

¹ 5 U.S.C. § 8101 *et seq.*

performance of duty. As to the nature of the injury, she only stated “please see doctor’s note.” On the reverse side of the CA-1 form, the postmaster, M.M., controverted the claim, noting that appellant had not reported an incident and had filed the claim six weeks following the alleged incident. The supervisor also noted that appellant had informed her on June 6, 2024 that she was feeling faint and had not eaten for two days. Appellant stopped work June 6, 2024 and returned to work July 19, 2024.

In a June 6, 2024 statement, Postmaster M.M. stated that at approximately 1:40 p.m. appellant called and told her that she was not feeling well and felt faint. She agreed it was a good idea for appellant to sit for a bit and drink water before continuing work. Approximately 10 minutes later appellant passed out at a mailbox. A customer called an ambulance, but appellant refused to be taken to the emergency room for observation. M.M. related that she took appellant home so she could rest. She also noted that appellant indicated she had not eaten in two days but refused her offer to buy food. M.M. recounted that appellant had a preexisting medical condition for which she had Family Medical Leave Act (FMLA) protection.

In a development letter dated July 25, 2024, OWCP advised appellant of the factual and medical evidence necessary to establish her claim and attached a questionnaire for her completion. It afforded her 60 days to submit the necessary evidence. No response was received.

In a follow-up letter dated August 22, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish the claim. It noted that she had 60 days from the July 25, 2024 development letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No evidence was received.

By decision dated September 25, 2024, OWCP denied appellant’s claim finding that the evidence of record was insufficient to establish that the June 6, 2024 employment incident occurred in the performance of duty as alleged. It noted that she had not provided a factual statement explaining how she was injured. OWCP therefore concluded that appellant had not established an injury under FECA.

In an unsigned October 2, 2024 state form report, appellant stated that she had collapsed at work due to heat.

In an October 2, 2024 progress report, and an attending physician’s report of even date, Dr. Joel M. Fink, an occupational medicine specialist, related that on June 6, 2024 appellant was working her postal route when she collapsed. He diagnosed panic attacks and heat stroke, which he opined were caused in major part by the described work incident. Dr. Fink further opined that appellant appeared to have had an exacerbation of underlying mental health issues, potentially post-traumatic stress disorder (PTSD), as a result of the June work-related heat stroke.

On November 12, 2024 appellant requested reconsideration.

By decision dated November 14, 2024, OWCP denied appellant’s request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

OWCP subsequently received additional medical evidence from Dr. Fink. In an October 2, 2024 duty status report (Form CA-17), Dr. Fink diagnosed panic attacks due to an August 22, 2019 injury. In a November 4, 2024 progress report, he diagnosed panic attacks and heat stroke. Dr. Fink related that appellant would be starting a partial hospitalization program for treatment of her mental health conditions.

On December 5, 2024 appellant requested reconsideration.

By decision dated December 10, 2024, 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.²

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.³

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.⁴ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.⁵ 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.⁶

² 5 U.S.C. § 8128(a); *see S.B.*, Docket No. 24-0703 (issued December 13, 2024); *M.S.*, Docket No. 19-1001 (issued December 9, 2019); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *W.C.*, 59 ECAB 372 (2008).

³ 20 C.F.R. § 10.606(b)(3); *see B.G.*, Docket No. 26-0170 (issued March 30, 2026); *S.B.*, *id.*; *L.D.*, *id.*; *see also K.L.*, Docket No. 17-1479 (issued December 20, 2017); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

⁴ *Id.* at § 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.

⁵ *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

⁶ *Id.* at § 10.608(b); *M.S.*, Docket No. 19-0291 (issued June 21, 2019); *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).

In support of her request for reconsideration, appellant did not demonstrate that OWCP erroneously applied or interpreted a specific point of law, nor did she advance a relevant legal argument not previously considered by OWCP. Accordingly, she 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).⁷

On reconsideration, appellant submitted medical evidence from Dr. Fink, which included an October 2, 2024 Form CA-17 and a November 4, 2024 progress report. While this medical evidence is new, it is irrelevant as it does not address the underlying issue in the present case which is factual in nature, *i.e.*, whether appellant has established that the June 6, 2024 employment incident occurred in the performance of duty as alleged.⁸ The Board has held that the submission of evidence or argument which does not address the underlying issue involved does not constitute a basis for reopening a case.⁹ Therefore, appellant 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).

The Board, thus, 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.

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).

⁷ *B.G.*, *supra* note 3; *C.B.*, Docket No. 26-0093 (issued February 23, 2026); *see L.W.*, Docket No. 21-0607 (issued October 18, 2022).

⁸ *See P.H.*, Docket No. 26-0240 (issued April 17, 2026).

⁹ *Id.*; *K.C.*, Docket No. 24-0226 (issued July 17, 2024); *A.G.*, Docket No. 23-0045 (issued February 15, 2024); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *Edward Matthew Diekemper*, 31 ECAB 224-25 (1979).

ORDER

IT IS HEREBY ORDERED THAT the December 10, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 1, 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