United States Department of Labor
Employees' Compensation Appeals Board

E.S., Appellant	)	
and	)	**Docket No. 26-0683**
	)	**Issued: October 29, 2026**
U.S. POSTAL SERVICE, JAMES A. FARLEY POST OFFICE, New York, NY, Employer	)	

Appearances:
Appellant, *pro se*
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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 16, 2026 appellant filed a timely appeal from a May 13, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from OWCP's last merit decision, dated February 25, 2022, 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 of the merits of her claim, 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 August 5, 2020 appellant, then a 42-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on March 25, 2020 she contracted COVID-19 while in the performance of duty. She stopped work on the date of injury and returned to full-duty work on March 1, 2021.

By decision dated April 30, 2021, OWCP accepted the claim for COVID-19. On December 13, 2021 appellant filed a claim for compensation (Form CA-7) for disability from work for the period April 10, 2020 through March 1, 2021.

In support thereof, appellant submitted a polymerase chain reaction test result dated March 25, 2020, which indicated a positive result for COVID-19.

In medical reports dated April 12, 2020 and February 9, 2021, Dr. Kyi Win Yu, Board-certified in anatomic pathology, clinical pathology, and family medicine, noted that appellant experienced complications requiring hospitalization for post-COVID syndrome, including ongoing respiratory inflammation, and had not been cleared to return to work by her pulmonologist.

In a medical report dated November 16, 2020, Dr. Kala Sury, a pulmonologist, noted that appellant was "still deconditioned" after she was "hospitalized with Covid respiratory failure." She diagnosed hyperreactive airways and noted that appellant "still has effort intolerance" and "needs time to recuperate."

In a follow-up report dated February 11, 2021, Dr. Sury noted that appellant's oxygen levels and pulmonary function testing had improved. She released appellant to return to full-duty work on March 1, 2021.

By decision dated February 25, 2022, OWCP denied appellant's Form CA-7 claim for disability from work for the period April 10, 2020 through March 1, 2021, causally related to the accepted March 25, 2020 employment injury.

In a March 6, 2026 letter, appellant asserted that she was incapacitated and unable to perform her duties for approximately 12 months.

On March 9, 2026 OWCP received a medical report dated August 20, 2020 wherein Dr. Yu indicated that appellant contracted COVID-19 in March 2020, required hospitalization for post-COVID syndrome, and experienced subsequent intermittent respiratory inflammation. He also noted that her pulmonologist had not yet cleared her to return to work.

On April 20, 2026 appellant requested reconsideration of OWCP's February 25, 2022 decision.

OWCP subsequently received a September 21, 2020 addendum report by Dr. Sury, who observed that appellant had 95 percent blood oxygen saturation and a heart rate of 92 beats per minute with minimal exertion.

In a narrative letter dated April 24, 2026, Dr. Yu diagnosed hyperreactive airways causally related to the March 25, 2020 COVID-19 infection. He noted that appellant required prescribed

medications to treat her symptoms, and that Dr. Sury advised her to remain off work until she recovered.

By decision dated May 13, 2026, OWCP denied appellant's reconsideration request, 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] OWCP's regulations[3] establish a one-year time limitation for requesting reconsideration which begins on the date of the original OWCP merit decision. A right to reconsideration within one year also accompanies any subsequent merit decision on the issues.[4] 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. 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]

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]

[2] 5 U.S.C. § 8128(a); *S.R.,* Docket No. 26-0440 (issued July 28, 2026); *B.J.,* Docket No. 24-0430 (issued June 5, 2024); *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] *I.W.,* Docket No. 26-0182 (issued July 16, 2026); *E.R.,* Docket No. 21-0423 (issued June 20, 2023); *J.W.,* Docket No. 18-0703 (issued November 14, 2018); *Robert F. Stone,* 57 ECAB 292 (2005).

[5] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (version 1.2, issued May 4, 2026).

[6] *B.B.,* Docket No. 26-0117 (issued March 26, 2026); *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).

[7] *See* 20 C.F.R. § 10.607(b); *M.H.,* Docket No. 18-0623 (issued October 4, 2018); *Charles J. Prudencio,* 41 ECAB 499 (1990).

[8] *M.D.*, Docket No. 26-0316 (issued July 8, 2026); *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).

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.[11] Evidence which does not raise a substantial question concerning the correctness of OWCP's decision is insufficient to demonstrate clear evidence of error.[12] 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.[13]

OWCP's procedures note that the term clear evidence of error is intended to represent a difficult standard.[14] 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.[15] The Board makes an independent determination of whether a claimant has demonstrated clear evidence of error on the part of OWCP.[16]

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 on the underlying issue of this case was issued by OWCP on February 25, 2022. As appellant's request for reconsideration was not received by OWCP until April 20, 2026, more than one year after the February 25, 2022 merit 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 denying the claim.[17]

On reconsideration, appellant submitted a March 6, 2026 statement, wherein she asserted that she was incapacitated and unable to perform her duties for approximately 12 months. OWCP also received a medical report dated August 20, 2020, wherein Dr. Yu indicated that appellant contracted COVID-19 in March 2020, required hospitalization for post-COVID syndrome, and experienced subsequent intermittent respiratory inflammation. He also noted that her

[10] *L.S.,* Docket No. 26-0270 (issued July 6, 2026); *S.C.,* Docket No. 18-0126 (issued May 14, 2016); *supra* note 5 at Chapter 2.1602.5a (September 2020).

[11] *J.M.,* Docket No. 26-0352 (issued June 24, 2026).

[12] *A.D.,* Docket No. 26-0460 (issued August 26, 2026); *L.J.*, Docket No. 23-0282 (issued May 26, 2023).

[13] *L.J.,* Docket No. 23-0282 (issued May 26, 2023); *C.M.,* Docket No. 19-1211 (issued August 5, 2020).

[14] *See also* 20 C.F.R. § 10.607(b); *supra* note 5 at Chapter 2.1602.5 (version 1.2, issued May 4, 2026).

[15] *T.B.*, Docket No. 26-0290 (issued May 14, 2026); *see supra* note 5 at Chapter 2.1602.5a (version 1.2, issued May 4, 2026).

[16] *F.B.,* Docket No. 26-0233 (issued April 29, 2026); *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).

[17] 20 C.F.R. § 10.607(b); *D.Z.,* Docket No. 25-0422 (issued June 26, 2025); *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).

pulmonologist had not yet cleared her to return to work. In a September 21, 2020 addendum report, Dr. Sury observed that appellant had 95 percent blood oxygen saturation and a heart rate of 92 beats per minute with minimal exertion. In a narrative letter dated April 24, 2026, Dr. Yu diagnosed hyperreactive airways causally related to the March 25, 2020 COVID-19 infection. He noted that appellant required prescribed medications to treat her symptoms, and that Dr. Sury advised her to remain off work until she recovered.

As noted, clear evidence of error is intended to represent a difficult standard.[18] It is not enough to show that evidence could be construed so as to produce a contrary conclusion. Instead, the evidence must raise a substantial question as to the correctness of OWCP's decision.[19] The Board finds that neither the argument nor the evidence submitted on reconsideration raises a substantial question as to the correctness of OWCP's February 25, 2022 decision denying her disability claim. 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.

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.

[18] *See supra* note 14.

[19] *See supra* note 13.

ORDER

IT IS HEREBY ORDERED THAT the May 13, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 29, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board