

ISSUE

The issue is whether OWCP properly denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On April 14, 2024 appellant, then a 56-year-old lead customer care agent, filed a traumatic injury claim (Form CA-1) alleging that on April 10, 2024 he injured his right elbow when he extended his arm over a door panel and felt sharp pain in his right elbow, while making a delivery in the performance of duty. He stopped work on April 11, 2024 and returned to full-time regular duty on May 11, 2024. On May 31, 2024 appellant retired from the employing establishment.

In an April 16, 2024 work activity status report, Wesley Wilkins, a certified physician assistant, diagnosed olecranon bursitis of the right elbow and related that appellant could return to modified work, with restrictions.

In an April 22, 2024 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of medical evidence needed and provided an attending physician's report (Form CA-20) for his physician's completion. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP received additional medical evidence. An April 11, 2024 x-ray of appellant's right elbow related an impression of spur and olecranon bursitis right elbow.

In an April 11, 2024 report, Dr. Shaun Brownlee, a preventive occupational and environmental physician, recounted appellant's history of injury that appellant was at work and felt a sharp pain in his right elbow when he extended a box over a door panel to make a delivery. He rested the right elbow on the door panel as he opened it up and then extended the elbow farther to close the mailbox. Appellant denied hitting the elbow or any previous elbow problems. Dr. Brownlee noted appellant's physical examination findings and diagnosed olecranon bursitis of the right elbow.

OWCP also received an April 14, 2024 work status report from Dr. Ramin Haddad, a Board-certified internist, who noted that appellant should be excused from work for at least one week.

An April 16, 2024 duty status report (Form CA-17), with an illegible signature, noted appellant's history of injury on April 10, 2024, a diagnosis of olecranon bursitis of the right elbow, and appellant's work restrictions.

In an April 16, 2024 report, Mr. Wilkins reported appellant's medical course following the claimed April 10, 2024 work incident. He noted that appellant was evaluated the day after the incident and an x-ray noted an olecranon spur. Appellant denied banging his elbow. On April 12, 2024 he was admitted to a hospital for an elbow infection and released after two days.

In a follow-up letter dated May 17, 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 April 22, 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 received a series of CA-17 forms dated April 24 through June 4, 2024, which bore illegible signatures. Appellant's diagnosis continued to be noted as olecranon bursitis of the right elbow.

OWCP also received a June 4, 2024 report, wherein Mr. Wilkins noted appellant's physical examination findings and reiterated appellant's diagnosis of olecranon bursitis.

By decision dated June 24, 2024, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed right elbow olecranon bursitis and the accepted April 10, 2024 employment incident.

In a July 3, 2024 report, Dr. Brownlee continued to assess olecranon bursitis of right elbow.

On November 12, 2024 appellant requested reconsideration. In a November 7, 2024 statement, he indicated that two physicians, Dr. Steven B. Orr, a Board-certified orthopedic surgeon and hand and upper extremity surgeon, and Dr. Katrine E. Greco, a Board-certified internist, confirmed that his injury was sustained on the job.

In a July 29, 2024 report, Dr. Orr stated that appellant's right elbow symptoms began after he pressed his right elbow against a door panel of his postal vehicle at work. He noted appellant's medical course after the injury, including increased pain, swelling and chills, for which he was treated at a hospital on April 12, 2024, and was presumed to have an infectious olecranon bursitis due to leukocytosis and elevated erythrocyte sedimentation rate (ESR) and C-reactive protein (CRP). Dr. Orr related that his symptoms improved after a two-week course on antibiotics. He provided an assessment of right olecranon bursitis with acute onset due to work-related activity from pressure against the elbow from the hard surface of the vehicle. Dr. Orr indicated that although the aspirate from right olecranon bursa was lost, the etiology of the bursitis appeared infectious in nature due to appellant's leukocytosis and rapid response to treatment with antibiotics.

By decision dated November 18, 2024, OWCP denied modification of its June 24, 2024 decision.

On January 21, 2025 appellant requested reconsideration. In support of his claim, appellant submitted a duplicate copy of his April 11, 2024 right elbow x-ray.

By decision dated January 27, 2025, OWCP denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

On October 14, 2025 appellant, through counsel, again requested reconsideration.

Additional medical evidence was received. In an April 12, 2024 report, Dr. Greco stated that appellant presented with a right elbow injury sustained at work when he unintentionally pressed his elbow down on a hard plastic surface, resulting in immediate sharp pain. She reported

his symptoms following the injury, noting that there was no reported break in the skin or any previous similar incidents. Dr. Greco indicated that appellant's work involved repetitive use of the elbow and the injury occurred while he was trying to push something out of a window. She provided examination findings and assessed work-related right elbow injury with cellulitis. Following a consult with orthopedics, Dr. Greco referred appellant to the emergency room to evaluate and treat for possible infected bursitis.

