

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

_____)	
J.K., Appellant)	
)	
and)	Docket No. 26-0115
)	Issued: March 25, 2026
DEPARTMENT OF JUSTICE, FEDERAL)	
BUREAU OF INVESTIGATION,)	
Baton Rouge, LA, Employer)	
_____)	

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 November 21, 2025, appellant filed a timely appeal from an August 27, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days elapsed from OWCP's last merit decision, dated March 14, 2025, 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.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the issuance of the August 27, 2025 decision, appellant submitted additional evidence to OWCP. 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 of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On March 13, 2007, appellant, then a 28-year-old special agent, filed a traumatic injury claim (Form CA-1) alleging that on that day she sustained lacerations to her head, left hand, and spleen, "possible lower spine fractures," and pelvic fractures as a result of her involvement in a motor vehicle accident while in the performance of duty. She stopped work on March 14, 2007. By decision dated March 30, 2007, OWCP accepted the claim for fracture of pubis-closed, bilateral (rami and symphysis); closed fracture sacrum, without spinal cord injury, left; closed fracture of rib(s), left; other spontaneous pneumothorax; injury to spleen with open wound into cavity; open wound of hand, left; contusion of chest wall (pulmonary); open wound forehead; and traumatic subarachnoid hemorrhage without open wound.³

On April 7, 2024, appellant filed a claim for a notice of recurrence (Form CA-2a) alleging that on January 23, 2024 she sustained a recurrence of the need for medical treatment causally related to her accepted March 13, 2007 employment injury. In support her claim, she submitted medical evidence, including a February 22, 2024 progress note, wherein Dr. Christian Andersen, a Board-certified orthopedic surgeon, provided an impression of right-sided low back pain with sciatica, with most likely recurrent right hip labral tear. Dr. Andersen addressed appellant's treatment plan.

By decision dated June 3, 2024, OWCP denied appellant's claim for a recurrence of the need for medical treatment causally related to her accepted March 13, 2007 employment injury.

On March 13, 2025, appellant requested reconsideration and submitted medical evidence, including a March 4, 2025 medical report, wherein, Dr. Scott D. Martin, a Board-certified orthopedic surgeon, noted a history of the March 13, 2007 employment injury and his own treatment of appellant, which included right hip surgeries performed on May 5, 2011 and September 12, 2024. Dr. Martin diagnosed other sprain of right hip, subsequent encounter; low back pain and sciatica. He advised that although appellant was doing well, she may require further right hip surgery or right total hip replacement and lumbar spine injections and decompression surgery.

By decision dated March 14, 2025, OWCP denied modification of its June 3, 2024 recurrence decision.

OWCP subsequently received copies of evidence previously of record, including Dr. Andersen's February 22, 2024 progress note, Dr. Martin's March 4, 2025 report, and its March 30, 2007 acceptance decision.

On August 13, 2025, appellant requested reconsideration of the March 14, 2025 decision.

³ By decision dated July 10, 2008, OWCP granted appellant a schedule award for 18 percent permanent impairment of each lower extremity.

By decision dated August 27, 2025, 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.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).

In her August 13, 2025 reconsideration request, appellant did not advance a new legal argument not previously considered, nor did she show that OWCP erroneously applied or interpreted a specific point of law. Thus, appellant is not entitled to a review of the merits of her claim based on the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).⁹

⁴ 5 U.S.C. § 8128(a); *see R.A.*, Docket No. 25-0522 (issued June 18, 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 R.A.*, *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 D.C.*, Docket No. 19-0873 (issued January 27, 2020); *M.S.*, 59 ECAB 231 (2007).

⁸ *Id.* at § 10.608(b); *L.C.*, Docket No. 25-0444 (issued April 23, 2025); *see T.V.*, Docket No. 19-1504 (issued January 23, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

⁹ *P.M.*, Docket No. 25-0801 (issued December 5, 2025); *T.K.*, Docket No. 25-0644 (issued September 17, 2025); *Alan G. Williams*, 52 ECAB 180 (2000).

In support of her August 13, 2025 request for reconsideration, appellant resubmitted evidence previously of record, consisting of Dr. Andersen’s February 22, 2024 progress note, Dr. Martin’s March 4, 2025 report, and OWCP’s March 30, 2007 acceptance decision. The Board has held that the submission of evidence or argument that repeats or duplicates evidence or argument already of record does not constitute a basis for reopening a case.¹⁰ On reconsideration, appellant did not submit any relevant and pertinent new evidence. Therefore, she also failed to satisfy the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).¹¹

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.

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).

ORDER

IT IS HEREBY ORDERED THAT the August 27, 2025 decision of the Office of Workers’ Compensation Programs is affirmed.

Issued: March 25, 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

¹⁰ *C.M.*, Docket No. 24-0061 (issued April 9, 2024); *L.R.*, Docket No. 22-1310 (issued April 4, 2023); *N.L.*, Docket No. 18-1575 (issued April 3, 2019); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

¹¹ 20 C.F.R. § 10.606(b)(3)(iii); *C.M.*, *id.*; *A.D.*, Docket No. 23-0148 (issued May 22, 2023); *L.R.*, *id.*; *Edward Matthew Diekemper*, 31 ECAB 224-25 (1979).