

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

J.M., Appellant

and

**U.S. POSTAL SERVICE, BELLEVUE POST
OFFICE, Bellevue, NE, Employer**

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**Docket No. 26-0353
Issued: June 24, 2026**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 4, 2026 appellant filed a timely appeal from a February 20, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from the last merit decision dated September 4, 2024, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction over the merits of this case.

ISSUE

The issue is whether OWCP properly denied appellant's request for reconsideration of the merits of his claim, finding that it was untimely filed and failed to demonstrate clear evidence of error.

FACTUAL HISTORY

On July 2, 2024 appellant, then a 52-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 21, 2024 he injured the left side of his body, from his neck to

¹ 5 U.S.C. § 8101 *et seq.*

his low back, when the vehicle he was operating was rear ended at a stop sign while in the performance of duty. He did not stop work.

In a July 3, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence necessary to establish his claim and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. No additional evidence was received.

In a follow-up letter dated July 31, 2024, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the July 3, 2024 letter to submit the necessary evidence. OWCP further advised that if sufficient evidence was not received during this time, it would issue a decision based on the evidence contained in the record.

OWCP subsequently received progress notes dated July 3 through August 14, 2024 from physical therapists, Tanner Thomas and Natasha Ogden.

By decision dated September 4, 2024, OWCP denied appellant's traumatic injury claim, finding that the evidence of record was insufficient to establish a diagnosed medical condition in connection with the accepted June 21, 2024 employment incident. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

OWCP continued to receive progress reports from the physical therapists.

In a July 1, 2024 narrative report, Dr. Naureen Rafiq, a Board-certified family practitioner, noted the history of injury as appellant, a driver of a van that supplies milk, was rear ended by his boss, who was driving behind him. She stated that appellant did not go to the emergency room and had been working, but his original neck and lower pain had worsened in the past week. Dr. Rafiq provided examination findings and diagnosed motor vehicle accident, strain of neck muscle and back strain. In an accompanying July 1, 2024 attending physician's report (Form CA-20), Dr. Rafiq noted that appellant's vehicle was rear-ended in a motor vehicle accident. She diagnosed muscle strain on left side of neck and lower back, and opined appellant was partially disabled as of July 1, 2024. Appellant was referred to physical therapy.

In an undated, unsigned duty status report (Form CA-17), the history of appellant's June 21, 2024 employment incident was noted. Work restrictions were also noted.

On February 13, 2026 appellant requested reconsideration of the September 4, 2024 OWCP decision.

By decision dated February 20, 2026, OWCP denied appellant's request for reconsideration of the merits of his claim, finding that it was untimely filed and failed to demonstrate clear evidence of error.

LEGAL PRECEDENT

Pursuant to section 8128(a) of FECA, OWCP has the discretion to reopen a case for further merit review.² This discretionary authority, however, is subject to certain restrictions. For

² 5 U.S.C. § 8128(a); *see also* *C.W.*, Docket No. 25-0584 (issued May 26, 2026); *A.B.*, Docket No. 19-1539 (issued January 27, 2020); *W.C.*, 59 ECAB 372 (2008).

instance, a request for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.³ Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the date received in the Integrated Federal Employees' Compensation System (iFECS).⁴ Imposition of this one-year filing limitation does not constitute an abuse of discretion.⁵

OWCP may not deny a request for reconsideration solely because it was untimely filed. When a claimant's request for reconsideration is untimely filed, it must nevertheless undertake a limited review to determine whether it demonstrates clear evidence of error.⁶ If a request for reconsideration demonstrates clear evidence of error, OWCP will reopen the case for merit review.⁷

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.⁸ The evidence must be positive, precise, and explicit and must manifest on its face that OWCP committed an error.⁹ Evidence that does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to demonstrate clear evidence of error.¹⁰ It is not enough merely to show that the evidence could be construed so as to produce a contrary conclusion. This entails a limited review by OWCP of how the evidence submitted with the request for reconsideration bears on the evidence previously of record and whether the new evidence demonstrates clear error on the part of OWCP.¹¹

The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.¹²

ANALYSIS

The Board finds that OWCP properly determined that appellant's request for reconsideration was untimely filed and failed to demonstrate clear evidence of error.

³ 20 C.F.R. § 10.607(a).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4b (September 2020).

⁵ *G.G.*, Docket No. 18-1072 (issued January 7, 2019); *E.R.*, Docket No. 09-0599 (issued June 3, 2009); *Leon D. Faidley, Jr.*, 41 ECAB 104 (1989).

