

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."¹

The Board, having duly considered the matter, finds that OWCP's delay of more than eight months in issuing a decision on appellant's reconsideration request effectively precluded her from appealing OWCP's most recent merit decision to the Board.² Had OWCP acted upon her request within 90 days, she would have been able to seek review of OWCP's February 15, 2012 merit decision before the Board.

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 April 12, 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: November 7, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate 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 final adverse OWCP decision issued on or after November 19, 2008, a claimant has 180 days to file an appeal with the Board. See 20 C.F.R. § 501.3(e).