

² The Board notes that following the December 3, 2025 nonmerit decision, appellant submitted additional evidence to OWCP and to the Board. However, 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 finding that it was untimely filed and failed to demonstrate clear evidence of error.

FACTUAL HISTORY

On August 6, 2020 appellant, then a 45-year-old budget analyst, filed an occupational disease claim (Form CA-2) alleging that she suffered increased anxiety, panic attacks, nose bleeds, nervousness, migraines, and insomnia due to factors of her federal employment, including harassment by T.S., her supervisor, while on approved telework reasonable accommodation (RA). She also alleged that the employing establishment allowed a hostile work environment which worsened her medical conditions. Appellant first became aware of her conditions and that they were caused or aggravated by her federal employment on April 8, 2020. On the reverse side of the claim form, T.S. noted that appellant refused to return to work or sign a RA agreement to allow telework. Appellant stopped work on April 8, 2020.

An October 4, 2021 statement of accepted facts (SOAF) listed the accepted events that were compensable factors of employment. The SOAF recounted that at the onset of the COVID-19 pandemic appellant had protracted discussions with her supervisor regarding working remotely due to her risk factors of asthma and obesity. The SOAF also related that appellant's allegation of workplace harassment was partially substantiated, based on a June 12, 2020 memorandum from K.J. and A.B.

By decision dated October 8, 2021, OWCP accepted the claim for aggravation of post-traumatic stress disorder (PTSD) and adjustment disorder. It paid appellant wage-loss compensation effective May 22, 2020.

The employing establishment challenged the acceptance of the claim. It stated that appellant was allowed to telework temporarily. The employing establishment related that appellant's employment was terminated effective November 6, 2020 due to failure to follow instructions, absent without leave (AWOL), lack of candor, and conduct unbecoming of a federal employee.

A May 10, 2021 decision from the Merit Systems Protection Board (MSPB), affirmed the employing establishment's removal of appellant from her position effective November 6, 2020. The administrative judge (AJ) found that the employing establishment had proven the charge of failure to follow instructions and AWOL but failed to show that appellant had engaged in lack of candor or in conduct unbecoming of a federal employee. The decision further found that appellant failed to establish her affirmative defenses of discrimination based on race and disability and that she had failed to establish that the employing establishment had committed harmful procedural error in requiring a new telework agreement. The AJ found that appellant did not establish that the employing establishment improperly denied her request for reassignment. The decision further found that T.S.'s version of events regarding a May 15, 2020 telephone call from his personal cell phone was more credible than appellant's version of events.

In a January 7, 2022 letter, the employing establishment requested that OWCP rescind its acceptance of the claim. It clarified that “partial substantiation” of harassment in the June 12, 2020 memorandum from K.J. referred to the fact that a May 15, 2020 telephone call had been made to appellant from T.S.’s personal telephone. However, no abuse or harassment during the telephone call was established. An attached June 12, 2020 fact-finding report form from K.J., corroborated this finding. An attached memorandum also reflected that no disciplinary action was taken against T.S. as the employing establishment’s handbook and rules of behavior contained no specific prohibition regarding the use of personally-owned devices.

Appellant, in numerous letters, objected to the employing establishment’s request to rescind the acceptance of her claim. She alleged continued harassment.

On July 8, 2022 OWCP proposed rescission of the acceptance of the claim. It related that as the evidence of record did not substantiate harassment or discrimination the prior acceptance was invalid. The events that should not have been accepted as compensable factors of employment were that T.S. had inadvertently called appellant from his personal cell phone on May 15, 2020; that T.S. committed administrative error by placing appellant on leave without pay (LWOP) status, denying appellant’s leave requests, or improperly processed appellant’s timesheets. OWCP also found that appellant’s request to telework was approved, and that the employing establishment’s request that appellant submit an updated signed telework agreement was not erroneous or abusive. It further found that while the employing establishment had denied appellant’s request to work under a different supervisor, she had not established error or abuse in this action. OWCP afforded appellant 30 days to present evidence and argument challenging the proposed rescission.

In a July 29, 2022 letter, appellant, through her then counsel, requested that the acceptance of appellant’s claim not be rescinded until litigation was resolved with the employing establishment.

OWCP received additional evidence. A March 25, 2022 Equal Employment Opportunity (EEO) final agency decision dismissed appellant’s complaint as appellant had a pending civil action in a United States District Court. A February 25, 2022 amended complaint before the United States District Court alleging discrimination and retaliation was also received.

