

In a letter dated June 12, 2013, received by OWCP on June 20, 2013, appellant's attorney requested reconsideration of the December 15, 2011 decision. He provided an Express Mail receipt demonstrating that appellant's December 13, 2012 request for reconsideration failed upon attempted delivery on December 16, 2012 at 4:00 a.m. and was delivered on December 17, 2012 at 12:45 p.m. By decision dated July 1, 2013, OWCP again denied appellant's request for

reconsideration without a merit review, finding the request was untimely and that appellant had not established clear evidence of error. It noted in the decision that, per the Express Mail receipt provided by appellant's attorney, her first reconsideration request was not received until December 16, 2012. OWCP stated that December 16, 2012 was not within one year of the December 15, 2011 decision, and therefore the request was untimely.

The Board finds that OWCP improperly determined in this case that appellant failed to file a timely application for review. In computing the time for requesting reconsideration, the date of the event from which the designated period of time begins to run shall not be included when computing the time period. However, the last day of the period so computed shall be included unless it is a Saturday, a Sunday or a legal holiday.¹ The time for requesting reconsideration of OWCP's December 15, 2011 decision began to run on December 16, 2011, and thus would have expired on December 16, 2012, had this date not been a Sunday. The next business day was Monday, December 17, 2012. As appellant's request for reconsideration was received on that date, it was timely. The case will thus be remanded to OWCP for application of the standard for reviewing timely requests for reconsideration.²

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated July 1 and January 14, 2013 and are set aside. The case is remanded to OWCP for further proceedings consistent with this decision of the Board.

Issued: February 7, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

¹ *Angel M. Lebron, Jr.*, 51 ECAB 488 (2000); *John B. Montoya*, 43 ECAB 1148 (1992).

² *See Debra McDavid*, 57 ECAB 149 (2005).