

By decision dated April 29, 2019, OWCP denied expansion of appellant's claim to include bilateral carpal tunnel syndrome and left arm and thoracic area injuries.

On May 13, 2019 appellant requested reconsideration.

By decision dated October 16, 2019, OWCP denied modification of the April 29, 2019 decision.

Subsequently, OWCP further developed appellant's claim, referring her to a second opinion physician.

By decision dated December 19, 2019, OWCP expanded the acceptance of appellant's claim to include permanent aggravation of lumbar spinal stenosis.

OWCP thereafter received additional evidence including diagnostic studies, an operative report, physical therapy reports, and primary treating physician's progress notes.

On December 23, 2020 appellant requested reconsideration, contending that there was clear evidence of error. She submitted evidence in support of the reconsideration request including progress notes from Dr. Champlin dated September 22, November 17, and December 28, 2020, and January 19 and 26, and March 2, 2021.

By decision dated March 25, 2021, OWCP 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.

The Board finds that this case is not in posture for decision.

OWCP summarily denied appellant's request for reconsideration without complying with the review requirements of FECA and its implementing regulations.² Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.³ Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.⁴ As well, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁵

In denying appellant's reconsideration request, OWCP failed to analyze whether it was sufficient to demonstrate clear evidence of error. The March 25, 2021 decision simply noted: "We did consider your request under 20 C.F.R. § 10.607(b) to determine whether you presented clear

² *M.D.*, Docket No. 20-0868 (issued April 28, 2021); *T.P.*, Docket No. 19-1533 (issued April 30, 2020); *see also* 20 C.F.R. § 10.607.

³ 5 U.S.C. § 8124(a).

⁴ 20 C.F.R. § 10.126.

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

evidence that [OWCP's] last merit decision was incorrect.” OWCP did not address appellant’s contentions raised on reconsideration. Furthermore, it provided no discussion relative to the evidence submitted.⁶

The Board finds that OWCP failed to properly explain the findings with respect to the issue presented so that appellant could understand the basis for the decision, *i.e.*, whether she had demonstrated clear evidence that OWCP’s last merit decision was incorrect.⁷ The Board will, therefore, set aside OWCP’s March 25, 2021 decision and remand the case for findings of fact and a statement of reasons, to be followed by an appropriate decision on appellant’s reconsideration request. Accordingly,

IT IS HEREBY ORDERED THAT the March 25, 2021 decision of the Office of Workers’ Compensation Programs is set aside. The case is remanded for further proceedings consistent with this order of the Board.

Issued: April 25, 2022
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

⁶ *M.D.*, *supra* note 2; *see also Order Remanding Case, C.G.*, Docket No. 20-0051 (issued June 29, 2020); *R.T.*, Docket No. 19-0604 (issued September 13, 2019); *R.C.*, Docket No. 16-0563 (issued May 4, 2016).

⁷ OWCP’s regulations and procedures provide that OWCP will reopen a claimant’s case for merit review, notwithstanding the one-year filing limitation set forth in 20 C.F.R. § 10.607(a), if the claimant’s request demonstrates clear evidence of error on the part of OWCP. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.5(a) (September 2020).