

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances of the case as set forth in the Board's prior decision and prior order are incorporated herein by reference. The relevant facts are as follows.

On December 19, 1981, appellant, then a 30-year-old clerk, filed a notice of traumatic injury (Form CA-1) alleging that she sustained an injury to her right side while bending and lifting trays of mail.⁴

On February 17, 2009, appellant requested reconsideration of the termination of her benefits on November 13, 1985.

By decision dated July 1, 2009, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

Appellant appealed to the Board and by decision dated June 28, 2010, the Board affirmed OWCP's July 1, 2009 decision.⁵ On July 22, 2010, appellant filed a petition for reconsideration of the Board's June 28, 2010 decision. By order dated February 25, 2011, the Board denied her petition for reconsideration.⁶

Appellant filed several requests for reconsideration, by decisions dated September 4, 2014 and September 9, 2016, OWCP denied appellant's requests for reconsideration, finding that they were untimely filed and failed to demonstrate clear evidence of error.

On May 9, 2025, appellant requested reconsideration of the November 13, 1985 merit decision and submitted evidence. In an April 3, 2025 attending physician's report (Form CA-20), Dr. Philip Schneider, a Board-certified orthopedic surgeon, noted dates of injury as December 19, 1981 and December 17, 1985. He diagnosed cervical radiculopathy and spondylolisthesis of the

³ Docket No. 09-2258 (issued June 28, 2010), *petition for recon., denied*, Docket No. 09-2258 (issued February 25, 2011).

⁴ Appellant subsequently filed additional claims before OWCP. On December 24, 1985 appellant filed a claim for a traumatic injury (Form CA-1) alleging that she injured her lower back on December 17, 1985, while pulling bundles of mail. OWCP assigned this claim OWCP File No. xxxxxx047. This claim was accepted for unilateral primary osteoarthritis of the first carpometacarpal joint of the right hand; cervical disc degeneration; pseudarthrosis after fusion or arthrodesis; synovitis and tenosynovitis of the right hand; lumbar sprain; right carpal tunnel syndrome; cervical disc displacement; sprain of joints and ligaments of the neck; and pyogenic granuloma of the right hand. Appellant remained in receipt of compensation benefits under this claim based upon her loss of wage-earning capacity. Under OWCP File No. xxxxxx048, OWCP accepted a May 10, 1988 claim for aggravation of degenerative disc disease at C5-6 and C6-7. Under OWCP File No. xxxxxx412, OWCP accepted a November 28, 1988 claim for cervical strain, lumbar strain, and herniated C6-7 disc. Under OWCP File No. xxxxxx644, it accepted a June 19, 1999 claim for lumbar strain. Under OWCP File No. xxxxxx891, OWCP accepted a November 23, 2005 claim for aggravation of preexisting cervical spine conditions. OWCP has administratively combined appellant's claims, with OWCP File No. xxxxxx047 serving as the master file.

⁵ *Supra* note 3.

⁶ *Id.*

lumbar region. Dr. Schneider advised that appellant was totally disabled from work and that she would never return to full-duty work.

Appellant also submitted a May 6, 2025 claim for compensation (Form CA-7) for the period August 7, 1982 through November 17, 1985, a partial copy of a July 22, 2019 transcript of appellant's hearing testimony, and April 16, 1983 and December 22, 1984 notices of personnel action (Standard Form (SF) 50).

Additionally, appellant resubmitted evidence previously of record.

By decision dated May 21, 2025, OWCP denied appellant's May 9, 2025 request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

On June 24, 2025, appellant again requested reconsideration of the November 13, 1985 decision. She reiterated arguments regarding the weight of the medical evidence submitted between 1982 and 1984. In support therefore, appellant resubmitted evidence previously of record.

OWCP, by decision dated July 1, 2025, denied appellant's June 24, 2025 request for reconsideration, 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.⁷ This discretionary authority, however, is subject to certain restrictions. For instance, a request for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.⁸ Timeliness is determined by the document receipt date *i.e.*, the "received date" in OWCP's Integrated Federal Employees' Compensation System (iFECS).⁹ Imposition of this one-year filing limitation does not constitute an abuse of discretion.¹⁰

When a request for reconsideration is untimely, OWCP undertakes a limited review to determine whether the request demonstrates clear evidence that OWCP's most recent merit decision was in error.¹¹ Its procedures provide that it will reopen a claimant's case for merit review, notwithstanding the one-year filing limitation set forth in 20 C.F.R. § 10.607, if the claimant's request for reconsideration demonstrates "clear evidence of error" on the part of

⁷ 5 U.S.C. § 8128(a); *L.W.*, Docket No. 18-1475 (issued February 7, 2019); *Y.S.*, Docket No. 08-0440 (issued March 16, 2009).

⁸ 20 C.F.R. § 10.607(a).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020).

¹⁰ *W.B.*, Docket No. 23-0473 (issued August 29, 2023); *G.G.*, Docket No. 18-1072 (issued January 7, 2019); *Leon D. Faidley, Jr.*, 41 ECAB 104 (1989).

¹¹ *See* 20 C.F.R. § 10.607(b); *R.C.*, Docket No. 21-0617 (issued August 25, 2023); *M.H.*, Docket No. 18-0623 (issued October 4, 2018); *Charles J. Prudencio*, 41 ECAB 499 (1990).

