

The Board has duly considered the matter and notes that appellant's claim was initially accepted by the Office for a dorsal and lumbosacral strain when she fell at work on March 6, 2006. She received continuation of pay through May 10, 2006 following which the Office denied her claims for compensation. The most recent Office merit decision regarding appellant's claim for compensation was August 21, 2006. Appellant, through her attorney, sought reconsideration on March 10, 2008 and submitted additional medical evidence. Thereafter, on February 24, 2009 the Office accepted that appellant sustained a herniated lumbar disc with lumbosacral radiculopathy. The acceptance appears based on the reports of appellant's treating orthopedic surgeon, Dr. Allan D. Tiedrich. While advising appellant of the acceptance of her claim, the Office did not set forth any findings of fact or statement of reasons as to appellant's claim for disability compensation. Rather, on March 11, 2009 it denied appellant's reconsideration request finding it was not timely filed and did not establish clear evidence of error. It is readily obvious that on February 24, 2009 the Office reopened the merits of appellant's claim under section 8128(a) and accepted that she sustained a herniated disc with

radiculopathy.<sup>1</sup> Having done so, it was error for the Office to deny reconsideration of her claim for disability compensation related to her back condition on March 11, 2009. The Office received evidence into the record from appellant's physician who advised as to her back condition and addressed periods of disability related thereto. It is incumbent on the Office to further develop the period of disability related to appellant's accepted back conditions. The February 24, 2009 determination of the Office does not make adequate factual findings with regard to the issue. For this reason, the March 11, 2009 decision will be set aside and the case remanded for further development to be followed by an appropriate decision.

**IT IS HEREBY ORDERED THAT** the March 11, 2009 decision of the Office of Workers' Compensation Programs be set aside. The case is remanded for further action conforming to this order of the Board.

Issued: August 31, 2010  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>1</sup> The Board has upheld the Office's authority to reopen a claim at any time on its own motion under 5 U.S.C. § 8128(a) and, where support by the evidence, set aside or modify a prior decision or issue a new decision. *See Amelia S. Jefferson*, 57 ECAB 183 (2005).