By decision dated June 16, 2023, OWCP finalized the proposed rescission of the acceptance of appellant’s claim effective that date. It found that the evidence of record did not support a compensable work factor.

On June 28, 2023, appellant requested an oral hearing by a representative of OWCP’s Branch of Hearings and Review of OWCP’s June 16, 2023 decision. A telephonic hearing was held on November 15, 2023.

By decision dated January 12, 2024, an OWCP hearing representative affirmed OWCP’s June 16, 2023 decision rescinding acceptance of the claim. He found that appellant’s allegations of error and abuse in administrative matters were not substantiated. The hearing representative also found that appellant did not substantiate her allegations regarding harassment or discrimination.

On October 1, 2025 appellant requested reconsideration of OWCP's January 12, 2024 decision. She argued that OWCP failed to consider medical evidence and mishandled harassment findings. Appellant also alleged that the employing establishment had improperly uploaded a summary judgment decision from a civil case into her OWCP file. In an undated statement, she reiterated previous allegations that OWCP had ignored her medical evidence; issued decisions lacking factual and legal findings; violated due process by overlooking sworn testimony and hearing transcripts; overlooked evidence of harassment and discrimination; and engaged in unreasonable adjudication delays. Appellant also repeated her allegations that the employing establishment had improperly denied telework and an RA, and that the employing establishment had improperly disciplined her.

OWCP received a September 3, 2025 decision from the United States District Court for the Western District of Oklahoma which granted the employing establishment's motion for summary judgment. It found that appellant had not exhausted her administrative remedies for her claimed discrete acts of discrimination; she had offered no direct or indirect evidence of disability discrimination or argued pretext from which such alleged disability discrimination arose. The Court also found that appellant had not established that the employing establishment improperly processed her telework or leave requests, and that she had abandoned her claim for failure to accommodate.

On October 10, 2025 OWCP received another undated narrative statement from appellant. Appellant repeated her allegations that T.S. had improperly denied telework requests, exposed confidential medical information, and used racially derogatory language; that T.D., an RA coordinator had failed to process her request timely and had allowed supervisors to violate an approved RA. She also alleged that P.G. had authorized her removal from employment while she had an active RA. On October 29, 2025 OWCP received another document from appellant outlining these allegations.

In a letter dated November 2, 2025, appellant requested that OWCP reassign her claim to another claims examiner due to a longstanding pattern of bias, unprofessional remarks, and documented factual, and legal errors.

By decision dated December 3, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, finding that it was untimely filed and failed to demonstrate clear evidence of error in the rescission of her claim.

LEGAL PRECEDENT

Pursuant to section 8128(a) of FECA, OWCP has the discretion to reopen a case for further merit review.³ 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.⁴ Timeliness is determined by the document receipt date *i.e.*,

³ *Id.* at. § 8128(a); *G.E.*, Docket No. 25-0189 (issued March 5, 2025); *L.W.*, Docket No. 18-1475 (issued February 7, 2019); *Y.S.*, Docket No. 08-0440 (issued March 16, 2009).

⁴ 20 C.F.R. § 10.607(a).

the “received date” in OWCP’s Integrated Federal Employees’ Compensation System (iFECS).⁵ Imposition of this one-year filing limitation does not constitute an abuse of discretion.⁶

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.⁷ 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.⁸ In this regard, OWCP will limit its focus to how the evidence 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.⁹

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.¹⁰ The evidence must be positive, precise, and explicit and must manifest on its face that OWCP committed an error.¹¹ 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.¹² OWCP’s procedures note that the term clear evidence of error is intended to represent a difficult standard.¹³ The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.¹⁴

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020).

⁶ *B.B.*, Docket No. 26-0117 (issued March 26, 2026); *M.D.*, Docket No. 25-0435 (issued May 23, 2025); *G.G.*, Docket No. 18-1074 (issued January 7, 2019); *E.R.*, Docket No. 09-0599 (issued June 3, 2009); *Leon D. Faidley, Jr.*, 41 ECAB 104 (1989).

⁷ See 20 C.F.R. § 10.607(b); *B.B.*, *id.*; *T.C.*, Docket No. 19-1709 (issued June 5, 2020); *Charles J. Prudencio*, 41 ECAB 499 (1990).

⁸ *M.D.*, *supra* note 6; *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 5 at Chapter 2.1602.5 (September 2020).

⁹ *F.B.*, Docket No. 26-0233 (issued April 29, 2026); *K.S.*, Docket No. 25-0142 (issued January 27, 2025); *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).

