

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

C.H., Appellant	)	
	)	
and	)	<b>Docket No. 26-0080</b>
	)	<b>Issued: February 27, 2026</b>
U.S. POSTAL SERVICE, MUSKEGON	)	
HEIGHTS POST OFFICE, Muskegon, MI,	)	
Employer	)	
	)	

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

**ORDER REMANDING CASE**

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

On November 10, 2025 appellant, through counsel, filed a timely appeal from a May 14, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 26-0080.

On February 11, 2021 appellant, then a 29-year-old carrier technician, filed an occupational disease claim (Form CA-2) alleging that she sustained post-traumatic stress disorder (PTSD) due to factors of her federal employment including work stress, retaliation, racial discrimination, and bullying by coworkers and the union.

By decision dated May 12, 2021, OWCP accepted the implicated employment factors, but denied appellant's emotional condition claim because the evidence of record did not establish a

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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.

diagnosis in connection with the accepted factors. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On June 1, 2021 appellant requested reconsideration. By decision dated August 17, 2021, OWCP affirmed as modified the May 12, 2021 decision. It found that appellant had submitted medical evidence containing a diagnosis in connection with the claimed factors, however, she had not established a compensable factor of employment. Thus, appellant had not established an emotional condition in the performance of duty.

Appellant continued to request reconsideration and OWCP denied modification on December 20, 2021, and March 13 and July 18, 2023.

On November 17, 2023 appellant, through counsel, requested reconsideration.

On January 3, 2024 OWCP referred appellant, together with a statement of accepted facts (SOAF), medical record, and a series of questions, to Dr. Norman Miller, a Board-certified psychiatrist and neurologist, for a second opinion evaluation.

In a report dated January 17, 2024, Dr. Miller concluded that the diagnosed bipolar disease, manic disorder had not been caused, aggravated, or accelerated by her employment.

In a supplemental report dated February 27, 2024, Dr. Miller explained that appellant's workplace problems likely started due to her bipolar disorder. He also related that bipolar disorder had a biological cause and not an environmental cause.

By decision dated March 11, 2024, OWCP modified the July 18, 2023 decision to find that appellant had established three compensable factors of retaliation. However, the claim remained denied as she had not established a medical condition causally related to the compensable employment factors.

On April 22, 2025 appellant requested reconsideration of the March 11, 2024 OWCP decision.

By decision dated May 14, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

The Board, having duly considered this matter, finds that this case is not in posture for decision.

Section 10.607(a) of OWCP's regulations provides that a request for reconsideration must be received within one year of the date of OWCP's last merit decision for which review is sought.<sup>2</sup> 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).<sup>3</sup> The Board finds that appellant's request for reconsideration was untimely filed as it

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<sup>2</sup> 20 C.F.R. § 10.607(a).

<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4(b) (September 2020).

was not received until April 22, 2025, which is more than one year from OWCP's last merit decision dated March 11, 2024.

The proper standard of review for an untimely reconsideration request is the clear evidence of error standard.<sup>4</sup> The standard utilized by OWCP in its May 14, 2025 decision, however, was only appropriate for timely reconsideration requests. Because appellant filed an untimely reconsideration request, the case will be remanded to OWCP for application of the correct standard for reviewing untimely reconsideration requests, the clear evidence of error standard.<sup>5</sup> After such further development as OWCP deems necessary, it shall issue an appropriate decision. Accordingly,

**IT IS HEREBY ORDERED THAT** the May 14, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this order of the Board.

Issued: February 27, 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

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<sup>4</sup> See *E.R.*, Docket No. 24-0910 (issued November 26, 2024); *Order Remanding Case, S.C.*, Docket No. 21-0340 (issued July 28, 2021).

<sup>5</sup> *Id.* at § 10.606(b); *M.D.*, Docket No. 19-1957 (issued June 22, 2020).