

¹ Docket No. 10-505 (issued November 22, 2010).

appellant's request for reconsideration on the grounds that it was untimely filed and failed to establish clear evidence of error.

The one-year time limitation for requesting reconsideration begins to run on the date following the date of the original OWCP decision. A right to reconsideration within one year accompanies any subsequent merit decision on the issues.² OWCP procedures provide that a claimant has the right to reconsideration within one year of any merit decision, whether issued by OWCP, its Branch of Hearings and Review or the Board.³

As appellant's February 16, 2011 reconsideration request, which was received May 19, 2011, was made within one year of the Board's November 22, 2010 merit decision, the Board concludes that the request was timely. In its August 17, 2011 decision denying appellant's reconsideration request, OWCP applied the clear evidence of error legal standard. This standard is the appropriate standard only for cases in which a reconsideration request is untimely filed.⁴ Since OWCP erroneously reviewed the evidence submitted by appellant in support of her reconsideration request under the clear evidence of error standard, the Board will remand the case to OWCP for application of the standard for reviewing a timely request for reconsideration as set forth at 20 C.F.R. § 10.606(b)(2).⁵

² *Darletha Coleman*, 55 ECAB 143 (2003).

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.3 (October 2011).

⁴ *See Donna M. Campbell*, 55 ECAB 241 (2004).

⁵ Section 10.606(b)(2) provides that an application for reconsideration must show that OWCP erroneously applied or interpreted a specific point of law, advance a relevant legal argument not previously considered by OWCP, or include the submission of relevant and pertinent new evidence not previously considered by OWCP. 20 C.F.R. § 10.606(b)(2). *See Donna M. Campbell*, *supra* note 4.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers Compensation Programs dated August 17, 2011 is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: May 9, 2012
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board