

<sup>3</sup> The Board notes that, following the November 13, 2024 decision, a appellant submitted additional evidence to OWCP. 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.*

## **ISSUES**

The issues are: (1) whether appellant has met her burden of proof to establish a recurrence of the need for medical treatment, commencing January 3, 2024, causally related to her accepted employment injury; and (2) whether OWCP properly denied appellant's November 4 and 7, 2024 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.<sup>4</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On February 4, 2015, appellant, then a 42-year-old rural mail carrier, filed an occupational disease claim (Form CA-2) alleging that she developed carpal tunnel syndrome and basal joint arthritis due to factors of her federal employment including repetitive grasping, sorting flats, and casing mail. She noted that she first became aware of her condition on August 19, 2014, and realized its relation to her federal employment on October 13, 2014. Appellant did not immediately stop work. OWCP accepted the claim for bilateral carpal tunnel syndrome.<sup>5</sup>

On January 4, 2024, appellant filed a notice of recurrence (Form CA-2a) alleging a recurrence of the need for medical treatment on January 3, 2024, causally related to the accepted employment injury. She noted that she continued to experience symptoms related to her accepted bilateral carpal tunnel syndrome since 2015 and developed basal joint arthritis. Appellant indicated that she did not stop work.

In a February 26, 2024 development letter, OWCP informed appellant of the deficiencies of her recurrence claim. It advised her of the type of additional factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In a March 2, 2024 statement, appellant denied any previous or similar conditions and indicated that her hand conditions started after she became a mail carrier and exacerbated by her work duties. She described additional injuries including hip pain, carpal tunnel syndrome, basal joint arthritis, and shoulder, upper back, and right arm pain that were due to performing constant repetitive motions all day. Appellant underwent an intra-articular injection, but it did not provide significant long-term relief.

In a March 17, 2024 response to OWCP's development letter, appellant indicated that her carpal tunnel syndrome never resolved and she needed surgery. She reported that she continued to perform repetitive motions daily at work. Appellant indicated that she was diagnosed with

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<sup>4</sup> Docket No. 24-0689 (issued July 26, 2024).

<sup>5</sup> OWCP assigned this claim OWCP File No. xxxxxx988. Appellant filed a Form CA-2 on January 10, 2018, and alleged that she developed an elbow condition due to performing repetitive duties while delivering mail. OWCP assigned the claim OWCP File No. xxxxxx681 and accepted it for lateral epicondylitis of the left elbow. On December 3, 2023 appellant filed a Form CA-2 alleging that she developed left shoulder, neck, and upper back conditions due to performing repetitive motions while at work. OWCP assigned the claim OWCP File No. xxxxxx570 and denied it on February 20, 2024. On February 26, 2024 it administratively combined OWCP File Nos. xxxxxx681, xxxxxx570, and xxxxxx988, with the latter designated as the master file.

bilateral carpal tunnel syndrome and basal joint arthritis, but she was unable to find a physician who would prepare the required paperwork for her claim. She noted other conditions of hip pain, shoulder pain, and pain and tingling in the thumbs. Appellant indicated that she did not participate in extracurricular activities.

By decision dated April 2, 2024, OWCP denied appellant's recurrence claim, finding that she had not established that she required additional medical treatment due to a worsening of the accepted work-related conditions, without intervening cause.

On April 15, 2024, appellant requested reconsideration.

By decision dated April 17, 2024, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

Appellant appealed to the Board.<sup>6</sup> By decision dated July 26, 2024, the Board affirmed the April 2 and 17, 2024 decisions. The Board found that appellant did not meet her burden of proof to establish a recurrence of the need for medical treatment, commencing January 3, 2024, causally related to her accepted employment injury, and that OWCP properly denied her request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

OWCP received additional evidence. In support of her claim, appellant submitted an April 15, 2024 report by Dr. Ryan Roubion, a Board-certified orthopedic surgeon, wherein he treated her for bilateral wrist pain. Appellant attributed her condition to performing her work duties as a mail carrier, which requires continuous and repetitive gripping and sorting mail. X-rays of the wrists revealed no acute osseous abnormalities and evidence of basilar thumb arthritis left worse than right. Dr. Roubion diagnosed bilateral wrist pain, bilateral carpal tunnel syndrome, and bilateral basal joint arthritis. He performed an intra-articular injection into the basal joint and returned appellant to full duty. Dr. Roubion opined that he could relate appellant's bilateral wrist and hand symptoms to her work.

Dr. William H. Lee, an orthopedic surgeon, treated appellant on May 17, 2024 and diagnosed bilateral carpal tunnel syndrome. In an electromyography and nerve conduction velocity (EMG/NCV) study of even date revealed electrodiagnostic evidence of mild bilateral median mononeuropathy at or about the wrist consistent with carpal tunnel syndrome.

