

**United States Department of Labor  
Employees' Compensation Appeals Board**

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C.B., Appellant )

and )

DEPARTMENT OF THE ARMY, CORPS OF )  
ENGINEERS, Vicksburg, MS, Employer )

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**Docket No. 13-1732  
Issued: January 28, 2014**

*Appearances:*  
*Matthew Hetzel, Esq.*, for the appellant  
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:

COLLEEN DUFFY KIKO, Judge  
PATRICIA HOWARD FITZGERALD, Judge  
ALEC J. KOROMILAS, Alternate Judge

On July 16, 2013 appellant, through counsel, filed a timely appeal of a March 5, 2013 decision of the Office of Workers' Compensation Programs (OWCP). The appeal was docketed as No. 13-1732.

The March 5, 2013 OWCP decision found that appellant's application for reconsideration was untimely and failed to show clear evidence of error. OWCP acknowledged that the application for reconsideration was received on January 24, 2013, and its merit decision was dated January 24, 2012.<sup>1</sup> According to OWCP the application was untimely, as it was not received within one year of the January 24, 2012 decision. No further explanation was provided.

Pursuant to OWCP regulations at 20 C.F.R. § 10.607(a), an application for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought. For OWCP decisions issued on or after August 29, 2011, the date of the application for reconsideration is the "received date" as recorded in the Integrated Federal

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<sup>1</sup> The January 24, 2012 decision was issued by an OWCP hearing representative, affirming a June 8, 2011 OWCP schedule award decision finding appellant had a 16 percent right leg permanent impairment.

Employee's Compensation System (IFECS).<sup>2</sup> In this case, the received date of the application was January 24, 2013, one year after the January 24, 2012 OWCP decision. It is well established that when the date of the reconsideration request is exactly one year after the date of OWCP's decision, it is timely under 20 C.F.R. § 10.607(a).<sup>3</sup>

Since the application for reconsideration was within one year of OWCP's decision for which review is sought, it is timely. OWCP reviewed the application under a "clear evidence of error" standard appropriate for an untimely request. The case will accordingly be remanded for proper consideration of the timely reconsideration request.

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 5, 2013 is set aside and the case remanded for further action consistent with this order of the Board.

Issued: January 28, 2014  
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

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<sup>2</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (October 2011). For decisions prior to August 29, 2011, the date of mailing was used to determine timeliness.

<sup>3</sup> *See also* R.S. Docket No. 12-1464 (issued January 30, 2013).