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

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| **S.D., Appellant** | ) | |
| | ) | **Docket No. 26-0629** |
| **and** | ) | **Issued: October 29, 2026** |
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| **DEPARTMENT OF THE NAVY, MILITARY SEALIFT COMMAND, Norfolk, VA, Employer** | ) | |

*Appearances:*
*Appellant, pro se*
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

## ORDER REVERSING CASE

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

On June 27, 2026 appellant filed a timely appeal from a March 2, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 26-0629.[1]

On October 10, 2024 appellant, then a 55-year-old chief cook, filed a traumatic injury claim (Form CA-1) alleging that she sustained a head injury during training on June 18, 2024 while in the performance of duty.[2] OWCP assigned OWCP File No. xxxxxx074 to this claim.

[1] The Board notes that following the March 2, 2026 decision, appellant submitted additional evidence to OWCP and with her appeal to the Board. 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*.

[2] OWCP assigned the present claim OWCP File No. xxxxxx074. It previously accepted an August 19, 2024 traumatic injury claim (Form CA-1) for neck sprain, thoracic sprain, left middle finger sprain, and left middle interphalangeal joint sprain under OWCP File No. xxxxxx927. OWCP also previously accepted her September 9, 2024 traumatic injury claim for right wrist sprain and right radial styloid tenosynovitis under OWCP File No. xxxxxx074. It has administratively combined OWCP File Nos. xxxxxx074, xxxxxx927, and xxxxxx619, with the latter designated as the master file.

OWCP subsequently received medical evidence in support of appellant's claim.

By decision dated February 14, 2025, OWCP denied appellant's traumatic injury claim. It found that the June 18, 2024 employment incident occurred as alleged; however, the medical evidence of record was insufficient to establish a medical diagnosis in connection with the accepted June 18, 2024 employment incident. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 3, 2025 appellant requested reconsideration.

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

OWCP subsequently received additional medical evidence.

On February 7, 2026 appellant requested reconsideration on an appeal request form attached to the February 14, 2025 decision.

On February 20, 2026 appellant again requested reconsideration.

By decision dated March 2, 2026, OWCP denied appellant's February 20, 2026 request for reconsideration of the merits of her claim, finding that it was untimely filed and failed to demonstrate clear evidence of error.

The Board, having duly considered this matter, finds that OWCP improperly determined that appellant's request for reconsideration was untimely filed.

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 of the request for reconsideration as indicated by the received date in the Integrated Federal Employees' Compensation System (iFECS).[5] Imposition of this one-year filing limitation does not constitute an abuse of discretion.[6]

[3] 5 U.S.C. § 8128(a); *see also A.B.,* Docket No. 19-1539 (issued January 27, 2020); *W.C.,* 59 ECAB 372 (2008).

[4] 20 C.F.R. § 10.607(a).

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

[6] *G.G.,* Docket No. 18-1074 (issued January 7, 2019); *E.R.,* Docket No. 09-0599 (issued June 3, 2009); *Leon D. Faidley, Jr.,* 41 ECAB 104 (1989).

Appellant's February 7, 2026 reconsideration request was made on the appeal request form attached to the February 14, 2025 decision. Thus, the Board finds that appellant's reconsideration request, received by OWCP on February 7, 2026, was timely filed.[7]

As appellant filed her February 7, 2026 request for reconsideration within one year of the February 14, 2025 OWCP decision, the Board finds that OWCP improperly denied her request for reconsideration by applying the legal standard for cases where reconsideration is requested after more than one year has elapsed.[8] OWCP should have applied the standard reserved for timely requests for reconsideration as set forth in 20 C.F.R. § 10.606(b)(3).[9] Since it erroneously reviewed the evidence submitted in support of appellant's request for reconsideration under the more stringent clear evidence of error standard, the Board will reverse and remand the case to OWCP for review under the proper standard for a timely request for reconsideration.[10] Accordingly,

**IT IS HEREBY ORDERED THAT** the March 2, 2026 decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this order of the Board.

[7] *See Order Remanding Case, P.H.,* Docket No. 21-0364 (issued May 13, 2022); *C.M.,* Docket No. 11-1988 (issued June 6, 2012).

[8] *See supra* notes 5 through 8.

[9] 20 C.F.R. § 10.606(b)(3) of OWCP's regulations provide that a request reconsideration must be in writing and set forth arguments and contain evidence that either: (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.

[10] *See D.S.,* Docket No. 23-0396 (issued December 27, 2023).

Issued: October 29, 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