



her reconsideration request to OWCP on February 7, 2012. She also submitted new evidence, including medical evidence from two physicians. By decision dated May 7, 2012, OWCP denied appellant's reconsideration request on the grounds that it was untimely filed and failed to establish clear evidence of error.

OWCP's regulations in effect at the time that OWCP issued the February 7, 2011 decision provided:

"An application for reconsideration must be sent within one year of the date of the OWCP decision for which review is sought. If submitted by mail, the application will be deemed timely if postmarked by the U.S. Postal Service within the time period allowed. If there is no such postmark, or it is not legible, other evidence such as (but not limited to) certified mail receipts, certificate of service, and affidavits, may be used to establish the mailing date."<sup>2</sup>

The Board has long held that the one-year time limitation begins to run on the date following the date of the original OWCP decision.<sup>3</sup> Thus, in the instant case, appellant's reconsideration request would be considered timely if submitted on February 7, 2012. On appeal she indicated that she hand-delivered her reconsideration request to OWCP, and as shown by the date-stamp on her reconsideration letter dated February 6, 2012, it was received by OWCP on February 7, 2012.

As appellant's reconsideration request dated February 6, 2012 and stamped received on February 7, 2012 was made within one year of the Board's merit decision dated February 7, 2011, the Board concludes that the request was timely. In its May 7, 2012 decision denying appellant's reconsideration request, OWCP applied the clear evidence of error legal standard. This standard is the appropriate standard only for cases in which a reconsideration request is untimely filed.<sup>4</sup> Since OWCP erroneously reviewed the evidence submitted by appellant in support of her reconsideration request under the clear evidence of error standard, the Board will remand the case to OWCP for application of the standard for reviewing a timely request for reconsideration as set forth at 20 C.F.R. § 10.606(b)(2).

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<sup>2</sup> 20 C.F.R. § 10.607 (1999). Current OWCP regulations provide that application for reconsideration must be received within one year of the date of OWCP decision for which review is sought. 20 C.F.R. § 10.607(a) (2012).

<sup>3</sup> *Darletha Coleman*, 55 ECAB 143 (2003).

<sup>4</sup> *See Donna M. Campbell*, 55 ECAB 241 (2004).

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 7, 2012 is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: February 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