

The Board has duly considered the matter and finds that appellant's July 20, 2011 letter constituted a timely reconsideration request. Section 10.607(a) of the implementing regulations provide that an application for reconsideration must be sent within one year of the date of OWCP decision for which review is sought.² The Board notes that the most recent merit decision was dated August 23, 2010 and appellant's request for reconsideration was made on July 20, 2011, and received on July 26, 2011, less than one year from the August 23, 2010 merit decision. The Board finds that OWCP improperly reviewed his request under the clear evidence of error standard, a standard reserved for untimely reconsideration requests.³ As appellant made a timely request for reconsideration of the August 23, 2010 merit decision, OWCP should have reviewed his request under the standard for a timely request.⁴ The Board will set aside OWCP's September 1, 2011 decision and remand the case for an appropriate final decision on his timely request for reconsideration under 5 U.S.C. § 8128(a).

IT IS HEREBY ORDERED THAT the September 1, 2011 decision is set aside and the case remanded for further action consistent with this order.

Issued: August 28, 2012
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

² 20 C.F.R. § 10.607(a).

³ *See id.* at § 10.607(b).

⁴ *See id.* at § 10.606(b)(2).