On June 6, 2024, Dr. Roubion reviewed EMG/NCV studies, which revealed mild right and left carpal tunnel syndrome. He diagnosed bilateral carpal tunnel syndrome and bilateral basal joint arthritis and recommended surgery. Dr. Roubion returned appellant to full-duty work. On July 11, 2024, he noted that she presented with pain in her wrists and at the base of her thumbs. Appellant reported difficulty in performing her job duties and noted working long routes, six days a week, which caused her right shoulder to flare-up. Dr. Roubion diagnosed bilateral carpal tunnel syndrome, bilateral basal joint arthritis, and right shoulder impingement. He administered an intra-articular injection and took appellant off work for two weeks due to severe pain. In a return to work note of even date, he noted she was disabled due to severe pain.

On September 16, 2024, appellant requested reconsideration.

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<sup>6</sup> *Supra* note 4.

By decision dated October 30, 2024, OWCP denied modification of the April 2, 2024 decision.

On November 4, 2024, appellant requested reconsideration of the April 17, 2024 decision. She indicated that she provided new medical documentation in support of her request.

In a statement dated November 2, 2024, appellant indicated that she was diagnosed with basal joint arthritis, which was caused by performing repetitive motions as a mail carrier. In a statement dated November 4, 2024, she reported chronic pain and attributed her condition to performing repetitive motions and overuse as a mail carrier.

By decision dated November 7, 2024, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On November 7, 2024, appellant requested reconsideration. She indicated that she finally found a physician who would treat her basal joint arthritis and she required surgery. Appellant reported that she has worked as a mail carrier since 2006 and consistently lifts heavy boxes, grasps bundles of mail, reaches overhead, and reaches for mailboxes.

By decision dated November 13, 2024, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

### **LEGAL PRECEDENT -- ISSUE 1**

The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances, and supplies prescribed or recommended by a qualified physician that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability, or aid in lessening the amount of any monthly compensation.<sup>7</sup>

A recurrence of a medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.<sup>8</sup> An employee has the burden of proof to establish that he or she sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury without intervening cause.<sup>9</sup> If a claim for recurrence of medical condition is made more than 90 days after release from medical care, a claimant is responsible for submitting a medical report supporting a causal relationship between the employee's current condition and the original injury in order to meet his or her burden.<sup>10</sup>

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<sup>7</sup> *Supra* note 2 at § 8103(a).

<sup>8</sup> 20 C.F.R. § 10.5(y).

<sup>9</sup> *W.B.*, Docket No. 22-0985 (issued March 27, 2023); *S.P.*, Docket No. 19-0573 (issued May 6, 2021); *M.P.*, Docket No. 19-0161 (issued August 16, 2019); *E.R.*, Docket No. 18-0202 (issued June 5, 2018); *Mary A. Ceglia*, 55 ECAB 626 (2004).

<sup>10</sup> Federal (FECA) Procedural Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.4b (June 2013); *see also M.F.*, Docket No. 21-1221 (issued March 28, 2022); *J.M.*, Docket No. 09-2041 (issued May 6, 2010).

## ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish a recurrence of the need for medical treatment, commencing January 3, 2024, causally related to her accepted employment injury.

Initially, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's April 2, 2024 decision, which was considered by the Board in its July 26, 2024 decision. Findings made in prior Board decisions are *res judicata* absent further merit review by OWCP under section 8128 of FECA.<sup>11</sup>

Dr. Roubion treated appellant on April 15, 2024 and diagnosed bilateral wrist pain, bilateral carpal tunnel syndrome, and bilateral basal joint arthritis. He performed an intra-articular injection into the basal joint and opined that he could relate appellant's bilateral wrist and hand symptoms to her work. On July 11, 2024, Dr. Roubion diagnosed bilateral carpal tunnel syndrome, bilateral basal joint arthritis, and right shoulder impingement. Appellant reported working long routes, six days a week, which caused her right shoulder to flare-up. Dr. Roubion took appellant off work for two weeks due to severe pain. Similarly, in a return-to-work note of even date, he noted that appellant was disabled due to severe pain. However, Dr. Roubion did not explain how her prior bilateral wrist condition was related to her current bilateral wrist condition and basal joint arthritis.<sup>12</sup> As his opinion regarding causal relationship was conclusory and unexplained, it is insufficient to meet appellant's burden of proof to establish her claim.<sup>13</sup>

On May 17, 2024, Dr. Lee diagnosed bilateral carpal tunnel syndrome. Similarly, on June 6, 2024, Dr. Roubion diagnosed bilateral carpal tunnel syndrome and bilateral basal joint arthritis and recommended surgery. However, he did not provide an opinion relative to causal relationship between appellant's current need for medical treatment and the accepted employment injury.<sup>14</sup> The Board has held that a medical report is of no probative value on a given medical matter if it does not contain an opinion on that matter.<sup>15</sup> Thus, these reports are insufficient to establish appellant's recurrence claim.

