

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

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T.B., Appellant)	
)	
and)	
)	Docket No. 26-0290
)	Issued: May 14, 2026
U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Los Angeles, CA, Employer)	
)	
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On January 29, 2026 appellant filed a timely appeal from a September 12, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from the last merit decision dated February 13, 2024, 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.

ISSUE

The issue is whether OWCP properly denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On November 22, 2023 appellant, then a 35-year-old mail processing clerk, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral foot and ankle pain due to factors of her federal employment. In a narrative statement, she explained that the employing establishment floors were cement/concrete lacquered and she often had to run to operate a two-man system by herself. Appellant also noted additional strain from pulling/pushing equipment, feeding and sweeping mail, and rotating multiple racks. She noted that she first became aware of her condition and realized its relationship to her federal employment on October 30, 2023.

OWCP received a November 29, 2023 work status report from Dr. Marie St. Louis, a podiatrist, placing appellant off work from November 27 through 29, 2023 and on modified work from November 30, 2023 through January 27, 2024.

By decision dated February 13, 2024, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted employment factors of her federal employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

In a report dated April 28, 2025, Dr. Cary D. Nelson, a Board-certified family medicine physician, recounted appellant's history of injury, reviewed a job description, provided examination findings, and diagnosed bilateral plantar fascial fibromatosis. He noted that appellant began experiencing symptoms in October 2023. Dr. Nelson opined that appellant's diagnosed plantar fasciitis was directly caused by her work activities including prolonged standing, walking on hard surfaces, lifting, and pushing/pulling heavy equipment.

Dr. Nelson, in an attending physician's report (Form CA-20) dated April 28, 2025, provided physical examination findings and diagnosed bilateral plantar fasciitis. He concluded that appellant was totally disabled from work, and that the diagnosed condition was consistent with appellant's repetitive and high impact physical activity, "including prolonged standing and walking on hard surfaces, all of which are essential components of her duties." In a work capacity evaluation (Form OWCP-5c) also dated April 28, 2025, Dr. Nelson diagnosed bilateral plantar fasciitis. He found appellant totally disabled from work.

On September 2, 2025 appellant requested reconsideration.

By decision dated September 12, 2025, OWCP denied appellant's September 2, 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.² 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.³ Timeliness is determined by the document receipt date, *i.e.*, the "received date" in OWCP's Integrated Federal Employees' Compensation System (iFECS).⁴ Imposition of this one-year filing limitation does not constitute an abuse of discretion.⁵

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.⁶ 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.⁷

To demonstrate clear evidence of error, a claimant must submit evidence relevant to the issue which was decided by OWCP.⁸ 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.

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.⁹ The claimant must present evidence which on its face demonstrates that OWCP made an error (for example, proof that a schedule award was miscalculated). 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

² *Id.* at § 8128(a); *J.J.*, Docket No. (issued March 11, 2026); *L.W.*, Docket No. 18-1475 (issued February 7, 2019); *Y.S.*, Docket No. 08-0440 (issued March 16, 2009)

³ 20 C.F.R. § 10.607(a).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4b (September 2020).

⁵ *J.J.*, *supra* note 2; *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).

⁶ *See supra* note 3 at § 10.607(b); *J.J.*, *id.*; *M.H.*, Docket No. 18-0623 (issued October 4, 2018); *Charles J. Prudencio*, 41 ECAB 499 (1990).

⁷ *J.J.*, *id.*; *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 4 at Chapter 2.1602.5 (September 2020).

⁸ *J.J.*, *id.*; *S.C.*, Docket No. 18-0126 (issued May 14, 2016); *id.* at Chapter 2.1602.5 (September 2020).

⁹ *G.G.*, *supra* note 5; *see also supra* note 3 at § 10.607(b); *id.* at Chapter 2.1602.5a (September 2020).

error.¹⁰ The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.¹¹

ANALYSIS

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

The last merit decision was issued in this case on February 13, 2024. As appellant's request for reconsideration was not received by OWCP until September 2, 2025, more than one year after the February 13, 2024 merit decision, pursuant to 20 C.F.R. § 10.607(a), the request for reconsideration was untimely filed. Consequently, appellant must demonstrate clear evidence of error by OWCP in denying the claim.¹²

In support of the untimely request for reconsideration, OWCP received reports from Dr. Nelson, dated April 28, 2025, wherein he concluded that appellant was totally disabled from work. He diagnosed bilateral plantar which he attributed to appellant's repetitive and high impact physical activity at work. The Board notes that clear evidence of error is intended to represent a difficult standard.¹³ The Board has long held that even 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 thus finds that appellant's request for reconsideration did not show that OWCP committed an error in denying appellant's claim on February 13, 2024. Accordingly, the Board finds that OWCP properly denied appellant's request for reconsideration, as it was untimely filed and failed to demonstrate clear evidence of error.

CONCLUSION

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

¹⁰ *J.S.*, Docket No. 16-1240 (issued December 1, 2016); *id.* at Chapter 2.1602.5(a) (September 2020).

¹¹ *D.S.*, Docket No. 17-0407 (issued May 24, 2017).

¹² *Supra* note 3 at § 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).

¹³ *Supra* note 9; *see also R.B.*, Docket No. 25-0849 (issued November 21, 2025); *E.R.*, Docket No. 24-0681 (issued July 29, 2024); *K.W.*, Docket No. 19-1808 (issued April 2, 2020); *J.S.*, Docket No. 16-1240 (issued December 1, 2016).

¹⁴ *Supra* note 10.

ORDER

IT IS HEREBY ORDERED THAT the September 12, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 14, 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