

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 claimants' reconsideration request...."¹

The Board finds that OWCP's delay of five months in issuing a decision on appellant's reconsideration request effectively precluded him from appealing OWCP's most recent merit decision to the Board.² Had OWCP acted upon his request within 90 days, he would have been able to seek review of OWCP's June 7, 2012 merit decision before the Board.³

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 December 11, 2012 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

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 Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.7(a) (October 2011).

² See 20 C.F.R. §§ 501.2(c) and 501.3. For OWCP decision issued on or after November 19, 2008, the Board has jurisdiction to consider an appeal from a final decision of OWCP that is filed within 180 days of such OWCP decision.

³ See *Geoma R. Munn*, 50 ECAB 242 (1999); *Debra E. Stoler*, 43 ECAB 561 (1992) (remanding cases for merit review where OWCP delayed issuance of reconsideration decisions).