The record also contains an EMG/NCV study. The Board has held, however, that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injuries resulted in appellant's diagnosed medical conditions.<sup>16</sup>

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<sup>11</sup> *C.M.*, Docket No. 19-1211 (issued August 5, 2020); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

<sup>12</sup> *P.S.*, Docket No. 17-1013 (issued November 1, 2017).

<sup>13</sup> *Id.*

<sup>14</sup> Federal (FECA) Procedural Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.4 (June 2013); *see also A.M.*, Docket No. 22-0322 (issued November 17, 2022); *M.F.*, Docket No. 21-1221 (issued March 28, 2022); *J.M.*, Docket No. 09-2041 (issued May 6, 2010). *See also, T.B.*, Docket No. 18-0672 (issued November 2, 2018); *O.H.*, Docket No. 15-0778 (issued June 25, 2015).

<sup>15</sup> *Id.*; *see also L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>16</sup> *L.A.*, Docket No. 22-0463 (issued September 29, 2022); *D.K.*, Docket No. 21-0082 (issued October 26, 2021); *O.C.*, Docket No. 20-0514 (issued October 8, 2020); *R.J.*, Docket No. 19-0179 (issued May 26, 2020).

As appellant has not submitted medical evidence sufficient to establish a recurrence of the need for medical treatment, commencing January 3, 2024, causally related to her accepted employment injury, the Board finds that she has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **LEGAL PRECEDENT -- ISSUE 2**

Under section 8128(a) of FECA,<sup>17</sup> OWCP has the discretion to reopen a case for review on the merits. It must exercise this discretion in accordance with the guidelines set forth in section 10.606(b)(3) of the implementing federal regulations, which provides that a claimant may obtain review of the merits of his or her written application for reconsideration, including all supporting documents, sets forth arguments and contain evidence which:

“(i) Shows that OWCP erroneously applied or interpreted a specific point of law; or

“(ii) Advances a relevant legal argument not previously considered by OWCP; or

“(iii) Constitutes relevant and pertinent new evidence not previously considered by OWCP.”<sup>18</sup>

Section 10.608(b) provides that any application for review of the merits of the claim, which does not meet at least one of the requirements listed in section 10.606(b) will be denied by OWCP without review of the merits of the claim.<sup>19</sup>

### **ANALYSIS -- ISSUE 2**

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

In her November 4 and 7, 2024 requests for reconsideration, appellant did not establish that OWCP erroneously applied or interpreted a specific point of law, or advance a relevant legal argument not previously considered by OWCP. Consequently, she is not entitled to a review of the merits of her claim based on the first and second above-noted requirements under 20 C.F.R. § 10.606(b)(3).<sup>20</sup>

The Board further finds that appellant did not submit relevant and pertinent new evidence in support of her November 4 and 7, 2024 reconsideration requests under 20 C.F.R. § 10.606(b)(3). The underlying issue in this case is whether she established a recurrence of the need for medical treatment, commencing January 3, 2024, causally related to her accepted employment injury. This

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<sup>17</sup> 5 U.S.C. § 8128(a).

<sup>18</sup> 20 C.F.R. § 10.606(b)(3).

<sup>19</sup> *Id.* at § 10.608(b).

<sup>20</sup> *M.O.*, Docket No. 19-1677 (issued February 25, 2020); *E.W.*, Docket No. 19-1393 (issued January 29, 2020); *C.B.*, Docket No. 18-1108 (issued January 22, 2019).

is a medical issue that must be addressed by relevant medical evidence, including the rationalized opinion of a physician; however, no medical evidence was submitted.<sup>21</sup> Thus, appellant is not entitled to a review of the merits based on the third requirement under 20 C.F.R. § 10.606(b)(3).

The Board, accordingly, finds that OWCP properly determined that appellant was not entitled to further review of the merits of her claim pursuant to any of the three requirements under 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.<sup>22</sup>

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish a recurrence of the need for medical treatment, commencing January 3, 2024, causally related to her accepted employment injury. The Board further finds that OWCP properly denied her requests for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

### **ORDER**

**IT IS HEREBY ORDERED THAT** the October 30, and November 7 and 13, 2024 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: January 17, 2025  
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

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<sup>21</sup> 20 C.F.R. § 10.606(b)(3); *see C.C.*, Docket No. 19-1622 (issued May 28, 2020); *C.N.*, Docket No. 08-1569 (issued December 9, 2008); *D.B.*, Docket No. 19-1963 (issued July 1, 2020); *M.C.*, Docket No. 18-0841 (issued September 13, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>22</sup> *S.F.*, Docket No. 18-0516 (issued February 21, 2020); *James W. Scott*, 55 ECAB 606, 608 n.4 (2004).