

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

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<b>T.J., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket Nos. 24-0646 &amp; 24-0704</b>
	)	<b>Issued: September 4, 2024</b>
<b>U.S. POSTAL SERVICE, PARK HILLS POST</b>	)	
<b>OFFICE, Park Hills, MO, Employer</b>	)	
_____	)	

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

*Case Submitted on the Record*

**DECISION AND ORDER**

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

**JURISDICTION**

On May 29, 2024 appellant filed a timely appeal from a May 21, 2024 merit decision and a May 29, 2024 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0646.<sup>1</sup> On June 14, 2024 appellant filed a timely appeal from a June 13, 2024 merit decision of OWCP. The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0704. Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<sup>1</sup> Appellant timely requested oral argument before the Board. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). In support of her oral argument request, appellant asserted that OWCP had previously waived the timely filing for travel reimbursement requests. The Board in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUES**

The issues are: (1) whether OWCP abused its discretion by denying appellant's requests for travel reimbursement for medical treatment on July 29 and August 4, 2020; and January 13, February 1, 8, and 24, 2021; (2) whether OWCP abused its discretion by denying appellant's requests for travel reimbursement for medical treatment on August 5, 11, 18, 25, September 2, 15, 22, 29, and November 19, 2020; and (3) whether OWCP properly denied appellant's requests for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

## **FACTUAL HISTORY**

This case has previously been before the Board on a different issue.<sup>3</sup> The facts and circumstances as presented in the Board's prior decisions are incorporated herein by reference. The relevant facts are as follows.

On August 6, 2020 appellant, then a 34-year-old rural carrier associate, filed an occupational disease claim (Form CA-2) alleging that she sustained a right shoulder injury due to factors of her federal employment which required the repetitive motions of handling mail. She noted that she first became aware of her condition and realized its relationship to her federal employment on July 27, 2020. OWCP accepted the claim for bursitis and bicipital tendinitis of the right shoulder. It paid appellant intermittent wage-loss compensation benefits on the supplemental rolls from July 30 to August 10, 2020.

On February 28, 2024 appellant requested reimbursement for travel mileage from her home to the Wootton Medical Clinic from August 4 through September 28, 2020, and October 7, 2020 through February 8, 2021. She noted the estimated roundtrip mileage for each trip was 538 miles. On a form dated March 12, 2024 appellant again requested reimbursement to a medical clinic in Cordova, Tennessee for dates from October 7, 2020 to February 8, 2021. She noted the estimated mileage for each trip as 596 miles.

In a letter dated March 13, 2024, OWCP advised appellant that it was unable to authorize her request for travel reimbursement, because the evidence of record was insufficient to establish attendance at medical appointments during the claimed period of August 4 to September 28, 2020. It also noted that for non-emergency travel, a roundtrip distance of up to 100 miles was a reasonable distance to travel.

On March 18, 2024 OWCP received a list of patient appointments from the medical clinic in Cordova, Tennessee. It noted appointments on August 4, 5, 10, 11, 17, 18, 24, 25, September 1, 2, 14, 15, 21, 22, 28, 29, and October 7, 2020; and January 13, February 1, 8, and 24, 2021.

On March 29, 2024 appellant requested reimbursement for travel mileage from her home to office/clinic from January 13 to February 24, 2021. She noted the estimated roundtrip mileage for each trip was 596 miles.

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<sup>3</sup> Docket No. 22-0130 (issued May 12, 2022).

In a letter dated April 8, 2024, OWCP informed appellant that it had considered the bills appellant had submitted, and found that they were not timely submitted as the bills must be submitted by the end of the calendar year when the expense was incurred, or by the end of the year in which the claim was accepted, whichever was later.

On April 8, 2024 appellant requested reimbursement for travel mileage from her home to the medical clinic in Cordova, Tennessee on July 29 and August 4, 2020. She noted the estimated roundtrip mileage for each trip was 596 miles.

Appellant, on April 9, 2024, requested reimbursement for travel expenses including 596 miles for January 13, February 1, 8, and 24, 2021.