OWCP also received additional medical records and reports from healthcare providers dated April 12 through July 29, 2024. In an April 12, 2024 emergency department note, Dr. Greco related that appellant was seen for a swollen right elbow. In an April 19, 2024 progress note, Dr. Joan A. Harden, a Board-certified family practitioner, noted that appellant presented with pain, swelling, and redness of the right elbow after it was "dropped at work." She indicated that appellant was diagnosed with septic olecranon bursitis of the right elbow, and noted that he was admitted to the hospital pursuant to protocol for infectious disease. Appellant had good clinical response to treatment, which included antibiotics. Dr. Harden provided an assessment of infected right olecranon bursa. In April 23, 2024 progress notes, Dr. Jessica Hayon Rodriguez, a Board-certified infectious disease specialist, noted appellant's history of injury. She assessed presumed septic olecranon bursitis of the right elbow. In a May 1, 2024 progress note, Dr. Thomas Ergan, a Board-certified orthopedic surgeon, specializing in hand surgery, related that appellant was seen that day for right elbow cellulitis/infection which began when he unintentionally pressed his elbow down on a hard plastic surface, resulting in immediate sharp pain. In a May 14, 2024 note, Dr. Harden indicated that appellant's right elbow bursitis was improving but he reported pain and numbness in the 4th and 5th fingers of the right hand. She assessed bursitis of the right olecranon bursa and right ulnar neuropathy. A May 14, 2024 right elbow magnetic resonance imaging (MRI) scan related impressions of mild insertional triceps tendinopathy, small joint effusion and fluid in the subacromial/subdeltoid bursa. In a May 29, 2024 note, Dr. Trinidad Osselyn, a specialist in family medicine, diagnosed right elbow tendinitis and effusion of the right elbow. In a July 14, 2024 note, Dr. Harden noted examination findings and diagnosed bursitis of right olecranon bursa. A duplicate copy of Dr. Orr's July 29, 2024 progress note was also included.

By decision dated October 28, 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.³

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

³ 5 U.S.C. § 8128(a); *see 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).

OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.⁴

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.⁵ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.⁶ 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.⁷

ANALYSIS

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

Appellant's request for reconsideration neither established that OWCP erroneously applied or interpreted a specific point of law, nor did it advance a relevant legal argument not previously considered by OWCP. Accordingly, the Board finds that appellant is not entitled to a review of the merits based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).⁸

The Board further finds that appellant has not provided any relevant and pertinent new evidence in support of his request for reconsideration. The underlying issue in this case is whether appellant established a medical condition causally related to the accepted April 10, 2024 employment incident. This is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁹ On reconsideration, appellant submitted medical reports dated April 12 through July 29, 2024, which included Dr. Greco's April 12, 2024 report wherein she reiterated appellant's history of injury, assessed work-related right elbow cellulitis, and referred appellant to the emergency room to evaluate and treat for possible infected bursitis. Additional progress reports from Drs. Harden, Ergon, Rodriguez, and Osselyn were received which diagnosed appellant's right elbow conditions. While these reports are new, this evidence did not address the cause of appellant's diagnosed condition(s). As these reports did not address the underlying issue of causal relationship, they are irrelevant and thus insufficient to warrant reopening the case for a

⁴ 20 C.F.R. § 10.606 (b)(3); *see D.R.*, Docket No. 25-0902 (issued December 30, 2025); *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).

⁵ 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.

⁶ *Id.* at § 10.608(a); *see D.C.*, Docket No. 19-0873 (issued January 27, 2020); *M.S.*, 59 ECAB 231 (2007).

⁷ *Id.* at § 10.608(b); *see D.R.*, *supra* note 4; *T.V.*, Docket No. 19-1504 (issued January 23, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

⁸ *See L.G.*, Docket No. 25-0718 (issued November 17, 2025); *L.W.*, Docket No. 21-0607 (issued October 18, 2022).

⁹ *R.M.*, Docket No. 21-0963 (issued April 19, 2023).

merit review.¹⁰ Appellant also submitted a copy of Dr. Orr's July 29, 2024 report, which was previously of record. However, the Board has held that the submission of evidence or argument which repeats or duplicates evidence or argument already in the case record, does not constitute a basis for reopening a case.¹¹ The evidence submitted on reconsideration also included a May 14, 2024 MRI scan report of appellant's right elbow. Although new, the Board has also held that, standing alone, diagnostic studies lack probative value on the issue of causal relationship.¹² The Board has held that the submission of evidence or argument which does not address the particular issue involved does not constitute a basis for reopening a case.¹³ The MRI scan report is, therefore, irrelevant and insufficient to warrant reopening the case on the merits of the claim. As appellant failed to provide relevant and pertinent new evidence, he is not entitled to a merit review based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).

The Board, accordingly, finds that as appellant has not met any of the requirements under 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 his claim, pursuant to 5 U.S.C. § 8128(a).

¹⁰ *G.P.*, Docket No. 25-0822 (issued February 2, 2026); *K.H.*, Docket No. 25-0242 (issued March 4, 2025); *G.Q.*, Docket No. 18-1697 (issued March 21, 2019); *Eugene F. Butler*, 36 ECAB 393. 398 (1984); *Edward Matthew Diekemper*, 31 ECAB 224-25 (1979).

¹¹ *J.B.*, Docket No. 22-1166 (issued April 3, 2023); *S.H.*, Docket No. 22-1179 (issued January 17, 2023); *S.E.*, Docket No. 17-0222 (issued December 21, 2018); *T.H.*, Docket Nos. 17-1578 and 17-1651 (issued April 26, 2018); *Eugene F. Butler*, *id.*

¹² *C.S.*, Docket No. 25-0502 (issued June 3, 2025); *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *J.S.* Docket No. 17-1039 (issued October 6, 2017).

¹³ *See C.S.*, Docket No. 25-0502 (issued June 3, 2025); *K.H.*, Docket No. 25-0242 (issued March 4, 2025); *Edward Matthew Diekemper*, *supra* note 10.

ORDER

IT IS HEREBY ORDERED THAT the October 28, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 9, 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