United States Department of Labor
Employees' Compensation Appeals Board

D.W., Appellant	)	
and	)	**Docket No. 26-0547**
	)	**Issued: September 9, 2026**
U.S. POSTAL SERVICE, RICHMOND PROCESSING & DISTRIBUTION CENTER, Richmond, VA, Employer	)	

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On May 21, 2026 appellant filed a timely appeal from a March 17, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 26-0547.[1]

On January 26, 2024 appellant, then a 62-year-old mail processing clerk, filed a traumatic injury claim (Form CA-1) alleging that on December 30, 2023 she injured her right shoulder and lower back when she fell backwards over steel rails while in the performance of duty. She did not initially stop work. OWCP accepted the claim for right shoulder contusion.[2]

[1] The Board notes that, following the March 17, 2026 decision, OWCP received additional evidence. 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] Appellant subsequently filed a Form CA-1 alleging that on October 19, 2024 she injured her right shoulder while in the performance of duty. OWCP processed the claim as a short form closure under OWCP File No. xxxxxx808. It has not administratively combined appellant's claims.

In a medical report dated January 31, 2024, Dr. Ernesto Africano, a Board-certified internist and cardiologist, documented physical examination findings and diagnosed cervical and lumbar radiculopathy and unspecified mononeuropathy of the right upper limb.

Magnetic resonance imaging (MRI) scans of the cervical and lumbar spine dated February 20, 2024 demonstrated mild multilevel degenerative changes and moderate-to-severe bilateral foraminal stenosis at L5-S1. An MRI scan of the right shoulder of even date demonstrated a large full-thickness tear of the supraspinatus tendon with retraction, a partial thickness tear of the anterior infraspinatus tendon, and chronic clavicular degenerative changes.

In a follow-up medical report dated May 24, 2024, Dr. Africano released appellant to return to full-time work with no lifting, carrying, pushing, or pulling greater than five pounds and no bending, squatting, twisting, kneeling, or climbing. On August 13, 2024, he requested expansion of the acceptance of the claim to include additional conditions.

On August 28, 2024, appellant filed a claim for compensation (Form CA-7) for disability from work for the period May 3 through August 9, 2024.

OWCP continued to receive evidence, including a September 12, 2024 medical report by Dr. Africano, who released appellant to return to full-time, full-duty work.

By decision dated November 1, 2024, OWCP denied appellant's claim for disability from work commencing May 4, 2024, finding that the evidence of record was insufficient to establish disability from work during the claimed period causally related to her accepted December 30, 2023 employment injury.[3]

On November 8, 2024 appellant requested reconsideration of OWCP's November 1, 2024 decision. In support thereof, she submitted a medical report dated November 7, 2024 by Dr. Alex Ferikes, a Board-certified orthopedic and hand surgeon, who diagnosed a traumatic rupture of supraspinatus tendon of right shoulder, causally related to the December 30, 2023 employment injury. Dr. Ferikes provided work restrictions and recommended right shoulder arthroscopic rotator cuff repair.

By decision dated November 12, 2024, OWCP expanded its acceptance of appellant's claim to include complete rotator cuff tear or rupture of right shoulder, causally related to the December 30, 2023 employment injury.

By decision dated November 13, 2024, OWCP vacated its November 1, 2024 decision in part, finding that the evidence of record established that appellant was disabled from work commencing July 30, 2024 causally related to his accepted employment injury. It, however, also

[3] The Board notes that on November 6, 2024 appellant filed a Form CA-7 for disability from work for the period February 10 through October 5, 2024. OWCP has not issued a final decision regarding appellant's claim for wage-loss compensation for the period February 10 through May 3, 2024. Additionally, OWCP has not adjudicated appellant's claimed disability for the period July 30 through August 9, 2024. Thus, these issues are not currently before the Board. *See* 20 C.F.R. §§ 501.2(c) and 501.3.

affirmed the November 1, 2024 decision in part, finding that the medical evidence of record was insufficient to establish disability for the period May 4 through July 29, 2024.

OWCP continued to receive medical evidence.

On January 3, 2025 appellant requested reconsideration of OWCP's November 13, 2024 decision.

By decision dated January 16, 2025, OWCP denied modification of the November 13, 2024 decision.

OWCP subsequently received an operative report dated January 23, 2025 and follow-up visits dated February 3 through November 6, 2025 by Dr. Ferikes; medical reports and work capacity evaluation (Form OWCP-5c) forms dated January 13 through November 25, 2025 by Dr. Ahmed; and physical therapy reports.

On December 30, 2025 appellant requested reconsideration. In support thereof, she submitted an undated statement wherein she discussed filing CA-7 forms, which were verified by the employing establishment. Appellant discussed her medical treatment, noting that she had undergone surgery. She requested wage-loss compensation for the period February 24 through July 26, 2024 and noted that, "I have been compensated for all of the dates requested after July 30, 2024, and don't understand why I haven't received back payment."

On January 14, 2026 OWCP notified appellant that it had received her December 30, 2025 request for reconsideration, but that no further action would be taken as it was "not clear from your letter which decision or issues you are asking us to reconsider."

On February 26, 2026 appellant again requested reconsideration. In support thereof, she submitted a February 5, 2026 letter from Dr. Ferikes and an undated letter from Dr. Ahmed, both of whom indicated that she was totally disabled from work during the period December 30, 2023 through July 30, 2024 due to a right rotator cuff complete tear.[4]

OWCP also received a medical report by Dr. Ahmed dated February 16, 2026 and additional physical therapy reports.

By decision dated March 17, 2026, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error. It noted that her "February 26, 2026" reconsideration request was not received within one year of the January 16, 2025 decision for which reconsideration was sought.

The Board, having duly considered this matter, finds that this case is not in posture for decision.

[4] Dr. Ahmed also noted that appellant had attempted to return to work from December 31, 2023 through January 3, 2024 and January 5 through 10, and April 19 through 21, 2024.

Pursuant to section 8128(a) of FECA, OWCP has the discretion to reopen a case for further merit review.[5] 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.[6] 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).[7] Imposition of this one-year filing limitation does not constitute an abuse of discretion.[8]

On December 30 2025, OWCP received an appeal request form and accompanying letter requesting reconsideration of the disability decision, and she submitted additional evidence in support thereof. As appellant's December 30, 2025 submission was received by OWCP within one year of its January 16, 2025 merit decision, the Board finds that it constituted a timely request for reconsideration.[9] Consequently, the Board finds that OWCP improperly applied the legal standard for cases where reconsideration is requested after more than one year has elapsed.[10] OWCP should have applied the standard reserved for timely requests for reconsideration as set forth in 20 C.F.R. § 10.606(b)(3).[11]

Since OWCP erroneously reviewed the evidence submitted in support of appellant's request for reconsideration under the more stringent clear evidence of error standard, the Board shall set aside OWCP's March 17, 2026 decision and remand the case to OWCP for review under the proper standard for a timely request for reconsideration.[12] Accordingly,

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

[6] 20 C.F.R. § 10.607(a).

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

[8] *G.G.,* Docket No. 18-1072 (issued January 7, 2019); *E.R.,* Docket No. 09-0599 (issued June 3, 2009); *Leon D. Faidley, Jr.,* 41 ECAB 104 (1989).

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

[10] *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).

[11] 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.

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

IT IS HEREBY ORDERED THAT the March 17, 2026 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this order of the Board.

Issued: September 9, 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