

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

ISSUE

The issue is whether OWCP properly denied appellant's October 6 and November 3, 2025 requests for reconsideration, as they were untimely filed and failed to demonstrate clear evidence of error.

FACTUAL HISTORY

On April 12, 2023 appellant, then a 64-year-old general supply specialist/logistics manager, filed a traumatic injury claim (Form CA-1) alleging that on February 16, 2023, he sustained a pinched nerve in the left side of his back, with immediate onset of light headedness, instability, and numbness on the left side of his body, when loading/unloading items into/out of a truck with a pallet jack while in the performance of duty. He asserted that he sought care at an emergency department and was advised by a nurse that he had low blood pressure due to pain. Following intermittent sick leave use for the period February 17 through 23, 2023 and subsequent return to full duty, appellant stopped work on February 27, 2023.

OWCP subsequently received a series of reports dated February 21 through April 28, 2023, wherein Dr. Laura S. Miller, a Board-certified internist, noted appellant's February 17, 2023 emergency room visit. Dr. Miller diagnosed acute back pain, exacerbation of chronic low back pain, multilevel degenerative disc disease,³ and multilevel lumbar disc herniations. She held appellant off work for the period February 17 through June 1, 2023.

By decision dated June 27, 2023, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between his diagnosed conditions and the accepted employment incident.

On October 6, 2023, appellant requested reconsideration and submitted additional medical evidence, including an undated report wherein Dr. Miller asserted that appellant "injured his back" on February 16, 2023. An MRI scan "demonstrated degenerative disc disease, spinal stenosis, and fourth and fifth lumbar nerve root impingement." Dr. Miller opined that the injury totally disabled appellant from work as he could not sit for prolonged periods of time and that appellant was "undergoing treatment including epidural injections." He indicated that appellant was expected to be "able to return to work by February 15, 2024."

OWCP also received an August 18, 2023 form report by Dr. Miller, wherein she related that appellant's condition began on February 16, 2023 and was expected to last one year. Dr. Miller

² The Board notes that following the November 21, 2025 decision, OWCP received additional evidence. However, 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.*

³ In a March 24, 2023 report, Dr. Miller indicated that a March 15, 2023 magnetic resonance imaging (MRI) scan of the lumbar spine demonstrated an impression of multilevel degenerative changes, greatest at L4-5. She diagnosed multilevel degenerative disc disease, greatest at L4-5.

indicated that appellant's condition was chronic and required injections at a pain clinic every three months for the period February 16, 2023 through February 15, 2024. She found appellant unable to perform one or more essential job functions through February 15, 2024.

On October 16, 2023, appellant requested reconsideration.

By decision dated December 15, 2023, OWCP denied modification of the June 27, 2023 decision.

OWCP subsequently received physical therapy treatment notes dated April 19 and May 17, 2023, and pain medicine clinic chart notes dated May 26, 2023 through February 2, 2024. Progress notes dated January 2, 2024 indicate that appellant underwent a lumbar epidural steroid injection on November 9, 2023.

On October 6, 2025, appellant requested reconsideration of OWCP's December 15, 2023 decision.

OWCP subsequently received a December 31, 2018 Department of Veterans Affairs benefits determination letter regarding a service-connected disability rating.

OWCP also received a February 16, 2023 hospital emergency department report by Dr. Rebecca Alexandra Bajkowski, Board-certified in emergency medicine, wherein she recounted that appellant complained of "dizziness and weakness in legs that began this morning." Dr. Bajkowski also noted that he had undergone oral surgery during the previous week and was "limited to liquid diet." On examination, she observed elevated blood pressure, with other vital signs and laboratory test results within normal limits. Dr. Bajkowski recommended protein shakes and hydration. OWCP also received February 16, 2023 hospital emergency department discharge instructions regarding dehydration.

OWCP also received chart notes by Dr. Miller dated April 21 and May 3, 2023, wherein she reviewed appellant's medications, a gym membership contract and a photograph of exercise equipment, pain clinic progress notes dated August 25, 2023 through January 2, 2024.

In notes dated October 3, 2023 through March 25, 2025, Dr. Ian Ahearn, a chiropractor, diagnosed low back pain.

OWCP also received an October 2, 2025 report by Dr. Rita Paulis, a Board-certified internist, wherein she noted that she had treated appellant commencing August 9, 2025 when Dr. Miller retired. Dr. Paulis noted her review medical records which indicated a February 16, 2023 injury when he pulled items while at work, with the onset of back pain and left leg numbness, and a diagnosis of lumbar herniated disc with left-sided radiculopathy. She opined that "given the finding of herniated discs on imaging following" the February 16, 2023 employment incident, and no prior reports of radicular symptoms, it was "likely that this movement precipitated the disc herniation."

