



## **FACTUAL HISTORY**

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

On June 28, 2017 appellant, then a 54-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral knee osteoarthritis due to factors of her federal employment, including sorting mail, pushing and pulling mail carts, and climbing stairs. She noted that she first became aware of her condition on June 1, 2017 and realized its relationship to her federal employment on June 15, 2017. Appellant did not stop work.

By decision dated December 1, 2017, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish the implicated employment factors, as alleged.

On February 15, 2018 appellant requested reconsideration.

By decision dated March 15, 2018, OWCP modified the December 1, 2017 decision to find that appellant had established the implicated employment factors and a diagnosed medical condition. However, the claim remained denied because the medical evidence of record was insufficient to establish that her bilateral knee osteoarthritis was causally related to the accepted employment factors.

On April 6, 2018 appellant, through her representative, requested reconsideration.

By decision dated October 11, 2018, OWCP denied modification of its March 15, 2018 decision.

On January 31, 2019 appellant, through her representative, requested reconsideration.

On February 15, 2019 OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a set of questions to Dr. Carolyn Yang, a Board-certified orthopedic surgeon, for a second opinion evaluation.

In a March 1, 2019 report, Dr. Yang reviewed the medical record and SOAF and documented her physical examination findings. She diagnosed right knee osteoarthritis and opined that the condition was not causally related to the accepted employment factors.

By decision dated March 29, 2019, OWCP denied modification of its October 11, 2018 decision.

In an August 6, 2019 narrative report, Dr. Paul Puziss, a Board-certified orthopedist, disagreed with Dr. Yang's assessment. He noted the progression of appellant's right knee pain over time, reviewed her surgical history including a partial meniscectomy of the right knee in 1989, a total knee replacement on December 15, 2016, and manipulation under anesthesia on March 31,

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<sup>3</sup> Docket No. 22-0104 (issued March 7, 2023).

2017, and documented physical examination findings. Dr. Puziss opined that appellant's official duties as a letter carrier caused or accelerated her right knee arthritis due to loading and shearing forces, and an altered gait.

On March 27, 2020 appellant, through her representative, requested reconsideration.

By decision dated April 24, 2020, OWCP denied modification of its March 29, 2019 decision.

On April 26, 2021 appellant, through her representative, requested reconsideration. In support thereof, she submitted an April 27, 2021 addendum report by Dr. Puziss who opined that the extent of her arthritis, particularly in her right knee, was caused by thousands of hours of performing her official duties as a letter carrier. Dr. Puziss also added a differentiation between any underlying preexisting arthritis and the arthritic changes caused by overuse due to her letter carrier duties.

By decision dated April 29, 2021, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

Appellant, through her representative, appealed to the Board. By decision dated March 7, 2023,<sup>4</sup> the Board found that the April 27, 2021 addendum report by Dr. Puziss constituted relevant and pertinent new evidence that was not previously considered by OWCP. The Board, therefore, remanded the case for an appropriate merit decision on appellant's occupational disease claim.

By *de novo* decision dated April 11, 2023, OWCP denied modification of its April 24, 2020 decision.

On April 10, 2024 appellant, through her representative, requested reconsideration. In support thereof, she submitted an April 8, 2024 narrative report by Dr. Hong-Diep Nguyen, Board-certified in family medicine, who noted appellant's surgical history and opined that it was "reasonable to state" that her history of obesity and her physically demanding job as a city carrier accelerated the progression of her right knee arthritis. Dr. Nguyen explained that twisting, turning, ascending and descending stairs, mounting and dismounting her postal vehicle, loading and unloading, standing and walking for prolonged periods, and carrying a hamper from 1998 through 2020 "added extra stress to her joint and likely contributed to the need for a total knee replacement sooner than later if she had not had such a physically demanding job." Appellant's representative asserted that the April 8, 2024 report of Dr. Nguyen established a causal relationship between appellant's work duties and the claimed arthritis.

By decision dated April 12, 2024, OWCP denied modification of its April 11, 2023 decision.

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<sup>4</sup> *Id.*

On April 14, 2025 appellant, through her representative, requested reconsideration of OWCP's April 12, 2024 decision.<sup>5</sup> She contended that the April 8, 2024 narrative report by Dr. Nguyen was sufficient to establish causal relationship.

By decision dated April 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 or her own motion or on application.<sup>6</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>7</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>8</sup> If it chooses to grant reconsideration, it reopens and reviews the case on its merits.<sup>9</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>10</sup>

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<sup>5</sup> 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. 20 C.F.R. § 10.607(a). 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. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). One year following OWCP's April 12, 2024 merit decision was Saturday, April 12, 2025. As the last day of the one-year filing period fell on a weekend, appellant had until the close of business on Monday, April 14, 2025 to timely request reconsideration. Because OWCP received appellant's request on April 14, 2025, the Board finds that it was timely filed.

<sup>6</sup> 5 U.S.C. § 8128(a); *see L.D.*, Docket No. 18-1468 (issued February 11, 2019); *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>7</sup> 20 C.F.R. § 10.606(b)(3); *see M.S.*, Docket No. 18-1041 (issued October 25, 2018); *L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

<sup>8</sup> 20 C.F.R. § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). 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>9</sup> *Id.* at § 10.608(a); *see D.C.*, Docket No. 19-0873 (issued January 27, 2020); *M.S.*, 59 ECAB 231 (2007).

<sup>10</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).

### **ANALYSIS**

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

On reconsideration, appellant, through her representative, argued that the April 8, 2024 report of Dr. Nguyen was sufficient to establish causal relationship. However, her representative did not demonstrate that OWCP erroneously applied or interpreted a specific point of law, nor did he advance a relevant legal argument not previously considered by OWCP. Accordingly, the Board finds that appellant is not entitled to a review of the merits of her claim based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).<sup>11</sup>

Appellant did not submit any relevant and pertinent new evidence with her request for reconsideration. Therefore, she is not entitled to further review of the merits of her claim based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).<sup>12</sup>

The Board, therefore, finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.<sup>13</sup>

### **CONCLUSION**

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

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<sup>11</sup> See *L.W.*, Docket No. 21-0607 (issued October 18, 2022).

<sup>12</sup> 20 C.F.R. § 10.606(b)(3).

<sup>13</sup> See *D.R.*, Docket No. 18-0357 (issued July 2, 2018); *A.K.*, Docket No. 09-2032 (issued August 3, 2010); *M.E.*, 58 ECAB 694 (2007); *Susan A. Filkins*, 57 ECAB 630 (2006).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 28, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 5, 2026  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

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

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