¹⁰ *J.M.*, Docket No. 22-0630 (issued February 10, 2023); *S.C.*, Docket No. 18-0126 (issued May 14, 2016); *supra* note 5 at Chapter 2.1602.5a (September 2020).

¹¹ 20 C.F.R. § 10.607(b); *B.W.*, Docket No. 19-0626 (issued March 4, 2020); *Fidel E. Perez*, 48 ECAB 663, 665 (1997).

¹² See *G.B.*, Docket No. 19-1762 (issued March 10, 2020); *Leona N. Travis*, 43 ECAB 227, 240 (1991).

¹³ See *G.G.*, *supra* note 6; see also 20 C.F.R. § 10.607(b); *supra* note 5 at Chapter 2.1602.5 (September 2020).

¹⁴ *G.B.*, *supra* note 12; *D.S.*, Docket No. 17-0407 (issued May 24, 2017); *George C. Vernon*, 54 ECAB 319 (2003).

ANALYSIS

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim as it was untimely filed and failed to establish clear evidence of error.

OWCP's regulations¹⁵ and procedures¹⁶ establish a one-year time limit for requesting reconsideration, which begins on the date of the last merit decision issued in the case. A right to reconsideration within one year also accompanies any subsequent merit decision on the issues.¹⁷ The most recent merit decision was OWCP's January 12, 2024 decision. As appellant's October 1, 2025 request for reconsideration was received more than one year after the January 12, 2024 merit decision, the Board finds that it was untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in its January 12, 2024 merit decision.¹⁸

In order to establish clear evidence of error, a claimant must submit evidence that is positive, precise, and explicit and must manifest on its face that the Office committed an error. Evidence which does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to establish clear evidence of error.¹⁹ The underlying issue is whether OWCP properly rescinded the acceptance of appellant's claim because the evidence of record did not establish a compensable employment factor. The Board has reviewed appellant's arguments and evidence submitted with her untimely request for reconsideration and finds that they are essentially duplicative of previous arguments raised and previously reviewed. On reconsideration appellant did not submit specific evidence or argument establishing that the rescission issue was issued in error because a compensable factor of employment had been established at the time OWCP rescinded acceptance of her claim. Her own beliefs and allegations on reconsideration regarding the employing establishment's actions and OWCP's handling of her claim do not raise a substantial question as to the correctness of OWCP's January 12, 2024 decision.²⁰ The Board finds that appellant's arguments and the evidence submitted on reconsideration did not precisely and positively demonstrate that OWCP improperly rescinded acceptance of her emotional condition claim.²¹

¹⁵ 20 C.F.R. § 10.607(a); *see C.B.*, Docket No. 25-0297 (issued March 26, 2025); *F.N.*, Docket No. 18-1543 (issued March 6, 2019); *Alberta Dukes*, 56 ECAB 247 (2005).

¹⁶ *Supra* note 5 at Chapter 2.1602.4 (February 2016); *see J.H.*, Docket No. 25-0267 (issued March 7, 2025); *L.A.*, Docket No. 19-0471 (issued October 29, 2019); *Veletta C. Coleman*, 48 ECAB 367, 370 (1997).

¹⁷ 20 C.F.R. § 10.607(b); *J.H., id.*; *see Debra McDavid*, 57 ECAB 149 (2005).

¹⁸ *S.B.*, Docket No. 25-0176 (issued March 12, 2025); *R.G.*, Docket No. 25-0043 (issued December 19, 2024); *S.M.*, Docket No. 18-1499 (issued February 5, 2020) (OWCP will reopen a claimant's case for merit review, notwithstanding the one-year filing limitation, if the claimant's request for reconsideration shows clear evidence of error on the part of OWCP).

¹⁹ *C.W.*, Docket No. 25-0584 (issued May 26, 2026); *L.L.*, Docket No. 06-1509 (issued December 28, 2006).

²⁰ *See S.C.*, Docket No. 19-1424 (issued September 15, 2020).

²¹ *See J.D.*, Docket No. 25-0163 (issued May 22, 2025); *S.F.*, Docket No. 09-0270 (issued August 26, 2009).

Accordingly, the Board finds that OWCP properly denied appellant's October 1, 2025 request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

CONCLUSION

The Board finds that OWCP properly denied appellant's request for reconsideration finding that it was untimely filed and failed to establish clear evidence of error.

ORDER

IT IS HEREBY ORDERED THAT the December 3, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 6, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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