

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

Z.H., Appellant)	
)	
and)	Docket No. 25-0805
)	Issued: March 10, 2026
DEPARTMENT OF HOMELAND SECURITY,)	
TRANSPORTATION SECURITY)	
ADMINISTRATION, MIAMI)	
INTERNATIONAL AIRPORT, Miami, FL,)	
Employer)	

Appearances:
Wayne Johnson, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On August 25, 2025 appellant, through counsel, filed a timely appeal from a February 24, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).² As more than 180 days has elapsed from the last merit decision dated February 20, 2024, to the filing of

¹ 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.

² A claimant has 180 days from the date of OWCP's decision to timely file an appeal. 20 C.F.R. § 501.3(e). The 180th day following OWCP's February 24, 2025 decision was Saturday, August 23, 2025. However, when the last day to file an appeal falls on a Saturday, Sunday, or federal holiday, the 180-day period runs until the close of the next business day. 20 C.F.R. § 501.3(f)(3). Appellant therefore had until Monday, August 25, 2025 to file this appeal. As this appeal was received by the Clerk of the Appellate Boards on Monday, August 25, 2025, it was timely filed. *See* 20 C.F.R. § 501.3(f).

this appeal, pursuant to the Federal Employees' Compensation Act³ (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 her claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On September 17, 2021 appellant, then a 45-year-old compliance inspection and support employee, filed a traumatic injury claim (Form CA-1) alleging that on September 16, 2021 she twisted her right knee when conducting a standard pat down, while in the performance of duty. She stopped work on September 17, 2021. Appellant's supervisor controverted the claim, asserting that appellant had a preexisting medical condition.

A September 16, 2021 work release from a healthcare provider bearing an illegible signature, related that appellant could return to work on September 22, 2021.

In notes dated September 22 and 27, 2021, Joseph Penna, a nurse practitioner, related a September 16, 2021 injury date. He diagnosed right knee strain. On examination, Dr. Penna reported tenderness over appellant's right medial joint line, normal palpation, normal motor tone, and limited range of motion (ROM) in all planes with pain. He noted that appellant was not working.

On September 29, 2021, the employing establishment issued an authorization for examination and/or treatment (Form CA-16) for the claimed September 16, 2021 injury. It checked a box indicating doubt that the employee's condition had been caused by an injury in the performance of duty or related to her employment duties.

In a development letter dated October 5, 2021, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of medical evidence needed to establish the claim. OWCP afforded appellant 30 days to submit the necessary evidence.

Additional evidence was received by OWCP. A September 28, 2021 magnetic resonance imaging (MRI) scan of appellant's right knee demonstrated medial meniscus tear, medial collateral ligament sprain grade I, chondromalacia, small joint effusion, and diffuse soft tissue swelling.

In an October 4, 2021 report, Didier Mbenza, a physician assistant, noted appellant's September 16, 2021 injury date. He reviewed diagnostic tests and diagnosed right lower leg muscle/tendon and right knee strain. On examination of the right knee, he reported swelling, tenderness over the medial collateral ligament and diffusely over the medial knee, and painful flexion and extension.

In an October 11, 2021 report, Dr. David San Miguel, an osteopath Board-certified in occupational medicine, noted a September 16, 2021 injury date and diagnosed right lower leg

³ 5 U.S.C. § 8101 *et seq.*

muscle/tendon strain. Dr. San Miguel related that appellant was not currently working. On examination of the right knee, he reported tenderness over the medial collateral ligament, normal palpation, and limited ROM in all planes with pain.

In an October 15, 2021 form report, Dr. Jaime A. Carvajal Alba, a Board-certified orthopedic surgeon, noted that appellant's condition started on September 16, 2021. He diagnosed right knee degenerative medial meniscus tear with osteoarthritis and related that appellant would remain totally disabled from October 7, 2021 through January 7, 2022.

