United States Department of Labor
Employees' Compensation Appeals Board

M.W., Appellant	)	
	)	**Docket No. 26-0576**
and	)	**Issued: September 8, 2026**
	)	
U.S. POSTAL SERVICE, MOUNT OGDEN POST OFFICE, Ogden, UT, 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
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 8, 2026 appellant, through counsel, filed a timely appeal from a May 22, 2026 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).[2] As more than 180 days has elapsed from the last merit decision, dated October 14, 2025 to the filing of this

[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, following the May 22, 2026 decision, appellant submitted additional evidence to OWCP and 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*.

appeal, pursuant to the Federal Employees' Compensation Act[3] (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 his claim, pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On May 27, 2025 appellant, then a 57-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on May 12, 2025 he injured his left knee, when ascending stairs while in the performance of duty.[4] He stopped work on May 16, 2025.

Appellant sought medical treatment on May 16, 2025. A duty status report (Form CA-17) indicated that he received treatment from a physician, with an illegible signature, who diagnosed knee strain and opined that appellant was totally disabled from work.

In a June 9, 2025 development letter, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of medical evidence needed to establish his claim. OWCP afforded appellant 60 days to submit the necessary evidence.

OWCP received additional evidence. A May 16, 2025 left knee x-ray revealed severe medial compartment joint space narrowing.

On June 16, 2025 Dr. Daniel J. Johnson, an osteopath, related that he had examined appellant and that he was temporarily totally disabled. He diagnosed severe left knee osteoarthritis on June 23, 2025.

OWCP, in a follow-up letter dated June 30, 2025, 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 June 9, 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 additional evidence was received.

By decision dated August 11, 2025, OWCP denied appellant's claim, finding that the medical evidence of record was insufficient to establish a medical condition causally related to the accepted May 12, 2025 employment incident.

On September 16, 2025 appellant requested reconsideration of OWCP's August 11, 2025 decision. In an August 4, 2025 report, Dr. Johnson concluded that appellant was totally disabled. In an August 7, 2025 report, he opined that appellant's current symptoms were caused by the

[3] 5 U.S.C. § 8101 *et seq*.

[4] OWCP assigned the present claim OWCP File No. xxxxxx300. Appellant has a traumatic injury claim under OWCP File No. xxxxxx441 which OWCP accepted for sprain of the left ankle and left knee. OWCP has administratively combined OWCP File Nos. xxxxxx300 and xxxxxx441, with the latter serving as the master file.

physical demands of his profession and the osteoarthritis flare-up which is correlated with the November 2, 2022 meniscal tear he sustained at work "leading to downstream osteoarthritis." Dr. Johnson noted that while his osteoarthritis may have been present prior to the injury in some small degree, his left knee was asymptomatic and the change in severity and function is clinically consistent with acute worsening of a previously stable condition, directly attributable to the workplace event. He concluded, "I feel it is therefore medically appropriate to consider this case an exacerbation of a preexisting condition resulting from a workplace injury."

On September 8, 2025 Dr. Johnson opined that appellant should remain off work.

By decision dated October 14, 2025, OWCP denied modification of its August 11, 2025 decision.

On February 23, 2026 appellant, through counsel requested reconsideration and provided a February 17, 2026 report from Dr. Johnson. He related appellant's history of injury on November 2, 2022, and opined that his current symptoms were caused by the physical demands of his profession, and the osteoarthritis flareup which correlated with the meniscal tear he sustained leading to downstream osteoarthritis. Dr. Johnson opined that while appellant's osteoarthritis may have been present prior to the injury to some small degree, his left knee was asymptomatic. He determined that the change in severity and function is clinically consistent with an acute worsening of a previously stable condition, directly attributable to the workplace event. Dr. Johnson concluded that it was medically appropriate to consider this case an exacerbation of a preexisting condition resulting from a workplace injury.

On April 20. 2026 Dr. Johnson opined that appellant could perform no physical activity with the left lower extremity.

By decision dated May 22, 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]

[5] 5 U.S.C. § 8128(a); *see L.D.*, Docket No. 18-1468 (issued February 11, 2019); *V.P.*, Docket No. 17-1287 (issued October 10, 2017); *D.L.*, Docket No. 09-1549 (issued February 23, 2010); *W.C.*, 59 ECAB 372 (2008).

[6] 20 C.F.R. § 10.606(b)(3); *see M.S.*, Docket No. 18-1041 (issued October 25, 2018); *L.G.*, Docket No. 09-1517 (issued March 3, 2010); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

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]

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 February 23, 2026 appellant requested reconsideration of OWCP's October 14, 2025 decision. However, he neither showed that OWCP erroneously applied or interpreted a specific point of law, nor did he advance a relevant legal argument not previously considered by OWCP. Accordingly, the Board finds that appellant is not entitled to a review of the merits of his claim based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).[10]

On reconsideration, appellant submitted medical reports by Dr. Johnson dated February 17 and April 20, 2026. The Board finds that these reports, although new, are cumulative and substantially similar to his previously submitted reports. The Board has held that the submission of evidence, which repeats or duplicates evidence already in the case record, does not constitute a basis for reopening a case.[11] Because appellant did not submit relevant and pertinent new evidence with his request for reconsideration, he was not entitled to a review of the merits based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).[12]

The Board, therefore, 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).

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[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 (May 4, 2026). 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). *Id*. at Chapter 2.1602.4b.

[8] *Id*. at § 10.608(a); *see D.C*., Docket No. 19-0873 (issued January 27, 2020); *M.S*., 59 ECAB 231 (2007).

[9] *Id*. at § 10.608(b); *see P.V*., Docket No. 25-0547 (issued June 23, 2025); *T.V*., Docket No. 19-1504 (issued January 23, 2020); *E.R*., Docket No. 09-1655 (issued March 18, 2010).

[10] *See L.W*., Docket No. 21-0607 (issued October 18, 2022).

[11] *See M.C*., Docket No. 18-0841 (issued September 13, 2019); *A.G*., Docket No. 19-0113 (issued July 12, 2019); *L.R*., Docket No. 18-0400 (issued August 24, 2018); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

[12] *See* 20 C.F.R. § 10.606(b)(3)(iii); *see also S.W*., Docket No. 25-0261 (issued February 24, 2025).

ORDER

IT IS HEREBY ORDERED THAT the May 22, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 8, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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