On April 22, and 23, 2024 appellant requested reimbursement for travel expenses for 596 miles for August 5, 11, 18, 25, 2020; September 2, 15, 22, 29, 2020; and November 19, 2020.

By letter dated May 1, 2024, OWCP informed appellant that the travel expenses she submitted for payment on July 29 and August 4, 2020; and January 13, February 1, 8, and 24, 2021 could not be considered as they had not been timely submitted.

On May 4, 2024 appellant requested reconsideration.

In a letter dated May 9, 2024, OWCP informed appellant that no formal decision had been issued for the denied authorization. It informed her that once a formal decision had been issued, she could request reconsideration.

On May 17, 2024 appellant requested OWCP issue a formal decision on the denial of authorization for travel expenses.

By decision dated May 21, 2024, OWCP denied appellant's claims for travel reimbursement for medical appointments on July 29 and August 4, 2020; and January 13, February 1, 8, and 24, 2021. It found that her requests for travel reimbursement were untimely, as they had not been submitted by the end of the calendar year after the year when the expenses were incurred.

On May 23, 2024 appellant requested reconsideration. Accompanying her request was a Privacy Act Release Statement from her congressional representative.

By decision dated May 29, 2024, OWCP denied appellant's request for reconsideration.

On May 30, 2024 appellant requested OWCP issue a formal decision on the denial of authorization for travel expenses for August 5, 11, 18, 25, 2020; September 2, 15, 22, 29, 2020; and November 29, 2020.

By decision dated June 6, 2024, OWCP denied appellant's claims for travel reimbursement for medical appointments on August 5, 11, 18, 2020; and September 2, 15, 22, and 29, 2020. It excluded August 25 and November 29, 2020 from the denial, because it did not have a record of any travel reimbursement request for those dates. OWCP found that appellant's requests for travel

reimbursement were untimely, as they had not been submitted by the end of the calendar year after the year when the expenses were incurred.

On June 11 and 13, 2024 appellant requested reconsideration of the June 6, 2024 decision. She submitted billing details for the period August 5 through November 19, 2020.

By decision dated June 13, 2024, OWCP vacated in part, modified in part, and affirmed in part its June 6, 2024 decision. It found that appellant had requested travel reimbursement for August 25 and November 19, 2020. OWCP modified the June 6, 2024 decision to reflect a denial of travel reimbursement for August 5, 11, 18, 25, 2020; September 2, 15, 22, 29, 2020; and November 19, 2020. It found appellant failed to timely submit her requests for travel reimbursement.

### **LEGAL PRECEDENT -- ISSUES 1 & 2**

OWCP regulations provide that the employee is entitled to reimbursement for reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances, or supplies.<sup>4</sup> To determine a reasonable travel distance, it will consider the availability of services, the employee's condition, and the means of transportation. Effective August 29, 2011, the most recent regulations provide that a round-trip distance of up to 100 miles is considered a reasonable distance to travel.<sup>5</sup> If round-trip travel of more than 100 miles is contemplated, or air transportation or overnight accommodations will be needed, the employee must submit a written request to OWCP for prior authorization with information describing the circumstances and necessity for such travel expenses. OWCP will approve the request if it determines that the travel expenses are reasonable and necessary, and are related to obtaining authorized medical services, appliances, or supplies.<sup>6</sup>

OWCP regulations regarding the submission of bills related to medical treatment also provide: "To be considered for payment, bills must be submitted by the end of the calendar year after the year when the expense was incurred, or by the end of the calendar year after the year when OWCP first accepted the claim as compensable, whichever is later."<sup>7</sup>

### **ANALYSIS -- ISSUES 1 & 2**

The Board finds that OWCP properly denied appellant's requests for reimbursement for travel expenses from July 29, 2020 through February 24, 2021.

Appellant submitted reimbursement requests regarding travel expenses for the dates of July 29, and August 4, 2020; and January 13, February 1, 8, and 24, 2021. By decision dated

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<sup>4</sup> 20 C.F.R. § 10.315(a).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 10.315(b).

<sup>7</sup> 20 C.F.R. § 10.336.

