

decision, an order denying modification (rather than denying the application for review) should be prepared. There is no obligation to conduct a merit review on insufficient evidence if the maximum 180-day time limit for requesting review by the Board will have expired within the 90-day period following the OWCP's receipt of the claimant's reconsideration request."²

The Board finds that OWCP's delay of more than seven months in issuing a decision on appellant's reconsideration request effectively precluded appellant from appealing OWCP's most recent merit decision on her claim to the Board.³ Had OWCP acted upon appellant's request within 90 days, appellant would have been able to seek review of OWCP's January 24, 2012 merit decision before the Board.⁴

Accordingly, the case will be remanded to OWCP to issue an appropriate decision on the merits of the claim in order to preserve appellant's appeal rights.

IT IS HEREBY ORDERED THAT the September 19, 2012 decision of the Office of Workers' Compensation Programs is set aside and the case remanded to OWCP for further action consistent with this order.

Issued: April 17, 2013
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 Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.7 (October 2011).

³ See 20 C.F.R. §§ 501.2(c) and 501.3. For OWCP decisions issued on or after November 19, 2008, the Board only has jurisdiction to consider an appeal from a final decision of the OWCP that is filed within 180 days of such OWCP decision.

⁴ *Geoma R. Munn*, 50 ECAB 242 (1999); *Debra E. Stoler*, 43 ECAB 561 (1992); *Carlos Tola*, 42 ECAB 337 (1991) (remanding cases for merit review where OWCP delayed issuance of reconsideration decisions).