

decisions denying requests for further merit review pursuant to section 8128.³ By decisions dated May 2, 2005, October 21, 2009, July 19, 2011 and July 25, 2012, the Board affirmed OWCP decisions denying appellant's requests for reconsideration on the grounds they were not timely and did not show clear evidence of error.⁴

On March 14, 2013 appellant again requested reconsideration. By decision dated May 10, 2013, OWCP applied the standard applicable to timely requests for reconsideration and denied his request after finding that he had not submitted evidence or raised an argument sufficient to warrant reopening the case for further merit review under section 8128. However, as the last merit decision issued in this case was issued on March 10, 1999, appellant's March 14, 2013 request for reconsideration was untimely. OWCP's procedures provide that the one-year time limitation period for requesting reconsideration begins on the date of the original OWCP decision.⁵ A right to reconsideration within one year also accompanies any subsequent merit decision on the issues.⁶ OWCP's procedures provide that timeliness is determined by the date that the request is received by OWCP and that if "the request for reconsideration has a document received date greater than one year, the request must be considered untimely."⁷ OWCP erroneously reviewed appellant's request for reconsideration using the standard for timely reconsideration requests.⁸ The Board will, consequently, remand the case for application of the proper standard,⁹ to be followed by the issuance of an appropriate decision..

³ Docket No. 02-1032 (issued October 22, 2002).

⁴ Docket No. 04-757 (issued May 2, 2005); Docket No. 09-151 (issued October 21, 2009); Docket No. 10-2320 (issued July 19, 2011); Docket No. 12-714 (issued July 25, 2012). On January 25, 2010 the Board denied appellant's petition for reconsideration of its July 19, 2011 decision. *Order Denying Petition for Reconsideration*, Docket No. 10-2320 (issued January 25, 2012). On March 1, 2013 the Board issued an order dismissing appeal as appellant had attempted to appeal an informational letter rather than a decision. *Order Dismissing Appeal*, Docket No. 12-1967 (issued March 1, 2013).

⁵ 20 C.F.R. § 10.607(a).

⁶ *Robert F. Stone*, 57 ECAB 292 (2005).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602(4)(b) (October 2011).

⁸ *See* 20 C.F.R. § 10.606(b)(3).

⁹ *See id.* at § 10.607.

IT IS HEREBY ORDERED THAT the May 10, 2013 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: December 16, 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