May 21, 2024, OWCP denied appellant's claim for reimbursement of travel expenses on the grounds that her requests for reimbursement were untimely.

Appellant also submitted requests for reimbursement for travel expenses for the dates of August 5, 11, 18, 25, 2020; September 2, 15, 22, 29, 2020; and November 19, 2020. By decision dated June 6, 2024, OWCP denied appellant's claim for reimbursement for travel expenses for the dates of August 5, 11, 18, 2020; and September 2, 15, 22, and 29, 2020. It, by decision dated June 13, 2024, modified the June 6, 2024 decision to include the denial of her claim for reimbursement for travel expenses on August 25 and November 19, 2020.

The Board finds that OWCP properly denied appellant's requests for reimbursement for travel expenses from July 29, 2020 through February 24, 2021. Appellant's February 28, March 12, 29, April 8, 9, 22, and 23, 2024 requests for reimbursement were untimely in that bills must be submitted by the end of the calendar year after the year when the expense was incurred, or by the end of the calendar year after the year when OWCP first accepted the claim as compensable, whichever is later. Appellant filed her requests for reimbursement more than one year after the year when the expense was incurred. Thus, OWCP properly denied her requests for reimbursement for travel reimbursement from July 29, 2020 through February 24, 2021 as untimely filed.

### **LEGAL PRECEDENT -- ISSUE 3**

Section 8128(a) of FECA does not entitle a claimant to review of an OWCP decision as a matter of right.<sup>8</sup> OWCP has discretionary authority in this regard and has imposed certain limitations in exercising its authority.<sup>9</sup> One such limitation is that the request for reconsideration must be received by OWCP within one year of the date of the decision for which review is sought.<sup>10</sup> A timely request for reconsideration, including all supporting documents, must 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.<sup>11</sup> When a timely request for reconsideration does not meet at least one of the above-noted requirements, OWCP will deny the request for reconsideration without reopening the case for a review on the merits.<sup>12</sup> If it chooses to grant reconsideration, it reopens and reviews the case on

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<sup>8</sup> This section provides in pertinent part: [t]he Secretary of Labor may review an award for or against payment of compensation at any time on [his or her] own motion or on application. 5 U.S.C. § 8128(a).

<sup>9</sup> 20 C.F.R. § 10.607.

<sup>10</sup> *Id.* at § 10.607(a). For merit decisions issued on or after August 29, 2011, a request for reconsideration must be received by OWCP within one year of OWCP's decision for which review is sought. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). 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.

<sup>11</sup> *Id.* at § 10.606(b)(3).

<sup>12</sup> *Id.* at § 10.608(a), (b).

its merits.<sup>13</sup> 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.<sup>14</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

Appellant's May 23, 2024 request for reconsideration neither alleged, nor demonstrated that OWCP erroneously applied or interpreted a specific point of law. Moreover, it did not advance a relevant legal argument not previously considered by OWCP. Consequently, appellant is not entitled to further review of the merits of her claim based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).

In support of her reconsideration request, appellant submitted a Privacy Act Release Statement from her congressional representative. However, this evidence is irrelevant to the underlying issue, *i.e.*, whether appellant submitted a timely travel reimbursement request. The Board has held that the submission of evidence or argument which does not address the particular issue involved, does not constitute a basis for reopening a case.<sup>15</sup> As such, appellant is not entitled to further review of the merits of her claim based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).

The Board, accordingly, 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 requests for reimbursement for travel expenses from July 29, 2020 through February 24, 2021. The Board further finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

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<sup>13</sup> *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

<sup>14</sup> *Id.* at § 10.608(b); *D.R.*, Docket No. 24-0706 (issued June 17, 2024); *M.S.*, Docket No. 19-0291 (issued June 21, 2019); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

<sup>15</sup> *M.G.*, Docket No. 24-0650 (issued July 29, 2024); *A.D.*, Docket No. 24-0411 (issued June 20, 2024); *M.K.*, Docket No. 18-1623 (issued April 10, 2019); *Edward Matthew Diekemper*; 31 ECAB 224, 225 (1979).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated May 21 and 29, and June 13, 2024 are affirmed.

Issued: September 4, 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