United States Department of Labor
Employees' Compensation Appeals Board

S.P., Appellant	)	
and	)	**Docket No. 26-0643**
	)	**Issued: October 5, 2026**
U.S. POSTAL SERVICE, PROVIDENCE POST OFFICE, Providence, RI, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On July 6, 2026 appellant, through counsel, filed a timely appeal from a June 16, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).[2] Pursuant to the Federal Employees' Compensation Act[3] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has 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] The Board notes that there is a March 9, 2026 merit decision regarding appellant's occupational disease claim, which is also within the Board's jurisdiction. As counsel did not appeal from the March 9, 2026 decision, the Board will not address the March 9, 2026 decision in this appeal. 20 C.F.R. § 501.3; *see V.F.,* Docket No. 25-0548 (issued September 5, 2025); *E.B.,* Docket No. 24-0775 (issued September 27, 2024); *D.K.,* Docket No. 22-0111 (issued February 8, 2023).

[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 his claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On March 20, 2025 appellant, then a 35-year-old mail processing clerk, filed a notice of recurrence (Form CA-2a) alleging that he stopped work on January 23, 2025 due to a February 11, 2019 employment injury. He noted that he experienced arm pain while feeding/processing mail through a delivery bar code sorter machine at work, and advised that he was unable to bend or extend his elbow. OWCP converted the Form CA-2a to a new occupational disease claim, and assigned the claim OWCP File No. xxxxxx996.[4]

In support of his claim, appellant submitted a February 4, 2025 form report, wherein Dr. Eric F. Walsh, a Board-certified orthopedic surgeon, advised that appellant could return to work without restrictions.

In a development letter dated March 21, 2025, OWCP informed appellant of the deficiencies of his occupational disease claim. It advised him of the type of factual and medical evidence needed, and afforded him 60 days to respond. No response was received.

In a follow-up letter dated May 22, 2025, OWCP advised appellant that it had conducted an interim review, and the evidence remained insufficient to establish his claim. It noted that he had 60 days from the March 21, 2025 letter to submit the necessary evidence. OWCP further advised that if the evidence was not received during this time, it would issue a decision based on the evidence contained in the record. No response was received.

By decision dated June 13, 2025, OWCP accepted that the employment factors occurred, as alleged. However, it denied the occupational disease claim, finding that appellant had not submitted medical evidence containing a medical diagnosis from a qualified physician in connection with the accepted employment factors. Consequently, OWCP found that the requirements had not been met to establish an injury as defined by FECA.

On September 9, 2025 appellant requested reconsideration of the June 13, 2025 decision. In a September 9, 2025 statement, he advised that he sustained lateral epicondylitis at work in February 2019 and later returned to full duty, but his elbow pain returned in February 2025 with involvement of the lateral and medial sides of his elbow. Appellant discussed how he altered his work activities to avoid reinjury and indicated that his elbow pain worsened in June 2025.

[4] Under OWCP File No. xxxxxx587, OWCP accepted a February 11, 2019 traumatic injury (Form CA-1) for a sprain and lateral epicondylitis of the right elbow. After filing the present claim, appellant also filed a claim for a July 11, 2025 traumatic injury. OWCP administratively combined OWCP File Nos. xxxxxx996, xxxxxx720, and xxxxxx587, with the latter serving as the master file.

Appellant submitted a September 9, 2025 report wherein Dr. Walsh documented physical examination findings and diagnosed lateral and lateral and medial epicondylitis of the right elbow. He opined that these conditions were related to February 11, 2019 and July 10, 2025 employment injuries. In a September 9, 2025 form report, Dr. Walsh indicated that appellant could not work and would remain off work for four weeks due to a pending magnetic resonance imaging (MRI) scan.

In a September 24, 2025 report, Dr. Walsh diagnosed lateral and medial epicondylitis of the right elbow which was causally related to his work for the employing establishment. He opined that appellant could work with restrictions.

In an October 9, 2025 attending physician's report (Form CA-20), Dr. Robert E. McLaughlin, a Board-certified orthopedic surgeon, indicated that appellant experienced right elbow symptoms when he lifted a mail tray off a shelf at work on February 11, 2019, and when he twisted his right arm while lifting mail trays at work on July 10, 2025. He diagnosed lateral and medial epicondylitis of the right elbow, and lesion of the ulnar nerve of the right upper extremity. Dr. McLaughlin opined that appellant's repetitive work as a mail processing clerk worsening his original February 11, 2019 injury.

