

2004 to the filing of 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, finding that it was untimely filed and failed to demonstrate clear evidence of error.

FACTUAL HISTORY

On November 21, 2003 appellant, then a 34-year-old federal correctional officer, filed an occupational disease claim (Form CA-2) alleging that she developed generalized anxiety, panic disorder, and post-traumatic stress disorder (PTSD) due to factors of her federal employment. She noted that she first became aware of her condition on April 17, 2000, and first became aware of its relationship to her federal employment on October 30, 2003.

In letters dated January 29 and February 6, 2004, Maria E. Torres, a representative with the "Administrative Law Group, Inc.," related that she was forwarding a medical report to OWCP. James R. Hefflin was also listed on the letterhead as a representative with the Administrative Law Group, Inc.

By decision dated March 4, 2004, OWCP denied appellant's emotional condition claim as she had not established a compensable factor of employment. The decision was mailed to her, but did not indicate that it was mailed to the Administrative Law Group, Inc.

On July 12, 2004 appellant, through Ms. Torres, requested reconsideration of the March 4, 2004 decision. Mr. Hefflin was again listed on the letterhead as a representative with the Administrative Law Group, Inc.

By decision dated November 9, 2004, OWCP denied modification of the March 4, 2004 decision. A copy of the decision was sent to the Administrative Law Group, Inc.

By letter dated March 7, 2006, Mr. Hefflin, now a representative with the "Federal Administrative Law Corp.," advised that he had been retained to represent appellant. He requested copies of appellant's file and indicated that an authorization of representation was enclosed.

On June 15, 2009 OWCP received a signed June 7, 2005 authorization of representation, which authorized the Federal Administrative Law Group to represent appellant.

On November 9, 2024 appellant, through Mr. Hefflin, requested a review of the written record by a representative of OWCP's Branch of Hearing and Review. Mr. Hefflin alleged that the March 4, 2004 OWCP decision was not sent to the designated representative of record.

³ 5 U.S.C. § 8101 *et seq.*

By decision dated November 18, 2024, OWCP denied appellant's November 9, 2024 request for review of the written record. It found that the request was not made within 30 days of its March 4, 2004 decision.

On November 18, 2024 appellant, through Mr. Hefflin, requested reconsideration. Mr. Hefflin argued that the March 4, 2004 decision should be reversed as it was not served on him as the representative of record.

By decision dated November 26, 2024, OWCP denied appellant's request for reconsideration. It found that appellant's request was untimely filed and did not 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.⁴ 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.⁵ 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).⁶ Imposition of this one-year filing limitation does not constitute an abuse of discretion.⁷

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.⁸ If a request for reconsideration demonstrates clear evidence of error, OWCP will reopen the case for merit review.⁹

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.¹⁰ The evidence must be positive, precise, and explicit and must manifest on its face that OWCP committed an error.¹¹ Evidence that does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to

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

⁵ 20 C.F.R. § 10.607(a).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4b (September 2020).

⁷ *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).

⁸ *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).

⁹ *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).

¹⁰ *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).

¹¹ *J.D.*, Docket No. 19-1836 (issued April 6, 2020); *Leone N. Travis*, 43 ECAB 227 (1999).

demonstrate clear evidence of error.¹² 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.¹³

The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.¹⁴

ANALYSIS

The Board finds that OWCP properly denied appellant's request of reconsideration of the merits of her claim as it was untimely filed and failed to demonstrate clear evidence of error.

The last merit decision was issued on November 9, 2004. As appellant's request for reconsideration was not received by OWCP until November 18, 2024, more than one year after the November 9, 2004 merit decision, pursuant to 20 C.F.R. § 10.607(a), the Board finds that the request for reconsideration was untimely filed.¹⁵ Consequently, appellant must demonstrate clear evidence of error by OWCP in denying the claim.¹⁶

In support of appellant's request for reconsideration, Mr. Hefflin alleged that, as appellant's designated representative, he was not served with OWCP's March 4, 2004 decision. The evidence of record, however, establishes that, while the decision did not indicate that it was mailed to the Administrative Law Group, Inc., Ms. Torres acknowledged receipt of the decision when she requested reconsideration on July 12, 2004. The evidence of record further establishes that Mr. Hefflin and Ms. Torres were both representatives with the Administrative Law Group, Inc. at the time of the March 4, 2004 decision. The Board has held that 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.¹⁷

Accordingly, the Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, finding that it was untimely filed and failed to demonstrate clear evidence of error.

¹² *S.W.*, Docket No. 18-0126 (issued May 14, 2019); *Robert G. Burns*, 57 ECAB 657 (2006).

¹³ *T.N.*, Docket No. 18-1613 (issued April 29, 2020).

¹⁴ *D.S.*, Docket No. 17-0407 (issued May 24, 2017).

¹⁵ *Supra* notes 6 and 7.

¹⁶ 20 C.F.R. § 10.607(b); *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).

¹⁷ *Supra* notes 13-15; see also *J.J.*, Docket No. 23-0155 (issued October 5, 2023).

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the November 26, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 26, 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