

The Board has considered the matter and finds that the January 14, 2013 request constituted a timely request for reconsideration. Section 10.607(a) of the implementing regulations provide that an application for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.¹ The Board notes that the last merit decision was dated January 31, 2012 and appellant's request for reconsideration was received by OWCP on January 22, 2013, less than one year from the January 31, 2012 merit decision. Because appellant filed a timely reconsideration request, the case will be remanded to OWCP for application of the standard for reviewing timely requests for reconsideration.² The "clear evidence of error" standard utilized by OWCP in its February 21, 2013 decision is appropriate only for untimely reconsideration requests. After such further development as OWCP deems necessary, it should issue an appropriate decision to protect appellant's appeal rights.

The Board will set aside OWCP's February 21, 2013 decision and remand the case for an appropriate final decision on the merits of appellant's claim for an injury in the performance of duty under section 8128(a).

IT IS HEREBY ORDERED THAT the February 21, 2013 decision of the Office of Workers' Compensation Programs is set aside and remanded.

Issued: August 12, 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

¹ 20 C.F.R. § 10.607(a).

² *See id.* at § 10.606(b)(2).