

**United States Department of Labor  
Employees' Compensation Appeals Board**

<hr/>	)	
<b>J.B., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 24-0760</b>
	)	<b>Issued: August 28, 2024</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>Salt Lake City, UT, Employer</b>	)	
<hr/>	)	

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

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
ALEC J. KOROMILAS, Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

On July 15, 2024 appellant filed a timely appeal from a February 12, 2024 nonmerit decision of the Office of Workers' Compensation Programs (OWCP), which denied her request for reconsideration finding that it was untimely filed and failed to demonstrate clear evidence of error. The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0760.

On September 17, 2020 appellant, then a 52-year-old data conversion operator, filed an occupational disease claim (Form CA-2) alleging that she sustained right hand and arm condition(s) causally related to factors of her federal employment, including repetitive motion while keying mail. She noted that she first became aware of her condition and its relationship to her federal employment on April 1, 2020. On the reverse side of the claim form, a supervisor noted that appellant had a prior traumatic injury claim with a date of injury of October 2, 2013 under OWCP File No. xxxxxx974.<sup>1</sup>

---

<sup>1</sup> The record reflects that appellant has a prior claim under OWCP File No. xxxxxx974, wherein OWCP accepted a closed fracture of the middle or proximal right phalanx or phalanges and right carpal tunnel syndrome. OWCP terminated wage-loss compensation benefits for this injury effective January 21, 2015. Appellant's present claim, under OWCP File No. xxxxxx968, has not been administratively combined by OWCP with File No. xxxxxx974.

By decision dated November 13, 2020, OWCP denied appellant's occupational disease claim, finding that she had not submitted sufficient medical evidence to establish a diagnosis in connection with the accepted factors of employment. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On April 22, 2021 appellant requested a review of the written record before a representative of OWCP's Branch of Hearings and Review.

By decision dated May 18, 2021, OWCP denied appellant's request for a review of the written record, as the request was untimely filed. It exercised its discretion and informed appellant that her request had been considered and that the issue in her case could equally well be addressed by requesting reconsideration, and submitting evidence not previously considered establishing that she sustained an injury while in the performance of duty.

On November 9, 2021 appellant, through counsel, requested reconsideration of the November 13, 2020 decision.

By decision dated February 4, 2022, OWCP reviewed the merits of appellant's claim, and found that she had submitted sufficient medical evidence to establish a diagnosis in connection with the accepted factors of her employment. However, the claim remained denied as she had not submitted sufficient medical evidence to establish causal relationship between her diagnosed condition and the accepted factors of her federal employment.

In a report dated September 27, 2022, Dr. Stephanie Plunkett, a Board-certified family practitioner diagnosed right hand contracture, pain, and stiffness caused by immobilization from joint stiffness as a result of an improperly healed hand fracture. Dr. Plunkett concurred with the opinion that appellant's right-hand condition occurred at work. The report was titled "Request for Reconsideration" and dated August 31, 2022.

In a note dated February 27, 2023, Dr. Plunkett repeated her diagnoses of contracture, pain, and stiffness of the right hand. She again concurred with the opinion that appellant's right-hand condition occurred at work.

On February 7, 2024 appellant requested reconsideration.

By decision dated February 12, 2024, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

The Board, having duly considered this matter, finds that the 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.<sup>2</sup> Section 8124(a) of FECA provides that OWCP shall determine and make a finding of facts and make an award for or against

---

<sup>2</sup> See *Order Remanding Case, J.D.*, Docket No. 24-0044 (issued April 22, 2024); *Order Remanding Case, R.G.*, Docket No. 23-0011 (issued June 14, 2023); *Order Remanding Case, C.G.*, Docket No. 20-0051 (issued June 29, 2020); see also 20 C.F.R. § 10.607(b).

payment of compensation.<sup>3</sup> Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of facts and a statement of reasons.<sup>4</sup> 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 that would overcome it.<sup>5</sup>

In its February 12, 2024 decision, OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons, explaining the disposition, so that appellant could understand the basis for its decision that appellant's request for reconsideration was untimely filed. The evidence submitted did not demonstrate clear evidence of error in the February 4, 2022 decision.<sup>6</sup> This case must, therefore, be remanded to OWCP for an appropriate decision regarding the request for reconsideration received after February 4, 2022 that describes the evidence submitted, and provides detailed reasons for accepting or rejecting the request for reconsideration pursuant to the relevant standards.<sup>7</sup>

The Board will therefore set aside OWCP's February 12, 2024 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.<sup>8</sup> Accordingly,

---

<sup>3</sup> 5 U.S.C. § 8124(a).

<sup>4</sup> 20 C.F.R. § 10.126.

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013) (all decisions should contain findings of fact sufficient to identify the benefit being denied and the reason for the disallowance).

<sup>6</sup> *See D.M.*, Docket 23-1154 (issued February 29, 2024).

<sup>7</sup> *Id.*; *see also R.T.*, Docket No. 19-0604 (issued September 13, 2019).

<sup>8</sup> *See Order Remanding Case, D.R.*, Docket No. 21-1229 (issued July 6, 2022); *J.D.*, *supra* note 2.

**IT IS HEREBY ORDERED THAT** the February 12, 2024 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: August 28, 2024  
Washington, DC

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

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

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board