

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

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**M.H., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Marysville, WA, Employer**

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**Docket No. 13-1901  
Issued: January 8, 2014**

*Appearances:*

*Sally F. LaMacchia, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:

RICHARD J. DASCHBACH, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
PATRICIA HOWARD FITZGERALD, Judge

On August 12, 2013 appellant, through his attorney, filed a timely appeal from the July 30, 2013 nonmerit decision of the Office of Workers' Compensation Programs (OWCP) denying his request for reconsideration on the grounds that it was untimely filed and failed to establish clear evidence of error. The Board docketed the appeal as No. 13-1901.

The Board has reviewed the case record on appeal and finds that the case must be remanded to OWCP for application of the appropriate standard of review because appellant's request for consideration was timely submitted.

By decision dated June 29, 2012, OWCP denied appellant's occupational disease claim finding that appellant had not established that his diagnosed medical condition was caused or aggravated by his employment activities. On July 1, 2013 OWCP received appellant's attorney request for reconsideration of the June 29, 2012 decision. By decision dated July 30, 2013, OWCP denied appellant's request for reconsideration on the grounds that it was untimely filed and failed to establish clear evidence of error.

The Board has considered the matter and finds that the request for reconsideration received on July 1, 2013 constituted a timely request for reconsideration. Section 10.607(a) of the implementing regulations provide that an application for reconsideration must be received within one year of the date of OWCP's decision for which review is sought.<sup>1</sup> The Board has

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<sup>1</sup> 20 C.F.R. § 10.607(a).

held that, in computing a time period, the date of the event from which the designated period of time begins to run shall not be included, while the last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday.<sup>2</sup> The last merit decision in this case was dated June 29, 2012 and appellant's request for reconsideration was received by OWCP on Monday, July 1, 2013. Appellant had one year from the June 29, 2012 decision to request reconsideration. The Board notes, however, that June 29, 2013 fell on a Saturday. It is well established that when a time limitation expires on a nonbusiness day, the limitation is extended to include the next business day.<sup>3</sup> Therefore, because the time limitation for filing a request for reconsideration fell on a Saturday, the time period for filing a request for reconsideration did not expire until the next business day, which was Monday, July 1, 2013.

Appellant's request for reconsideration was received by the close of business on July 1, 2013, rendering it timely filed. The case will be remanded to OWCP for consideration of appellant's request under the standard for reviewing timely requests for reconsideration.<sup>4</sup>

**IT IS HEREBY ORDERED THAT** the July 30, 2013 decision of the Office of Workers Compensation Programs is set aside. The case is remanded to OWCP for application of the proper standard for reviewing a timely request for reconsideration.

Issued: January 8, 2014  
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

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<sup>2</sup> *John B. Montoya*, 43 ECAB 1148, 1151 (1992); *see Donna A. Christley*, 41 ECAB 90, 91 (1989).

<sup>3</sup> *See J.L.*, Case No. 13-1060 (issued September 20, 2013); *Debra McDavid*, 57 ECAB 149, 150 (2005); *Angel M. Lebron, Jr.*, 51 ECAB 488, 490 (2000); *Gary J. Martinez*, 41 ECAB 427, 427-28 (1990); FECA Program Memorandum No. 250 (issued January 29, 1979).

<sup>4</sup> This standard is found at 20 C.F.R. § 10.606(b)(3).