By decision dated October 16, 2025, OWCP denied appellant's October 6, 2025 request for reconsideration, finding it was untimely filed and failed to demonstrate clear evidence of error. It advised that the evidence submitted did not manifest on its face that OWCP committed error.

On November 3, 2025, appellant again requested reconsideration.

OWCP subsequently received duplicates of the December 31, 2018 Department of Veterans Affairs benefits determination and October 2, 2025 report of Dr. Paulis.

By decision dated November 21, 2025, OWCP denied appellant's November 3, 2025 request for reconsideration, finding it was untimely filed and failed to demonstrate clear evidence of error. It explained that the evidence received did not manifest on its face that OWCP committed error in its December 15, 2023 decision.

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 *i.e.*, the "received date" in OWCP's Integrated Federal Employees' Compensation System (iFECS).⁶ Imposition of this one-year filing limitation does not constitute an abuse of discretion.⁷

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.⁸ 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 OWCP.⁹ In this regard, OWCP will limit its focus to a review of how the newly submitted evidence bears on the prior evidence of record.¹⁰

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.¹¹ 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

⁴ 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).

⁵ 20 C.F.R. § 10.607(a).

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

⁷ *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).

⁸ *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).

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); *supra* note 6 at Chapter 2.1602.5 (September 2020).

¹⁰ *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).

¹¹ *J.M.*, Docket No. 22-0630 (issued February 10, 2023); *S.C.*, Docket No. 18-0126 (issued May 14, 2016); *supra* note 6 at Chapter 2.1602.5a (September 2020).

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 evidence demonstrates clear error on the part of OWCP.¹²

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.¹³ 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.¹⁴ The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.¹⁵

ANALYSIS

The Board finds that OWCP properly denied appellant's October 6 and November 3, 2025 requests for reconsideration as they were untimely filed and failed to demonstrate clear evidence of error.

The last merit decision was issued by OWCP on December 15, 2023. As appellant's requests for reconsideration were not received by OWCP until October 6 and November 3, 2025, more than one year after the December 15, 2023 decision, pursuant to 20 C.F.R. § 10.607(a), the requests for reconsideration were untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in denying the claim.¹⁶

On reconsideration OWCP reviewed additional evidence. Dr. Bajkowski, in her February 16, 2023 report, recounted appellant's episode of dizziness earlier that day, and that he had been on a liquid diet due to recent oral surgery. Dr. Miller, in chart notes dated April 21 and May 3, 2023, addressed pain management medications and program. Appellant also submitted Dr. Paulis' October 2, 2025 report, wherein she opined that the accepted February 16, 2023 employment incident likely caused a herniated lumbar disc as he had no prior radicular symptoms. OWCP also received a December 31, 2018 Department of Veterans Affairs disability rating determination, February 16, 2023 hospital emergency department discharge instructions, physical therapy treatment notes dated April 19 and May 17, 2023, pain medicine clinic chart notes dated August 25, 2023 through February 2, 2024, a photograph of exercise equipment and a gym membership contract, and chiropractic treatment notes dated October 3, 2023 through

¹² *B.B.*, Docket No. 26-0117 (issued March 25, 2026); *L.J.*, Docket No. 23-0282 (issued May 26, 2023); *C.M.*, Docket No. 19-1211 (issued August 5, 2020); *J.M.*, *supra* note 10; *Robert G. Burns*, *supra* note 10.

¹³ *See G.G.*, *supra* note 7; *see also* 20 C.F.R. § 10.607(b); *supra* note 6 at Chapter 2.1602.5 (September 2020).

¹⁴ *J.S.*, Docket No. 16-1240 (issued December 1, 2016); *id.* at Chapter 2.1602.5a (September 2020).

¹⁵ *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).

¹⁶ 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).

March 25, 2025. As noted, clear evidence of error is intended to represent a difficult standard.¹⁷ 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.¹⁸ Therefore, this evidence does not raise a substantial question concerning the correctness of OWCP's merit decision.

As appellant's October 6 and November 3, 2025 requests for reconsideration did not show on their face that OWCP's December 15, 2023 decision contained an error, the Board finds that these requests for reconsideration failed to demonstrate clear evidence of error.

CONCLUSION

The Board finds that OWCP properly denied appellant's October 6 and November 3, 2025 requests for reconsideration as they were untimely filed and failed to demonstrate clear evidence of error.

ORDER

IT IS HEREBY ORDERED THAT the October 16 and November 21, 2025 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: May 5, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹⁷ *Supra* note 13. See also *V.B.*, Docket No. 23-0581 (issued January 20, 2026); *J.N.*, Docket No. 22-0899 (issued December 19, 2022); *J.M.*, *supra* note 11.

¹⁸ See *V.B.*, *id.*; *J.N.*, *id.*; *S.F.*, Docket No. 09-0270 (issued August 26, 2009).