In November 6, 2025 statements, appellant discussed his right epicondylitis and ulnar neuritis conditions. He argued that these conditions were related to his work, either as a recurrence of his prior accepted right elbow injury or as a new injury due to additional cumulative trauma at work.

In a February 5, 2026 duty status report (Form CA-17), Dr. McLaughlin recommended work restrictions. In a Form CA-20 of even date, he diagnosed lateral and medial epicondylitis of the right elbow, and lesion of the ulnar nerve of the right upper extremity. Dr. McLaughlin opined that appellant's repetitive work as a mail processing clerk worsened his original February 11, 2019 injury.

By decision dated March 9, 2026, OWCP modified its June 13, 2025 decision to reflect that appellant had not established the factual component of the fact of injury.

On May 27, 2026 appellant, through counsel, requested reconsideration of the March 9, 2026 decision. Counsel asserted that a statement from appellant was being submitted with the request, but no such statement is contained in the record transmitted to the Board. An April 2, 2026 report was submitted wherein Dr. McLaughlin documented physical examination findings and discussed the findings of a September 25, 2025 right elbow MRI scan obtained by Dr. Damon Spitz, a Board-certified radiologist. Dr. McLaughlin opined that appellant's right lateral epicondylitis, sprain of the right ulnar collateral ligament, right cubital tunnel syndrome, and ulnar neuritis of the right upper extremity were work-related conditions. He stated, "As a mail processing clerk, repetitive motions associated with the job include repetitive elbow flexion, sustained elbow positioning, and continuous upper extremity use for extended periods of time. [Appellant's] condition of ulnar neuritis at the elbow is consistent with repetitive stress and ulnar nerve compression associated with the described occupational duties."

By decision dated June 16, 2026, OWCP denied appellant's request for reconsideration of the merits of his 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] The Board has held that the submission of evidence or argument which repeats or duplicates evidence or argument already in the case record[10] and the submission of evidence or argument which does not address the particular issue involved does not constitute a basis for reopening a case.[11]

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[5] 5 U.S.C. § 8128(a); *see J.K.*, Docket No. 26-0293 (issued May 27, 2026); *S.B.,* Docket No. 24-0703 (issued December 13, 2024); *M.S.,* Docket No. 19-1001 (issued December 9, 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); *K.L.,* Docket No. 17-1479 (issued December 20, 2017); *C.N.,* Docket No. 08-1569 (issued December 9, 2008).

[7] 20 C.F.R. § 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 (version 1.2, issued May 4, 2026). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the date received in the Integrated Federal Employees' Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

[8] *Id.* at § 10.608(a); *see C.P.,* Docket No. 26-0007 (issued May 27, 2026); *F.V.,* Docket No. 18-0239 (issued May 8, 2020); *M.S.*, 59 ECAB 231 (2007).

[9] *Id.* at § 10.608(b); *see G.B.,* Docket No. 26-0293 (issued May 19, 2026); *T.V.,* Docket No. 19-1504 (issued January 23, 2020); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

[10] *N.L.,* Docket No. 18-1575 (issued April 3, 2019); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

[11] *C.C.,* Docket No. 25-0806 (issued June 5, 2026); *M.K.,* Docket No. 18-1623 (issued April 10, 2019); *Edward Matthew Diekemper*; 31 ECAB 224, 225 (1979).

ANALYSIS

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

On May 27, 2026 appellant filed a timely request for reconsideration of a March 9, 2026 decision.[12] He did not present argument in support of the reconsideration request. Accordingly, appellant did not establish that OWCP erroneously applied or interpreted a specific point of law, or advance a relevant legal argument not previously considered by OWCP. Thus, he is not entitled to a review of the merits based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).

With his request for reconsideration, appellant submitted an April 2, 2026 report wherein Dr. McLaughlin opined that appellant's right lateral epicondylitis, sprain of the right ulnar collateral ligament, right cubital tunnel syndrome, and ulnar neuritis of the right upper extremity were work-related conditions. While this medical evidence is new, it is irrelevant as it does not directly address the underlying issue of the present case, *i.e.*, whether the factual evidence was sufficient to establish factors of appellant's federal employment. The Board has held that the submission of evidence or argument which does not address the particular issue involved does not constitute a basis for reopening a case.[13]

Therefore, appellant is not entitled to further review of the merits of his claim based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).

The Board accordingly finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.

CONCLUSION

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

[12] *See P.H.,* Docket No. 26-0240 (issued April 17, 2026); *J.F.,* Docket No. 16-1233 (issued November 23, 2016).

[13] *See supra* note 11.

ORDER

IT IS HEREBY ORDERED THAT the June 16, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 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