United States Department of Labor
Employees' Compensation Appeals Board

V.R., Appellant	)	
	)	**Docket No. 26-0600**
and	)	**Issued: October 14, 2026**
	)	
DEPARTMENT OF THE ARMY, 81st READINESS DIVISION, FORT BUCHANAN, PR, Employer	)	

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 June 16, 2026 appellant filed a timely appeal from a January 9, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from the last merit decision dated December 5, 2023, to the filing of this appeal, pursuant to the Federal Employees' Compensation Act[1] (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 September 30, 2020 appellant, then a 36-year-old heavy mobile equipment repairer, filed a traumatic injury claim (Form CA-1) alleging that, on that date, she developed severe left arm shoulder pain and inflammation as a result of lifting a battery into a pickup truck while in the performance of duty. She stopped work on September 29, 2020.

In support of her claim, appellant submitted factual and medical evidence.

By decision dated April 7, 2021, OWCP accepted that the September 29, 2020 employment incident occurred as alleged, and that a medical condition had been diagnosed in connection with the event. However, it denied the claim, finding that the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed condition of left rotator cuff tear and the accepted September 29, 2020 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On May 13, 2021 appellant requested reconsideration. OWCP subsequently received additional medical and factual evidence.

By decision dated August 11, 2021, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On November 15, 2021 appellant requested reconsideration of the April 7, 2021 decision and submitted additional factual and medical evidence.

By decision dated August 18, 2022, OWCP denied modification of the April 7, 2021 decision.

On November 15, 2022 appellant, through her representative, requested reconsideration, and submitted additional medical evidence.

By decision dated February 7, 2023, OWCP denied modification of the August 18, 2022 decision.

OWCP subsequently received additional medical evidence.

On September 6, 2023 appellant, through her representative, requested reconsideration and submitted additional evidence.

In an August 17, 2023 report, Dr. Ingrid Negron Valentin, an orthopedic surgeon, opined that appellant's repetitive duties in her daily work contributed to her shoulder condition, and that when she lifted the battery with her coworker, she more likely than not sustained the tear to her rotator cuff.

By decision dated December 5, 2023, OWCP denied modification of its February 7, 2023 decision. It found that Dr. Negron Valentin's August 17, 2023 report was insufficiently rationalized to establish appellant's claim.[2]

On December 19, 2025 appellant requested reconsideration. She contended that her former representative had provided deficient representation as he failed to properly articulate the medical evidence of record in a brief, which resulted in OWCP's mischaracterization of the medical evidence in finding that appellant had not submitted a rationalized opinion establishing causal relationship. Appellant further contended that he abandoned her, noting that e-mails, telephone calls, and texts since mid-2024 had gone unanswered except one message on March 5, 2025. She also contended that she was unable to access timely medical care due to continued administrative negligence and obstruction by the employing establishment. Appellant discussed the medical and factual evidence of record and contended that the August 17, 2023 medical report from Dr. Negron Valentin was sufficient to establish that she sustained a left shoulder injury causally related to the September 29, 2020 employment incident.

Appellant submitted a chronology of events regarding the September 29, 2020 employment incident and her medical treatment.

OWCP thereafter received safety data sheets.

By decision dated January 9, 2026, OWCP denied appellant's December 19, 2023 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.[3] 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.[4] Timeliness is determined by the document receipt date *i.e.,* the "received date" in OWCP's Integrated Federal Employees' Compensation System (iFECS).[5] Imposition of this one-year filing limitation does not constitute an abuse of discretion.[6]

[2] It also noted that a hospital report dated October 21, 2020 related a history of left shoulder pain, swelling, and limitation of motion for 20 days, but with no recent trauma. OWCP advised appellant that if she was claiming a diagnosis related to her exposures at work over the course of multiple shifts, as indicated by Dr. Negron Valentin, she could file an occupational disease claim (Form CA-2).

[3] 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).

[4] 20 C.F.R. § 10.607(a).

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

[6] *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).

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.[7] 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.[8] In this regard, OWCP will limit its focus to a review of how the newly submitted evidence bears on the prior evidence of record.[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. 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.[11]

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.[12] 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.[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 for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

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[7] *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).

[8] *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 5 at Chapter 2.1602.5 (September 2020).

[9] *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).

[10] *J.M.*, Docket No. 22-0630 (issued February 10, 2023); *S.C.,* Docket No. 18-0126 (issued May 14, 2016); *supra* note 4 at Chapter 2.1602.5a (September 2020).

[11] *L.J.*, Docket No. 23-0282 (issued May 26, 2023); *C.M.,* Docket No. 19-1211 (issued August 5, 2020); *J.M., id.*; *Robert G. Burns*, *supra* note 9.

[12] *See G.G., supra* note 6; *see also* 20 C.F.R. § 10.607(b); *supra* note 5 at Chapter 2.1602.5 (September 2020).

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

[14] *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).

The last merit decision issued by OWCP was dated December 5, 2023. As appellant's request for reconsideration was not received by OWCP until December 19, 2025, more than one year after the December 5, 2023 decision, pursuant to 20 C.F.R. § 10.607(a), the request for reconsideration was untimely filed. Consequently, she must demonstrate clear evidence of error by OWCP in its December 5, 2023 merit decision.[15]

On reconsideration, appellant asserted that her request for reconsideration should be granted, although it was filed untimely, because she received inadequate representation from her former representative. She further asserted that she was unable to access timely medical care due to continued administrative negligence and obstruction by the employing establishment. Appellant also asserted that the August 17, 2023 medical report from Dr. Negron Valentin, as well as the previously submitted medical reports recording her medical treatment were sufficient to establish her claim. With her request for reconsideration, she submitted a chronology of events regarding the September 29, 2020 employment incident and safety data sheets. This argument and evidence, however, does not raise a substantial question as to the correctness of OWCP's December 5, 2023 decision.[16]

As noted, clear evidence of error is intended to represent a difficult standard.[17] It is not enough to show that evidence could be construed so as to produce a contrary conclusion.[18] The Board thus finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim as it was untimely filed and failed to demonstrate clear evidence of error.[19]

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.

[15] 20 C.F.R. § 10.607(b); *K.S.,* Docket No. 25-0142 (issued January 27, 2025); *A.G.*, Docket No. 24-0868 (issued October 21, 2024); *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).

[16] *Supra* note 11; *see also S.C.,* Docket No. 19-1424 (issued September 15, 2020).

[17] *Supra* note 12.

[18] *Supra* note 11.

[19] *See L.F.,* Docket No. 25-0566 (issued August 14, 2025); *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 January 9, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 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