell Skinner, an attending physician specializing in family medicine and physical medicine and rehabilitation, provided assessments of the accepted conditions of strain of muscle, fascia, and tendon triceps, left arm, initial encounter; lateral epicondylitis, left elbow; sprain of other part of left wrist and hand, initial encounter; and strain of other extensor muscle, fascia, and tendon at forearm, left arm, initial encounter. He recommended that appellant be placed on reduced work for 45 days due to the severe swelling, decreased range of motion and strength, and worsening inflammation in the neck, back, bilateral shoulders, bilateral elbows, and bilateral wrists.

On July 19, 2023, appellant filed claims for compensation (Form CA-7) for disability from work for the period April 17 through June 16, 2023.

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<sup>4</sup> OWCP assigned the present claim OWCP File No. xxxxxx939. Appellant has a subsequent occupational disease claim under OWCP File No. xxxxxx337 alleging that she sustained neck, back, and bilateral shoulders and elbows injuries due to repetitive duties of her federal employment. OWCP has administratively combined appellant's claims, with OWCP File No. xxxxxx939 serving as the master file.

In a development letter dated July 25, 2023, OWCP informed appellant of the deficiencies of her claim for compensation for disability from work for the period April 17 through June 16, 2023. It advised her of the type of medical evidence needed to establish her claim. Appellant was afforded 30 days to submit the necessary evidence.

By decision dated September 12, 2023, OWCP denied appellant's claim for compensation for disability from work for the period April 17 through June 16, 2023.

On January 10, 2024, appellant requested reconsideration.

Appellant filed additional CA-7 forms for disability from work commencing September 6, 2023.

In a February 13, 2024 development letter, OWCP informed appellant of the deficiencies of her claim for compensation for disability from work commencing September 6, 2023. It advised her of the type of medical evidence needed to establish her claim. Appellant was afforded 30 days to submit the necessary evidence.

Following a preliminary review, by decision dated March 28, 2024, OWCP vacated the September 12, 2023 decision. It found that the September 12, 2023 decision was improperly issued as appellant's then-authorized representative did not receive a copy of the decision at the time it was issued. The case was returned for further appropriate action consistent with this decision.

On May 28, 2024, OWCP reissued its decision denying appellant's claim for compensation for disability from work commencing April 17, 2023. It found that the medical evidence of record was insufficient to establish disability from work during the claimed period causally related to her accepted employment injury.

Thereafter, OWCP received additional medical evidence. In progress notes dated June 5 and December 16, 2024, Dr. Ray reiterated his prior diagnoses of the accepted conditions. He also diagnosed carpal tunnel syndrome on the right and left; radial styloid tenosynovitis; other synovitis and tenosynovitis, left hand; cervical radiculopathy; medial epicondylitis of left elbow; triangular fibrocartilage complex tear, left, initial encounter; post-traumatic osteoarthritis of first carpometacarpal joints of right and left hand; other synovitis and tenosynovitis, right hand; cervicogenic headache; rotator cuff injury, right and left, initial encounter; neck pain; and traumatic tear of triangular fibrocartilage complex, right, initial encounter. Dr. Ray opined that the diagnosed conditions were causally related to appellant's federal employment. In the June 5, 2024 report, he placed her off work for 8 to 10 weeks.

Dr. Skinner, in medical visit notes dated June 25, August 13, and October 1, 2024, reiterated his prior diagnoses. He also diagnosed polyosteoarthritis, unspecified; radiculopathy, cervical and lumbar regions; unspecified rotator cuff tear/rupture of right and left shoulders, not trauma; strain of muscle/tendon the rotator cuff of right and left shoulders, initial encounter; carpal tunnel syndrome, bilateral upper limbs; radial styloid tenosynovitis [de Quervain's]; medial epicondylitis, unspecified elbow; medial epicondylitis, right and left elbows; lateral epicondylitis, right and left elbows; lateral epicondylitis, unspecified elbow; and white matter disease, unspecified. Dr. Skinner reiterated his prior opinion that appellant was temporarily totally disabled from work due to the severe swelling, decreased range of motion and strength,

and worsening inflammation in her left wrist, left hand, and left elbow. He placed her off work for 45 days from the date of each of his examinations.

In an April 9, 2025 progress note, Dr. Sandeep Dhanyamraju, a Board-certified psychiatrist and neurologist, provided assessments of the accepted conditions of strain of muscle, fascia, and tendon of triceps, left arm, initial encounter; lateral epicondylitis, left elbow; sprain of other part of left wrist and hand, initial encounter; and strain of other extensor muscle, fascia, and tendon at forearm level, left arm, initial encounter. He also provided assessments of paresthesia of skin; radiculopathy, site unspecified; and polyneuropathy in disease.