By decision dated November 18, 2021, OWCP denied appellant's traumatic injury claim, finding that the factual evidence of record was insufficient to establish that the events occurred as alleged. Therefore, it concluded that the requirements had not been met to establish an injury as defined by FECA.

Thereafter, OWCP received notes dated September 20, 2021 from Dr. John Badell, a specialist in occupational medicine, who recounted a September 16, 2021 injury. Dr. Badell related that appellant developed severe knee pain upon standing after squatting for a prolonged period of time. He reviewed diagnostic tests and diagnosed right knee sprain.

In a disability note dated April 25, 2022, Dr. Michael Gerald Baraga, a Board-certified orthopedic surgeon, released appellant to return to work on May 5, 2022 with restrictions of no walking or standing more than 30 minutes continuously, no lifting or carrying more than 10 pounds, and no squatting or kneeling.

On November 18, 2022 appellant, through counsel, requested reconsideration.

By decision dated February 13, 2023, OWCP modified the November 18, 2021 decision to find that appellant had established that the September 16, 2021 incident occurred as alleged and that a medical condition had been diagnosed. However, the claim remained denied because the medical evidence of record was insufficient to establish that her diagnosed medical condition was causally related to the accepted September 16, 2021 employment incident.

OWCP subsequently received a February 22, 2022 surgical report relating that Dr. Baraga had performed a right knee arthroscopic procedure with right partial medial meniscectomy on even date.

In progress notes dated from February 14, 2022 through March 8, 2023 Dr. Baraga noted appellant's history of injury that in September 2021 appellant was performing a passenger check at work and while squatting she experienced severe right knee pain. In his February 14, 2022 report, he diagnosed right knee complex medial meniscus tear. In his March 8, 2023 note, Dr. Baraga diagnosed right knee pes anserine tendinitis and status post knee arthroscopy.

On February 13, 2024 appellant, through counsel, requested reconsideration.

By decision dated February 20, 2024, OWCP denied modification.

On February 20, 2025 appellant, through counsel, requested reconsideration of OWCP's February 20, 2024 decision. Counsel argued that appellant suffered a clear-cut traumatic injury and that the medical evidence of record established appellant's traumatic injury claim.

By decision dated February 24, 2025, OWCP denied appellant's request for reconsideration of the merits of his 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.⁴

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.⁵

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.⁶ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.⁷ 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.⁸

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, counsel argued that appellant sustained a clear-cut traumatic injury and that the medical evidence was sufficient to establish her claim. However, he did not demonstrate that OWCP erroneously applied or interpreted a specific point of law. Counsel also did not advance a relevant legal argument not previously considered by OWCP. Accordingly, the Board

⁴ 5 U.S.C. § 8128(a); *see A.L.*, Docket No. 25-0774 (issued September 24, 2025); *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).

⁵ 20 C.F.R. § 10.606(b)(3); *see A.L.*, *id.*; *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).

⁶ 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.

⁷ *Id.* at § 10.608(a); *see A.L.*, *supra* note 4; *D.C.*, Docket No. 19-0873 (issued January 27, 2020); *M.S.*, 59 ECAB 231 (2007).

⁸ *Id.* at § 10.608(b); *see also A.S.*, Docket No. 26-0038 (issued February 27, 2026); *T.V.*, Docket No. 19-1504 (issued January 23, 2020); *E.R.*, Docket 09-1655 (issued March 18, 2010).

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).⁹

Appellant did not submit any relevant and pertinent new evidence with her February 20, 2025 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).¹⁰

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.¹¹

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).¹²

⁹ See *K.N.*, Docket No. 26-0049 (issued February 5, 2026); *D.R.*, Docket No. 25-0902 (issued December 30, 2025); *L.W.*, Docket No. 21-0607 (issued October 18, 2022).

¹⁰ 20 C.F.R. § 20.606(b)(3).

¹¹ See *K.N.*, *supra* note 9; *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).

¹² The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. See 20 C.F.R. § 10.300(c); *S.G.*, Docket No. 23-0552 (issued August 28, 2023); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the February 24, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 10, 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