⁶ See 20 C.F.R. § 10.607(b); *M.H.*, Docket No. 18-0623 (issued October 4, 2018); *Charles J. Prudencio*, 41 ECAB 499 (1990).

⁷ *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).

⁸ *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).

⁹ *J.D.*, Docket No. 19-1836 (issued April 6, 2020); *Leone N. Travis*, 43 ECAB 227 (1999).

¹⁰ *S.W.*, Docket No. 18-0126 (issued May 14, 2019); *Robert G. Burns*, 57 ECAB 657 (2006).

¹¹ *T.N.*, Docket No. 18-1613 (issued April 29, 2020).

¹² *D.S.*, Docket No. 17-0407 (issued May 24, 2017).

OWCP's regulations¹³ and procedures¹⁴ 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.¹⁵ The most recent merit decision was OWCP's September 4, 2024 decision. As appellant's February 13, 2026 request for reconsideration was received more than one year after the September 4, 2024 merit decision, the Board finds that it was untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in its September 4, 2024 merit decision.¹⁶

The underlying issue is whether the evidence of record contained a diagnosed medical condition in connection with the accepted employment incident prior to the issuance of the September 4, 2024 merit decision. OWCP properly noted that, at the time of issuance of the September 4, 2024 decision, only reports from physical therapists had been submitted. However, as physical therapists are not considered physicians as defined under FECA, their reports are of no probative value.¹⁷ Thus, the newly submitted progress reports from the physical therapists on reconsideration were also insufficient to demonstrate clear evidence of error.

Appellant also submitted a July 1, 2024 narrative report and Form CA-20 from Dr. Rafiq, who provided a diagnosis of a medical condition in connection with the accepted June 21, 2024 employment incident. However, as noted above, clear evidence of error is intended to represent a difficult standard.¹⁸ Even a detailed, well-rationalized medical report which, if submitted before the denial was issued, would have created a conflict in medical evidence requiring further development is insufficient to demonstrate clear evidence of error.¹⁹ It is not enough to show that evidence could be construed so as to produce a contrary conclusion.²⁰

¹³ 20 C.F.R. § 10.607(a); *see F.B.*, Docket No. 26-0233 (issued April 29, 2026); *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).

¹⁴ *Supra* note 4 at Chapter 2.1602.4 (February 2016); *see F.B., id., 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).

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

¹⁶ *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).

¹⁷ Section 8101(2) of FECA provides that medical opinions can only be given by a qualified physician. This section defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *see also A.C.*, Docket No. 24-0661 (issued September 11, 2024); medical reports signed solely by a nurse, physician assistant, or physical therapist are of no probative value, as such healthcare providers are not considered physicians as defined under FECA and, therefore, are not competent to provide a medical opinion; *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

¹⁸ *F.B.*, Docket No. 26-0233 (issued April 29, 2026); *J.J.*, Docket No. 26-0096 (issued March 11, 2026); *J.N.*, Docket No. 22-0899 (issued December 19, 2022); *J.M.*, Docket No. 19-1842 (issued April 23, 2020).

¹⁹ *See J.J., id.; E.R.*, Docket No. 24-0681 (issued July 29, 2024); *K.W.*, Docket No. 19-1808 (issued April 2, 2020).

²⁰ *See G.B.*, Docket No. 19-1762 (issued March 10, 2020); *Leona N. Travis*, 43 ECAB 227, 240 (1991).

Appellant also submitted an undated, unsigned Form CA-17. The Board has held that unsigned reports and reports that bear illegible signatures lack proper identification and cannot be considered probative medical evidence as the author cannot be identified as a physician.²¹ Thus, this evidence is of no probative value.

The evidence submitted by appellant in support of his untimely request for reconsideration, therefore, does not raise a substantial question as to the correctness of the denial of his claim.²² Thus, the Board finds that appellant's untimely request for reconsideration failed to demonstrate clear evidence of error.

CONCLUSION

The Board finds that OWCP properly determined that appellant's request for reconsideration was untimely filed and failed to demonstrate clear evidence of error.

ORDER

IT IS HEREBY ORDERED THAT the February 20, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 24, 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

²¹ See *B.S.*, Docket No. 22-0918 (issued August 29, 2022); *S.D.*, Docket No. 21-0292 (issued June 29, 2021); *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

²² *I.D.*, Docket No. 25-0807 (issued November 20, 2025); *P.T.*, Docket No. 18-0494 (issued July 9, 2018).