OWCP.¹² In this regard, OWCP will limit its focus to a review of how the newly submitted evidence bears on the prior evidence of record.¹³

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.¹⁴ The evidence must be positive, precise, and explicit and must manifest on its face that OWCP committed an error. Evidence which does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to demonstrate clear evidence of error. 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 reconsideration request bears on the evidence previously of record and whether the new evidence demonstrates clear error on the part of OWCP.¹⁵

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.¹⁶ Evidence such as a detailed, well-rationalized medical report which, if submitted before the denial was issued, would have created a conflict in medical opinion requiring further development, is not clear evidence of error.¹⁷ The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.¹⁸

ANALYSIS

The Board finds that OWCP properly denied appellant's requests for reconsideration, finding that they were untimely filed and failed to demonstrate clear evidence of error.

The last merit decision issued by OWCP was November 13, 1985. As appellant's requests for reconsideration were not received by OWCP until May 9 and June 24, 2025, more than one year after the November 13, 1985 decision, pursuant to 20 C.F.R. § 10.607(a), the request for

¹² *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); *supra* note 9 at Chapter 2.1602.5 (September 2020).

¹³ *S.D.*, Docket No. 23-0626 (issued August 24, 2023); *J.M.*, Docket No. 19-1842 (issued April 23, 2020); *Robert G. Burns*, 57 ECAB 657 (2006).

¹⁴ *J.M.*, Docket No. 22-0630 (issued February 10, 2023); *S.C.*, Docket No. 18-0126 (issued May 14, 2016); *supra* note 9 at Chapter 2.1602.5a (September 2020).

¹⁵ *L.J.*, Docket No. 23-0282 (issued May 26, 2023); *C.M.*, Docket No. 19-1211 (issued August 5, 2020); *J.M.*, *supra* note 13; *Robert G. Burns*, *supra* note 13.

¹⁶ See *G.G.*, *supra* note 10; see also 20 C.F.R. § 10.607(b); *supra* note 9 at Chapter 2.1602.5 (September 2020).

¹⁷ *J.S.*, Docket No. 16-1240 (issued December 1, 2016); *id.* at Chapter 2.1602.5a (September 2020).

¹⁸ *G.B.*, Docket No. 19-1762 (issued March 10, 2020); *D.S.*, Docket No. 17-0407 (issued May 24, 2017); *George C. Vernon*, 54 ECAB 319 (2003).

reconsideration was untimely filed. Consequently, she must demonstrate clear evidence of error by OWCP in denying the claim.¹⁹

With her requests for reconsideration, appellant submitted Dr. Schneider's April 3, 2025 Form CA-20, wherein he noted the dates of appellant's accepted employment injuries as December 19, 1981 and December 17, 1985, diagnosed cervical radiculopathy and spondylolisthesis of the lumbar region, and opined that appellant was totally disabled from work and would never return to full-duty work. She also submitted a May 6, 2025 Form CA-7, a partial copy of a July 22, 2019 hearing transcript, and SF 50 forms dated April 16, 1983 and December 22, 1984. As noted, clear evidence of error is intended to represent a difficult standard.²⁰ 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. It is not enough to show that evidence could be construed so as to produce a contrary conclusion. Therefore, this evidence does not raise a substantial question concerning the correctness of OWCP's merit decision.²¹ Accordingly, OWCP properly denied her reconsideration request, finding that it was untimely filed and failed to demonstrate clear evidence of error.

Appellant also resubmitted evidence that was previously of record. The Board has held that repetitive or cumulative evidence is insufficient to establish clear evidence of error.²²

For the foregoing reasons, the Board finds that the arguments submitted by appellant regarding the weight of the medical evidence do not manifest error or raise a substantial question concerning the correctness of OWCP's decision regarding continuing disability and residuals.

As appellant's May 9 and June 24, 2025 requests for reconsideration did not show on their face that OWCP's November 13, 1985 decision contained an error, the Board finds that they failed to demonstrate clear evidence of error.²³

CONCLUSION

The Board finds that OWCP properly denied appellant's requests for reconsideration, finding that they were untimely filed and failed to demonstrate clear evidence of error.

¹⁹ 20 C.F.R. § 10.607(b); *D.Z.*, Docket No. 25-0422 (issued June 26, 2025); *S.C.*, Docket No. 20-1537 (issued April 14, 2021); *R.T.*, Docket No. 19-0604 (issued September 13, 2019); see *Debra McDavid*, 57 ECAB 149 (2005).

²⁰ *V.B.*, Docket No. 23-0581 (issued January 20, 2026); *J.N.*, Docket No. 22-0899 (issued December 19, 2022); *J.M.*, *supra* note 13; *G.G.*, *supra* note 10; see also 20 C.F.R. § 10.607(b); *supra* note 9 at Chapter 2.1602.5a (September 2020).

²¹ See *V.B.*, *id.*; *J.N.*, *id.*; *S.F.*, Docket No. 09-0270 (issued August 26, 2009).

²² *B.C.*, Docket No. 18-1496 (issued September 26, 2025); *E.R.*, Docket No. 24-0681 (issued July 29, 2024); *M.P.*, Docket No. 17-0367 (issued March 12, 2018); *A.M.*, Docket No. 17-1434 (issued January 2, 2018); *D.B.*, Docket No. 16-0539 (issued May 26, 2016).

²³ See *L.F.*, Docket No. 25-0566 (issued August 14, 2025); *J.M.*, Docket No. 22-0630 (issued February 10, 2023); *L.N.*, Docket No. 20-0742 (issued October 26, 2020); *B.C.*, Docket No. 16-1404 (issued April 14, 2017).

ORDER

IT IS HEREBY ORDERED THAT the May 21 and July 1, 2025 decisions of the Office of Workers' Compensation Programs are 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