On May 23, 2025, appellant, through counsel, requested reconsideration of the May 8, 2024 decision. Counsel submitted a May 23, 2025 report from Dr. Skinner, contending that this additional report provided new medical rationale explaining why appellant's accepted conditions physically disabled her from her employment duties. Dr. Skinner related that he was providing additional medical evidence supporting appellant's claim for wage loss by addressing the impact her accepted conditions had on her ability to perform her employment duties. He restated his prior diagnoses of the accepted conditions of strain of muscle, fascia, and tendon triceps, left arm, initial encounter; lateral epicondylitis, left elbow; sprain of other part of left wrist and hand, initial encounter; and strain of other extensor muscle, fascia, and tendon at forearm, left arm, initial encounter. Dr. Skinner opined that appellant was totally disabled from the mail handler position since March 23, 2023 due to her accepted conditions, particularly, her left lateral epicondylitis, which significantly impaired her ability to perform essential job functions as a mail handler. He noted that the functional limitations imposed by this condition restricted her grip strength and range of motion in her left arm, making it impossible for her to perform critical tasks, such as lifting heavy mail sacks, pushing and pulling pallets, repetitive gripping and twisting of mail package, and overhead reaching and lifting. Dr. Skinner also explained that appellant's ability to perform repetitive lifting of mail sacks weighing up to 75 pounds was severely compromised. Appellant struggled to maintain a secure grip on the sacks, and the force required to lift and carry them exacerbated her elbow condition. Dr. Skinner noted that an attempt to lift heavy items would lead to increased pain and risk of further injury. He further explained that pushing or pulling heavy pallets loaded with mail required significant forearm strength and stability. Dr. Skinner related that due to her left lateral epicondylitis, appellant could not apply the necessary force without risking aggravation of her accepted elbow condition, which would lead to instability in her grip and potential workplace accidents. Additionally, he explained that tasks involving gripping, twisting, and tying packages were particularly difficult for appellant. Dr. Skinner noted that the required repetitive wrist movements placed undue stress on her already compromised elbow, resulting in decreased grip strength and increased fatigue in her forearm muscles. Lastly, he explained that overhead reaching to load mail onto conveyors or bins was severely limited because of the need for both stability and strength in appellant's elbow joint. Dr. Skinner maintained that appellant could not perform movements that necessitated the extension of her arm above shoulder level, which increased the risk of further injury.

By decision dated May 28, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

## LEGAL PRECEDENT

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his own motion or on application.<sup>5</sup>

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.<sup>6</sup>

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.<sup>7</sup> If it chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>8</sup> If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.<sup>9</sup>

## ANALYSIS

The Board finds that OWCP improperly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On reconsideration, appellant submitted a May 23, 2025 report from Dr. Skinner who opined that appellant was totally disabled from work due to her accepted employment-related conditions as of March 23, 2023, and explained how these conditions prevented her from performing her mail handler work duties. Dr. Skinner's report specifically addressed the underlying issue of whether appellant was disabled from work during the claimed period causally related to the accepted employment injury. He provided additional medical rationale explaining why appellant's medical conditions limited her ability to perform physical activities required by her employment duties. As such, the report constitutes relevant and pertinent new

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<sup>5</sup> 5 U.S.C. § 8128(a); *see L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

<sup>6</sup> 20 C.F.R. § 10.606(b)(3); *see L.D., id.*; *see also L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

<sup>7</sup> *Id.* at § 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 (February 2016). 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). *Id.* at Chapter 2.1602.4b.

<sup>8</sup> *Id.* at § 10.608(a); *see also F.V.*, Docket No. 18-0239 (issued May 8, 2020); *M.S.*, 59 ECAB 231 (2007).

<sup>9</sup> *Id.* at § 10.608(b); *see T.V.*, Docket No. 19-1504 (issued January 23, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

evidence, not previously of record. Therefore, the submission of this evidence requires reopening of appellant's claim for merit review pursuant to the third requirement of 20 C.F.R. § 10.606(b).<sup>10</sup> Accordingly, the Board shall set aside OWCP's May 28, 2025 nonmerit decision, and remand the case for a *de novo* merit decision regarding appellant's disability claim.

**CONCLUSION**

The Board finds that OWCP improperly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 28, 2025 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: February 27, 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

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<sup>10</sup> See *D.B.*, Docket No. 22-0502 (issued September 21, 2023); *L.M.*, Docket No. 20-1185 (issued January 13, 2021); *C.H.*, Docket No. 17-1065 (issued December 14, 2017); *J.W.*, Docket No. 18-0822 (issued July 1, 2020); *D.M.*, Docket No. 10-1844 (issued May 10, 2011); *Kenneth R. Mroczkowski*, 40 ECAB 855 (1989).