

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

G.B., Appellant)	
)	
and)	Docket No. 26-0293
)	Issued: May 19, 2026
U.S. POSTAL SERVICE, RAEFORD POST OFFICE, Raeford, NC, Employer)	
)	

Appearances:
Megan Diamond, Esq., for the appellant¹
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 February 3, 2026 appellant, through counsel, filed a timely appeal from a November 12, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).² 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.

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² Counsel did not appeal OWCP's merit decision dated August 21, 2025. Therefore, this decision is not presently before the Board. *See* 20 C.F.R. § 501.3.

³ 5 U.S.C. § 8101 *et seq.*

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 November 19, 2024 appellant, then a 58-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained a right rotator cuff tear due to factors of her federal employment, including heavy lifting, bending, stretching and reaching above her head casing mail; opening and closing mailboxes; delivering packages; and opening, closing and lifting the back door of a long life vehicle. She noted that she had previously sustained a right-sided rotator cuff tear from an October 26, 2022 work-related fall,⁴ which was aggravated by her continued work activities.

By decision dated February 14, 2025, OWCP denied appellant's claim. It found that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted employment factors.

On February 26, 2025 appellant requested reconsideration. No evidence or argument was submitted.

By decision dated February 28, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On June 13, 2025 appellant again requested reconsideration. Additional medical evidence was submitted.

By decision dated June 27, 2025, OWCP denied modification of its February 14, 2025 decision.

On August 11, 2025 appellant requested reconsideration and submitted additional medical evidence.

In an unsigned August 11, 2025 report, Dr. James Patton, a Board-certified neurologist, noted appellant's employment duties. He provided an assessment of aggravation of primary osteoarthritis, right shoulder, aggravation of primary osteoarthritis, left shoulder, complete rotator cuff tear of right shoulder, adhesive capsulitis of right shoulder, and aggravation of right knee osteoarthritis. Dr. Patton further provided an opinion explaining how the claimed employment factors caused or contributed to the diagnosed conditions.

By decision dated August 21, 2025, OWCP denied modification of its June 27, 2025 decision.

⁴ OWCP assigned the present claim OWCP File No. xxxxxx971. Under OWCP File No. xxxxxx258, appellant filed a traumatic injury claim (Form CA-1 alleging that on October 26, 2022 she injured her right shoulder and right knee when she fell on a concrete driveway. OWCP has not administratively combined these claims.

On October 21, 2025 appellant, through counsel, requested reconsideration. A signed copy of the August 11, 2025 report from Dr. Patton was submitted.

By decision dated November 12, 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.⁵

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.⁶

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.⁷ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.⁸ 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.⁹

ANALYSIS

The Board finds that OWCP improperly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On reconsideration, appellant submitted a signed copy of Dr. Patton's report dated August 11, 2025. This report provided an opinion explaining how the claimed employment factors caused the diagnosed conditions. While a copy of this report was of record prior to OWCP's August 21, 2025 decision, OWCP had not previously reviewed this report as it was initially unsigned. Dr. Patton's signed report specifically addressed the underlying issue of whether

⁵ 5 U.S.C. § 8128(a); *see S.B.*, Docket No. 24-0703 (issued December 13, 2024); *M.S.*, Docket No. 19-1001 (issued December 9, 2019); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *W.C.*, 59 ECAB 372 (2008).

⁶ 20 C.F.R. § 10.606(b)(3); *see B.G.*, Docket No. 26-0170 (issued March 30, 2026); *S.B.*, *id.*; *L.D.*, *id.*; *see also K.L.*, Docket No. 17-1479 (issued December 20, 2017); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

⁷ *Id.* at § 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.

⁸ *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

⁹ *Id.* at § 10.608(b); *M.S.*, Docket No. 19-0291 (issued June 21, 2019); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

appellant's claimed conditions were causally related to the accepted employment factors. As such, this report constitutes relevant and pertinent new evidence, not previously of record. Therefore, the submission of this evidence requires reopening of appellant's claim for merit review pursuant to the third requirement of 20 C.F.R. § 10.606(b).¹⁰

Accordingly, the Board shall reverse OWCP's November 12, 2025 nonmerit decision and remand the case for an appropriate merit decision.¹¹

CONCLUSION

The Board finds that OWCP improperly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

¹⁰ See *A.S.*, Docket No. 26-0038 (issued February 27, 2026); *D.B.*, Docket No. 22-0502 (issued September 21, 2023); *L.M.*, Docket No. 20-1185 (issued January 13, 2021); *C.H.*, Docket No. 17-1065 (issued December 14, 2017); *J.W.*, Docket No. 18-0822 (issued July 1, 2020); *D.M.*, Docket No. 10-1844 (issued May 10, 2011); *Kenneth R. Mroczkowski*, 40 ECAB 855 (1989).

¹¹ The Board additionally notes that OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files. Appellant's claims under OWCP File Nos. xxxxxx971 and xxxxxx258 both involve right shoulder conditions. Therefore, these claims should be administratively combined for a full and fair adjudication. See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000); *J.S.*, Docket No. 26-0225 (issued April 30, 2026); *C.Y.*, Docket No. 20-1079 (issued December 7, 2020); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

ORDER

IT IS HEREBY ORDERED THAT the November 12, 2025 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: May 19, 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